

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
Karnataka Real Estate Regulatory Authority Bangalore  
ನಂ:1/14, ನೆಲ ಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಲಿಫ್ಟಿಂಗ್, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027

**BEFORE ADJUDICATING OFFICER**  
**PRESIDED BY SRI K. PALAKSHAPPA**  
**DATED 23<sup>rd</sup> DECEMBER 2020**

<b>Complaint No.</b>	<b>CMP/180118/0000409</b>
<b>Complainant:</b>	Sandeep Narayan Mudliar PCBT dept, CFTRI Mysuru – 570 020 In Person
<b>Opponent:</b>	Jayaram Pathak and Shrihari Pathak M/s. Patak Developers Pvt. Ltd No.2997/2, Rukma Complex, Kalidasa Road, Mysuru – 570002 Rep.by Smt.H.H.Sujatha, Advocate.

**JUDGMENT**

1. This Complaint is filed by the complainant against the developer seeking for the relief of refund of the amount. His complaint reads as under:

*Flat booked with sale agreement done on September 5, 2013 with project period of 18 months and payment of 20% (10.8 lakh). The builders has not completed the project with no response for past one year.*

2. After registering the complaint notice has been issued to the parties, the complainant has appeared in person where as the

*Devi*  
23/12/2020



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respondent has appeared through his advocate and filed his objections.

3. This case was to be called on 27/03/2020 but on that day it was not called on account Covid-19 and it was ordered to stop the hearing in open court. Further from 24/03/2020 till 17/05/2020 lock down was declared and as such hearing was not done. Further as per office note, the personal hearing was deferred and as such the parties have been called for hearing through Skype. Here the Complainant has not appeared through Skype when the case was called but the advocate for developer has appeared admitting the claim and sought for some installments.
4. On going through the case papers it is noticed that the Secretary has called the parties where the developer has filed a memo in the form of objection statement admitting the liability. In view of the same I posted the matter for judgment.
5. The point that arise for my consideration is
  - a. Whether the complainant proves that he is entitled for refund of his amount?
  - b. If so, what is the order?
6. My answer is affirmatively for the following

**REASONS**

7. This Complaint is filed by the Complainant seeking refund of the amount paid to the developer towards the purchase of

*Deepa*  
12/03/20



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flat. The same is admitted by the parties. The developer has under taken during interrogation and filed a memo on 11/07/2108 which reads as under:

*With reference to the discussion had in our office on 25/06/2018 you had claimed us to pay Rs.19,57,000/- (Rupees Nineteen Lakhs Fifty Seven Thousand Only) whereas you have paid Rs.10,80,000/- (Rupees Ten Lakhs Eighty Thousand Only). As we have mutually agreed we will be settling for Rs.15,00,000/- (Rupees Fifteen Lakhs Only), Rs. 5,00,000/- (Rupees Five Lakhs Only) will be paid within this month. The balance Rs.10,00,000/- (Rupees Ten Lakhs Only) will be within 60 days.*

*We request you to kindly let us know your bank account details in which we must remit the amount. We hope this would fine with yourself, we request you to kindly close the issue amicably.*

*Further the complainant had given a representation on 13/07/2018 which reads as under;*

*In this regard, I was given a hearing on 22/06/2018 before your Authority and during the discussion; I was directed to meet the developer. Accordingly I met the representative of developer at their office on 25/06/2018.*

*The developer has agreed to Refund the amount of Rs.20.8 with interest amounting to Rs.15 lakhs within 60 days and just installment of Rs.5 lakh to be paid to me within July 31<sup>st</sup> 2018. The copy of letter from developer is enclosed.*

*I accept the offer of the developer with the condition that amount should be paid within 60 days advance of Rs.5*

*Devi*  
*23/07/2018*



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*Lakhs within July 31<sup>st</sup> 2018. I thank RERA for the settlement of Case.*

8. It was not honoured by the developer. There is no any progress in the proceedings. In the meanwhile the case has been transferred to Adjudicating Officer where the complainant has given a representation on 28/02/2020 which reads as under:

*This is to bring to your kind notice that the builder has not paid yet the promised amount of Rs.15 Lakhs as promised before your Authority on 13/07/2018. As the RERA Secretary during negotiations on 13/07/2018 informed me to accept the amount of Rs.15 Lakhs, not yet paid by builder (copy of builder letter submitted to RERA attachment)*

*As such, now I request the Authority to direct the builder to pay the accepted amount of Rs.15 Lakhs at the earliest.*

9. This is the letter given by the complainant by surrendering to the offer made by the developer. Even though the complainant has accepted the offer made by the developer but unfortunately the developer has failed to keep up the promise made before the Authority. I would say that this attitude shall be penalized by imposing interest but an account of the letter given by the complainant I pass the order by balancing the same.

10. As per S.71 (2) RERA, the complaint will have to be closed within 60 days from the date of filing. In this case the complaint was filed on 18/01/2018. Originally the case handled by the Secretary and afterwards it was transmitted to Adjudicating Officer in the month of January 2020. After

*Deru*  
23/12/2020



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issuance of notice the parties have appeared on 21/01/2020. When the case was posted to 27/03/2020 physical hearing of the cases have been stopped in view of Covid-19 and from 24/03/2020 lock down was declared till 17/05/2020. Hence the complaint is being disposed of with some delay. With this observation I proceed to pass following order.

**ORDER**

- a. The complaint no. CMP/180118/0000409/ is allowed in part.
- b. The developer is directed to return Rs.15 Lakhs to the complainant within a month from today. If not, the same will carry the interest @ 2% above the MCLR of SBI commencing from 31<sup>st</sup> day till realization.
- c. The developer is also liable to pay cost of Rs.5, 000/- to the complainant.
- d. The complainant may file memo of calculation as per this order after 60 days in case the developer has failed to comply with the same to enforce the order.
- e. Intimate the parties regarding this order.

(This Order is Typed, Verified, Corrected and pronounced on 23/12/2020)

**K.PALAKSHAPPA**  
Adjudicating officer