

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು  
**Karnataka Real Estate Regulatory Authority, Bengaluru**  
ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,  
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

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**BEFORE ADJUDICATING OFFICER**

**PRESIDED BY SRI I.F. BIDARI**

**DATED 29<sup>th</sup> JUNE 2022**

**Complaint No: CMP/UR/200214/0005445**

**Complainant :**

B.Srinivasula Reddy,  
No. 29, 1<sup>st</sup> Main, BEL Layout,  
Vidyanaraya pura 1<sup>st</sup> Block,  
Bengaluru-560097.  
( In person)

**VS.**

**Respondent:**

DS MAX PROPERTIES PVT.LTD.,  
SKY ELEGANT,  
No. 1854, 17<sup>th</sup> Main, 30<sup>th</sup> B Cross, 5<sup>th</sup> Block,  
HBR Layout, Near Ring Road,  
Bengaluru Urban-560043.

**J U D G M E N T**

Complainant Mr. B.Srinivasula Reddy, has filed this complaint bearing No. CMP/UR/200214/0005445, under Section 31 of The Real Estate (Regulation and Development) Act 2016 (here-in-after referred as Rera Act) against the respondent DS MAX PROPERTIES PVT.LTD., (here-in-after referred as respondent), praying to direct the respondent to pay compensation in the form of interest and penalty.

2. The brief facts of the complaint are as under:

The Respondent in 2018, has collected Rs. 10,30,000/- as advance for a 3 BHK flat in their project "SKY ELEGANT", which is coming up in Yalahanka area. The Respondent had kept the advance amount with them for about 2 years and finally returned said amount of Rs.10,30,000/- without any interest, saying that they do not have any idea about project launching. These main grounds among others urged in the complaint prayer to grant the relief as prayed.

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3. There-after receipt of the complaint from the complainant, notice was issued to the respondent. The respondent remained absent in spite of service of notice and not contesting the complaint.

4. I have heard the complainant. The argument of respondent, taken as nil. Perused the records and materials.

5. The points that would arise for my consideration are:

Point No.1 Whether the complainant is entitle for compensation? If so, to what extent?

Point No.2: What order?

6. My findings on the above points are as under:

Point No. 1: Yes, to the extent as shown in the final order.

Point No. 2: As per final order, for the following:-

**REASONS**

7. Point No.1: The complainant during argument submitted that he by going through the advertisement given by the respondent in the English Daily News Paper "Times of India" dtd. 06.10.2017 did book, 3 BHK flat in the pre launched project SKY ELEGANT, paying Rs10,30,000/- advance as demanded by the respondent but the respondent nearly 2 years after the receipt of aforesaid advance amount not launched the project and he demanded for return of advance amount with interest. The complainant further submits that the respondent in December 2019 returned only principal amount of Rs.10,30,000/- and not paid interest, though utilised said amount nearly 2 years and he was prevented investing said amount in any other profitable way and the respondent violating provisions of Sec. 3 (1) of RERA Act has collected aforesaid amount, hence prayed to grant the relief as prayed. The complainant during argument took the Adjudicating Officer (here-in-after referred as AO) through the documents produced by him in this case.



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8. The complainant has produced documents (1) copy of relevant portion of English Daily News Paper "Times of India" dtd. 06.10.2017 at Annexure-1, wherein respondent along with other projects has given advertisement with regard to project SKY ELEGANT (2) copy of statement of account standing in the name of complainant in IDFC first Bank at Annexure-2 wherein among others the amount paid by the complainant to the respondent through cheques between 22.10.2017 to 08.02.2018 are being seen which evidences that totally the complainant has paid Rs.10,30,000/- to the respondent on different dates mentioned therein. (3) copy of Blocking form at Annexure-4 wherein the flat No: 310 is booked in the project SKY ELEGANT, and advance amount paid Rs.10,30,000/- is also shown. (4) Annexure-3 is a copy of floor plans of apartments shared by the respondent. (5) The copies of e-mails sent by the complainant to the respondent with regard to payment of advance amount, demand by the complainant to return amount because of failure of respondent in launching the project as submitted by the complainant are communicated to the respondent. (6) The copies of back up of Whats App chat of the complainant with the representatives of the respondent are produced at Annexure-6 (7) copy of letter sent by the complainant to the respondent is at Annexure-7 and (8 ) copy of protest g-mail dtd. 03.01.2020 sent by the complainant to the respondent at Annexure-8 discloses that complainant received the amount returned by the respondent under protest. The complainant has produced copy of the statement of Bank account statement, standing in his name in HDFC Bank, Bengaluru wherein among others an entry dtd. 21.12.2019 evidences that complainant has deposited Cheque mentioned therein for Rs. 10,30,000/- and also produced copy of deposit slip for having given the aforesaid cheque for Rs. 10,30,000/- of the respondent for collection in HDFC Bank on 20.12.2019. These documents corroborate the version of the complainant that the respondent did give advertisement in the English Daily News Paper "Times of India" dtd. 06.10.2017 about



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the pre launching of project SKY ELEGANT. The materials on record particularly copies of Bank account statements standing in the name of complainant, copies of e-mails, copies of Whats App chat, copy of Blocking form, produced by the complainant discussed above evidences that the respondent failed to launch the project and when complainant demanded to the respondent to return Rs. 10,30,000/- advance paid amount as the respondent nearly 2 years after the receipt of aforesaid advance amount had not launched the project but the respondent in December 2019 returned only principal amount of Rs. 10,30,000/- to the complainant and not paid interest, though utilised said amount nearly 2 years and the complainant was prevented investing said amount in any other profitable way. Therefore, there is substance in the argument of the complainant that the respondent violating provisions of Sec. 3 (1) of RERA Act has collected aforesaid amount. Admittedly the version of the complainant is remained, unchallenged, since respondent has not turned up to contest the complaint, in-spite of affording sufficient time. This apart the materials on record discussed above makes it clear that the respondent has not only violated the provisions of Sec. 3(1) of RERA Act but also violated provisions of Sec. 12 of the RERA Act. Under the circumstances it is just and proper to direct the respondent to pay compensation to the complainant by way of interest @ 9% per annum on respective amount from the respective dates of receipt of such amount till payment of entire amount. Thus I hold point No.1, accordingly for consideration.

9. As per the provisions contemplated U/sec. 71(2) RERA Act, the complaint shall have to be disposed off within 60 days from the date of receipt the complaint. This complaint has been filed on 14.02.2020, thereafter notices issued directing the parties to appear for hearing. The parties given the reasonable opportunities to contest the case, as such, the judgment is being passed on merits, with some delay.

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10. Point No.2: In view of my findings on point No. 1, I proceed to pass the following:-

**ORDER**

- (i) The complaint filed by the complainant bearing No.: CMP/UR/200214/0005445 is partly allowed against the respondent.
- (ii) The respondent is hereby directed to pay compensation to the complainant by way of interest @ 9% per annum on respective amounts from the respective dates of receipt of such amounts till payment of entire amount.
- (iii) The respondent shall have to pay an amount of Rs.5,000/- (Rupees fifty thousand only) to the complainant towards cost of litigation.
- (iv) The complainant may file memo of calculation as per this order after 60 days in case respondent failed to comply with the order and to enforce this order.
- (v) Intimate the parties regarding this order.

(Typed to my dictation directly on the computer by the Stenographer, corrected, verified and pronounced on 29.06.2022)

  
29/6/22

**I.F. BIDARI**

Adjudicating Officer-1  
K-RERA