

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 6

Dated 6TH OCTOBER 2022

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.: CMP/UR/201007/0006779

COMPLAINANT.....

MRS. SANTOSH RANI AGGARWAL
(The complainant died on
13/12/2020. As such the case is
now represented by her son
Mr. AJAY AGGARWAL)
1398, MUNINAGAPPA LAYOUT
4TH CROSS, KAVALBYRASANDRA
POST R.T. NAGAR
BANGALORE -560032.

V/S

RESPONDENT.....

**KARNATAKA POSTAL & TELECOM
EMPLOYEES HOUSING CO-OP
SOCIETY LIMITED
7, SANDESH BHAVAN,
3RD MAIN, 1ST STAGE,
POSTAL COLONY, SANJAY NAGAR
BANGLORE-560094.**

(By Ms.L.R. Rajeswari, Advocate)

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "SANDESH NAGAR" for the relief of refund with interest.

Brief facts of the complaint are as under:-

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2. The complainant had booked a plot measuring 50' x 80' in the project of respondent in March 2013 and paid an amount of Rs.21,20,000/- (Rupees Twenty One Lakh Twenty Thousand only) on various dates being full sale consideration to the respondent by 03/03/2014 as the Society assured the complainant that the sites will be ready for allotment by March 2014. Due to the demise of the complainant Mrs. Santosh Rani Aggarwal on 13/12/2020, her son Mr. Ajay Aggarwal filed revised prayer for substitution of his name in the complaint on 13/07/2022. The Authority allowed his written prayer, as he had furnished all the required documents. The complainant contend that her late mother's name was at Sl.No.37 in the list approved by the Registrar of Cooperative Societies, the competent authority for allotment of sites. Despite approaching the respondent several times and requesting for allotment and registration of the site, the respondent did not allot the site till date. The Authority noticed that the project is not registered under RERA. Thus the complainant is left with no option has approached the Authority for refund of the full amount with interest till date. Hence, this complaint.

3. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel. During the process of the hearing, the Secretary of the Society appeared and informed that the work on the layout has started and sites will be given in six month's time. Despite issue of summons, the respondent remained absent from the hearings and has not contested the matter by filing statement of objections nor producing documents on its behalf.

4. In support of his claim, the complainant has produced in all 6 documents such as copies Project Brochure, Membership Details, Copies of letter demanding full payment and assurance of giving the site by March 2014, Payment receipts, Seniority List as approved by Registrar of Co-op Society and memo of calculation for refund with interest as on 12/07/2022.



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5. Heard arguments of both sides.

6. On the above averments, the following points would arise for my consideration:-

1. Whether the complainant is entitled for the relief claimed?
2. What order?

7. My answer to the above points are as under:-

1. In the Affirmative.
2. As per final order for the following

REASONS

8. My answer to point No.1:- From the materials placed on record, it is apparent that inspite of accepting full sale consideration amount from the complainant for allotment of a Site in the project of the respondent, even after several years, the respondent has not completed the project nor allotted and registered the site to the complainant till date. The respondent has also not registered the project in RERA, though the work on the layout is being carried out as disclosed by the Secretary of the Society during the hearing.

9. As per section 18(1) of RERA Act, in case the allottee wishes to withdraw from the project the promoter is liable without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building as the case may be with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.

10. Therefore, as per section 18(1) of the Act, the promoter is liable to return the amount received along with interest and compensation only if the promoter fails to complete or provide possession of an apartment etc., in accordance with sale agreement.



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11. From the averments of the complaint and the copies of documents produced by the complainant, it is obvious that complainant has paid full sale consideration amount. Having accepted the said amount and failing to keep up promise to handover possession of the site even after several years has denied the complainant's dream of owning a site of her own, certainly entitles the complainant herein for refund with interest. The complainant vide his memo of calculation as on 12/07/2022 has claimed that the respondent has to refund with interest an amount of Rs.39,60,966/-. The respondent also repeatedly failed to attend the hearings. Having regard to all these aspects, this Authority concludes that the complainant is entitled for refund with interest.

12. 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	NO OF DAYS TILL	INTEREST @9%
1	06-03-2013	13,00,000	1516	30-04-2017	4,85,950
2	13-02-2014	6,20,000	1172	30-04-2017	1,79,171
3	03-03-2014	2,00,000	1154	30-04-2017	56,909
2				TOTAL INTEREST (I1)	7,22,030

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	01-05-2017	21,20,000	1898	12-07-2022	8.15	10.15 as on 01-05-2017	11,18,936
4	TOTAL AMOUNT	21,20,000				TOTAL INTEREST (I2)	11,18,936

14/5/22

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Memo Calculation			
PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2) AS ON 12-07-2022	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
21,20,000	18,40,966	0	39,60,966

1. Accordingly the point raised above is answered in the Affirmative.
2. **My answer to point No.2:-** 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/201007/0006779** is hereby allowed. Respondent is directed to pay a sum of **Rs.39,60,966/- (Rupees Thirty Nine Lakh Sixty Thousand Nine Hundred and Sixty Six only)** calculated at 9% from 06/03/2013 till 30/04/2017 and MCLR + 2% from 01/05/2017 upto 12/07/2022 towards refund with interest to the complainant, within 60 days from the date of this order. The interest due from 13/07/2022 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, K-RERA

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