

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

Dated 20th September 2022

COMPLAINT No: CMP/220218/0009031

COMPLAINANT....

Mr.S.V. Krishna Mohan

Plot No.115-C,
Krishna Sadan,
Ravindra Nagar Colony,
Habsiguda,
District: Ranga Reddy
State: Telangana
Pincode - 500007.

(In Person)

V/S

RESPONDENT.....

Aryan Hometec Pvt Ltd.,

No.609, 15th Cross,
JP Nagar 6th Phase,
Bengaluru-560078.

(Ex-parte)

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act, against the project '**ARYAN GOLDEN ARENA-E**' developed by "**ARYAN HOMETEC PRIVATE LIMITED**" on Attibele-Sarjapura Main Road, Bidaraguppe Village, Attibele Hobli, Anekal Taluk, Bangalore District for the relief of refund with interest.

2. This project has been registered under RERA bearing registration No. PRM/KA/RERA/1251/310/PR/171031/001439.

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3. **Brief facts of the complaint:-** The complainant has booked a Flat No.102, Block E, in the project of respondent known as "ARYAN GOLDEN ARENA-E" in July 2017 by paying Rs.1,66,493/- vide cheque No.037335 dated 28/6/2017 being advance amount out of the total sale consideration amount of Rs.30,17,860/-. The complainant submits that the respondent also assured him of getting loan for the remaining amount from DHFL. But unfortunately, the process for loan did not get through. The complainant further submits that he decided to withdraw from the project and requested the respondent for refund of the amount.

4. The complainant has claimed that on his continuous follow up, the respondent gave a post-dated cheque for the said amount. The cheque got bounced and returned by the bank stating that "Funds insufficient". Though the complainant tried to approach the respondent in this regard, the respondent was not available and as such, has sought relief of refund with interest. Hence, the complaint.

5. After registration of the complaint, several notices and summons were sent to the respondent on his old and new addresses for appearance before the Authority. Finally paper publication was issued in local Kannada daily newspaper "HOSA DIGANTHA" for the appearance of the respondent. In spite of paper publication, the respondent did not appear before the Authority and hence, has been placed as ex-parte.

6. This matter was heard on 30/5/2022, 16/6/2022, 30/6/2022, 12/7/2022, 4/8/2022 and 15/9/2022. The case was finally posted for orders on 15/9/2022.

7. In support of his claim, the complainant has submitted documents such as (a) Booking Form (b) Payment receipts, (c) copy of the Legal Notice dated 15/4/2019 sent to respondent (d) courier receipts (f) Memo of calculation

Relus

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as on 22/5/2022 (g) Paper publication published in "Hosa Digantha"
Kannada daily dated 24.08.2022.

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

1. Whether the complainant is entitled to the relief claimed?

2. What order?

9. Our findings on the above points are as under:

1. In the Affirmative

2. As per final order for the following:

FINDINGS

10. Our findings on point no.1:

From the materials placed on record, it is evident that the complainant has paid Rs.1,66,493/- for booking of a flat in the project of respondent in July 2017. The complainant was also assured by the respondent that for the remaining amount, they will get loan sanctioned from DHFL. Though the complainant had submitted necessary documents for sanction of loan, the process did not materialize. Therefore, the complainant has requested the respondent to refund his amount with interest. The postdated cheque issued by the respondent to the complainant for the above said amount also got bounced for "*insufficient funds*" in the account. The complainant has also sent a legal notice to the respondent on 15/4/2019 through courier asking him to repay the amount with interest.

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From the averments of the complaint and the copies of documents the parties, it is obvious that complainant has paid substantial sale consideration amount to the respondent. Having accepted the said amount, the respondent has failed to return the amount, certainly entitles the complainant herein for refund with interest. The complainant has submitted his memo of calculation as on 22/5/2022 claiming refund with interest for Rs.2,49,136/-. Despite several opportunities given to the respondent and notice published in the local Kannada daily newspaper for his personal appearance, the respondent failed to appear before the Authority. The Authority upholds the refund amount claimed by the complainant vide his memo of calculation as on 22/5/2022.

Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as under:

Interest Calculation Till 30/04/2017 (Before RERA)				
S.NO	DATE	AMOUNT PAID BY CUSTOMER	NO OF DAYS TILL 30/04/2017	INTEREST @9%
1	30-04-2017	0	0	0
2			TOTAL INTEREST (I1)	0

Interest Calculation From 01/05/2017 (After RERA)							
S.NO	DATE FROM 01/05/2017	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	MCLR INTEREST X%	INTEREST RATE X+2%	INTEREST @X+2%
1	02-07-2017	1,66,493	1785	22-05-2022	8.15	10.15 as on 01-07-2017	82,643
2	TOTAL AMOUNT	1,66,493				TOTAL INTEREST (I2)	82,643

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Memo Calculation			
PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2) AS ON 22-05-2022	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
1,66,493	82,643	0	2,49,136


12. Accordingly, the point raised above is answered in the Affirmative.

13. **Our findings on point no.2:** In view of the above discussion, the complaint deserves to be allowed. Hence, we proceed to pass the following order:

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate(Regulation and Development) Act, 2016, the complaint bearing No: **CMP/220218/0009031** is hereby allowed.

1. The respondent is hereby directed to refund amount of Rs.2,49,136/- (Rupees Two Lakh Forty Nine Thousand One Hundred and Thirty Six only) towards refund with interest to the complainant within 60 days from the date of this order, calculated at MCLR + 2% from 02/07/2017 till 22/05/2022. The interest due from 23/05/2022 up to the date of final payment will be calculated likewise and paid to the complainant. The complainant is at liberty to initiate action for recovery in accordance with law if the respondent fails to pay the amount as per the order of this Authority.


(Neelmani N Raju)
Member-2, KRERA

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