

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,  
# 1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,  
3rd Cross, Mission Road, Bengaluru-560027

**PROCEEDINGS OF THE AUTHORITY BEFORE BENCH-4**

Dated 11<sup>th</sup> May 2022

**COMPLAINT NO. CMP/UR/201214/0007241**

**Complainant.....**

**SHIVASHANKAR K T,**  
Flat No B4111, 1st Floor,  
Block 41, B2- Block,  
Brigade Meadows,  
Kanakapura Main Road,  
Bengaluru.  
(In person)

**V/S**

**Respondent.....**

**JAISHANKAR,**  
Brigade Enterprises Limited,  
29<sup>th</sup> & 30<sup>th</sup> Floor,  
World Trade Center,  
Brigade Gateway Campus,  
26/1, Dr Rajkumar Road,  
Malleswaram-Rajajinagar.  
(Represented by Authorized  
Signatory)

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This complaint is filed under Section 31 of the RERA Act for the relief of direction to the respondent to correct the construction discrepancies and to provide ventilation.

The brief facts of the complaint are as under:-

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Respondent has modified the agreement without his consent when he was working in Saudi Arabia. There are lot of discrepancies in the apartment and no ventilation inside the bathroom. All these facts were brought to the notice of respondent before taking possession.

Hence this complaint.

After registering the complaint, in pursuance of the notice the respondent has appeared before the Authority through his Authorized Signatory and filed objections as under.

He has denied all the allegations made against him by the complainant. He contends that initially the complainant had entered into AOS and Construction Agreement on 5/10/2013 jointly with his son. In July 2016 the complainant requested the company through a letter to remove his son's name and change all the documents to single applicant as his son was a minor quoting SBI loan eligibility issue. Accordingly revised AOS and construction Agreement were executed between the company and the complainant on 21/07/2016. Accordingly, the sale deed was executed on 06/10/2016 and on the same day complainant took possession of his apartment by signing on declaration form.

Further, on 06/10/2016 complainant brought two minor snags that is finishing on shutter and fixation of coat hook to the notice of respondent and they were attended by the company on 22/10/2016. Then the complainant raised another issue regarding car park allotment and it was resolved by allotting him individual car park. On 06/01/2020 the complainant complained that dampness and cracks in the kitchen wall and ceiling corner and they were resolved by the company on 10/01/2020. Again on 21/05/2020 he complained about

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kitchen wall ceiling, master bedroom wall and ceiling corner cracks and they were resolved by the company on 02/06/2020.

Then on 30/03/2020 the complainant sent an email to Executive Director of the company alleging that company's employees have changed his allotment from B-4112 to B-4111 for their personal benefits. On 15/04/2020 the complainant sent a mail that the company is liable to pay CAM charges of his apartment to the Association until cheating case is resolved. However, there was no such case filed by him till date. On 17/04/2020 he wrote a letter to the company that he has warned all the members of Association not to form an Association as the company has cheated him. Respondent has received Occupancy Certificate on 15/05/2015. Hence, prayed to dismiss the complaint with cost.

In support of his claim, the complainant has produced in all 3 documents such as copy of modified Agreement of Sale, photographs of flat, Copy of 2 email conversations.

In response, the respondent has produced in all 7 documents such as Agreement of Sale, copy of declaration, checklist for handing over the flats, copy of apartment key details, copy of 15 email conversations, occupancy certificate, and deed of declaration.

Heard both Parties.

On the above averments, the following points would arise for our consideration.

1. Whether the complainant is entitled for the rectification of construction deficiencies as sought for?
2. Whether the complaint is maintainable?
3. What order?





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My answer to the above points are as under.

1. In the Negative
2. In the Negative
3. As per final order for the following

**REASONS**

**My Answer to Point No.1:** Grievance of the complainant is that in the first place he has been given possession of a different flat than the one allotted to him. Even in this flat ventilation is not proper and there are many construction discrepancies. In short, the flat is not in accordance with the certification in the model house.

On perusal of the records, it is noted that right from the allotment letter until Occupancy Certificate, the flat No. is mentioned as B-4111 and nowhere it is shown that the complainant was allotted flat No.B-4112. Thus, I see no substance in the allegations of the complainant that he was put in possession of different flat than the allotted one.

Coming to the discrepancies pointed out by complainant, series of correspondence between the parties through emails make it clear that the respondent has resolved many issues raised by complainant even after Occupancy Certificate. There is nothing on record to show that flat allotted to complainant is not in accordance with the agreed specifications/model house shown to the allottees. Accordingly, this point is answered in the Negative.

**My Answer to Point No.2:-** Apart from the facts and merits of the case which is discussed above, it is very clear from records that the occupancy certificate for this project was issued on 15/05/2015 as such RERA came into effect from 01/05/2017 as the occupancy



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certificate is much before RERA came into effect. This Authority has no jurisdiction over this project. Hence, on this count also the complaint is not maintainable.

Therefore, in my considered opinion, the complainant seems to be vexatious without there being any issue in reality. For this reason, complaint deserves no consideration. Accordingly, I answer this point in the Negative.

**My Answer to Point No.3:** In view of the above discussion, I proceed to pass the following

### **ORDER**

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.CMP/UR/201214/0007241 is hereby dismissed.

No order as to costs.



(H.C. Kishore Chandra)

Chairman  
K-RERA

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