

**KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU**

**FIFTH ADDITIONAL BENCH**

**CORUM**

**SHRI.D.VISHNUVARDHANA REDDY  
HON'BLE MEMBER-1**

**COMPLAINT NO.CMP/220329/0009278**

**DATED THIS 15<sup>TH</sup> DAY OF OCTOBER, 2022**

COMPLAINANTS

: Mr.Vijay Kumar.M &  
Mrs.Chandana Chandrashekar  
No.117, Nishant Pride, Kamadenu  
Layout, mahadevapura  
Bangalore : 560 016

RESPONDENT /  
PROMOTER

: M/s.Nitesh Housing Developers Pvt Ltd.  
Nitesh Timesquare, 7<sup>th</sup> Floor,  
No.8, M.G.Road, Bangalore : 560 001

PROJECT NAME &  
REGISTRATION NO.

: NITESH MELBOURNE PARK  
PRM/KA/RERA/1251/446/PR/  
170916/000224

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

This complaint is filed under Sec-31 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the project NITESH MELBOURNE PARK praying for a direction to Refund the amount paid with Interest.

**BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-**

1. The complainants have entered into an agreement of sale and construction agreement on 05-07-2018 and have paid an amount of

*W/a*

Rs.25,22,363/- (Rupees Twenty five lakhs twenty two thousand three hundred sixty three only ) to the respondent till date. Since there was delay in handing over the apartment, the complainants have filed the above complaint before the Authority praying for refund of the amount paid together with interest.

2. The Respondent has filed their statement of objection and written submission 25.4.2022 and 14.6.2022. In the written submissions, submitted by the respondent prayed for two months time to arrive at amicable settlement and not to pass any adverse orders. The respondent has not complied with its written submissions to arrive at amicable settlement within 2 months. The complainants have submitted before the Authority that even after almost 5 years, there is hardly any progress in the project and therefore complainant has exercised the option of exiting from the project and sought for refund of the amounts paid with interest payable as per the provisions of the Act and Rules.
3. On a perusal of the construction agreement, it is seen that the completion date is agreed as 32 months. Accordingly the promoter-respondent was required to complete the project and hand over possession of the apartment by 31-03-2021. Since the respondent-promoter has failed to complete or unable to handover the possession of the apartment to the allottee, this complaint is admissible for relief in accordance with Section 18 of the Act.
4. After registration of the complaint, in pursuance of the notice, the respondent has filed its written submissions dated 14.6.2022 before the Authority and prayed for two months time to arrive at amicable settlement. So far the respondent has not complied with its commitment of arriving at amicable settlement within two months.

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The complainants have submitted their memo of calculation for refund with interest.

5. As per Section 18 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.
6. Therefore, as per Section 18 of the Act, the promoter is liable to return the amount received along with interest.
7. From the averments made in the complaint, it is obvious that complainants have paid the advance sale consideration amount and are entitled to get their amount paid along with interest as per the memo of calculation submitted by the Complainants. The Promoter-Respondent has not submitted any memo of calculation.
8. Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as under:

**Memo of Calculation by the Complainant as on 18-07-2022**

<b>Principle amount (A) Rs.</b>	<b>Interest (B) As on 18.7.2022 Rs.</b>	<b>Refund from Promoter (C)</b>	<b>Total Balance Amount (A+B) Rs.</b>
<b>25,22,363</b>	<b>10,80,268</b>	<b>NIL</b>	<b>36,02,631</b>


And accordingly the Authority passes the following:

*W/S*

### **ORDER**

In exercise of the powers conferred under Section 31 read with section 18 of the Real Estate (Regulation and Development) Act, 2016, the complaint Bearing **No.CMP/220329/0009278** is hereby allowed. Respondent is directed to pay a sum of **Rs. 36,02,631/- (Rupees Thirtysix lakhs two thousand six hundred thirtyone only)** towards refund with interest to the complainants within 60 days from the date of this order, calculated from 01/05/2017 till 18.07.2022.

The interest due from 19.07.2022 up to the date of final payment will be calculated likewise and paid to the complainants. The complainants are 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.

  
(D.VISHNUVARDHANA REDDY)  
MEMBER-1  
FIFTH ADDITIONAL BENCH  
K-RERA





# ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ CMP-9278

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ವಿಷಯ Mr. Vijay Kumar M & Mrs. Chandana Chandrashekar  
Nitesh Housing Developers Pvt Ltd.

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ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

**CMP- 9278**

**20.05.2023**

As per the request of the complainants and Sri. Harish Kumar MD Authorized Signatory of the respondent, the execution proceedings in the above case is taken-up for amicable settlement, in the National Lok Adalat to be held on 08.07.2023.

The complainants and Sri. Harish Kumar M.D Authorized Signatory of the respondent present, in the pre-Lok-Adalat sitting held on 20.05.2023, the dispute between the parties with regard to the execution proceedings has been settled between the parties. The complainants have agreed to receive an amount **Rs. 35,22,363/- (Rupees Thirty Five Lakhs Twenty two thousand three hundred and sixty three Only)** settled between the parties towards full and final satisfaction of the claim of the complainants in connection with the execution proceedings in the aforesaid complaint and a joint memo dated: 20.05.2023 is being filed to this effect by the complainants and the Authorised signatory of the respondent. The authorized signatory of the respondent has handed over a D D (Manager's Cheque) bearing No.002127 dated:19.05.2023 for a sum of **Rs. 35,22,363/- (Rupees Thirty Five Lakhs Twenty two thousand three hundred and sixty three Only).**

Received  
original  
DD for  
sum of Rs.  
35,22,363/-  
Nitesh

*(Vijay Kumar M)*  
*Chandana C.*  
*(Chandana C)*

For NHDPL South Private Limited  
*MD Chandana*  
Authorised Signatory



# ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Comp.No: 9278

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ವಿಷಯ Vijay Kumar M

Netesh Melbourne Parks.

ಕಂಡಿಕೆ ಸಂಖ್ಯೆ	ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು
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The settlement entered between the parties is voluntary and legal one and as per which the complainant has no further claim against the respondent whatsoever in the case. Therefore in view of aforesaid settlement entered in the pre-Lok Adalat in terms of the joint memo dated: 20.05.2023, the execution proceedings in connection with above case are closed. The RRC issued against the respondent is hereby recalled and office is directed to issue intimation accordingly to the concerned DC. The matter referred to conciliators to pass award.

20/5/23.  
Judicial Conciliator.

S. J. L. M.  
Advocate Conciliator.

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**BEFORE LOK ADALAT IN THE KARNATAKA REAL ESTATE**

**REGULATORY AUTHORITY, AT BENGALURU**

**COMPLAINT NO: CMP/220329/0009278**

COMPLAINANTS : MR.Vijay Kumar M  
& Mrs. Chandana Chandrashekar

-Vs-

RESPONDENT : M/S Nitesh Housing Developers Pvt. Ltd.,  
Presently known as NHDPL South Private Limited

**JOINT MEMO**

The complainants and the respondent in connection with execution proceedings in the above complaint jointly submit as under:

1. During the pendency of the execution proceedings in the above case the complainants/allottees and the respondent/promoter after due deliberation have got their dispute pertaining to the execution proceedings in the above complaint subject matter settled amicably before the Lok Adalat.

*20/5/23*  
In view of the same, they jointly request the Lok Adalat to dispose off the execution proceedings in the above complaint as amicably settled before the Lok Adalat since the complainants have agreed to receive today a sum of **Rs. 35,22,363/- (Rupees Thirty Five Lakhs Twenty two thousand three hundred and sixty three Only)** by way of Demand Draft (Manager's cheque) bearing No.002127 dated 19.05.2023 of HDFC bank Gandhi nagar, Bengaluru-560009 and the respondent has agreed to provide the same.

3. The claim of the complainants in the above complaint is being fully satisfied and complainants have no further claim against respondent in connection with the execution proceedings in the above complaint. Both parties to the proceedings have no claim whatsoever against each other in respect of the subject matter of the above complaint. If there is any claim by either of the parties to this complaint against the other before any forum or Court relating to the subject matter of the above complaint, they have agreed

*Vijay Kumar M*  
(VIJAY KUMAR M)

*Chandana C*  
(CHANDANA C)


For NHDPL South Private Limited  
*MD/Anish Kumar*  
Authorised Signatory

that the same be disposed of as settled by either party filing an appropriate memo in such cases. In view of the above settlement arrived between the parties, the parties request this Hon'ble Authority to dispose of the execution claim pending in the above mentioned complaint and to recall the RRC warrant from the concerned DC office in the interest of justice.

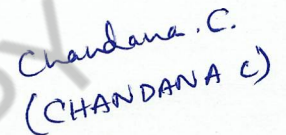
4. Parties further request that this settlement be recorded in the National Lok-Adalat to be held on 08.07.2023.

Place: Bengaluru

Date: 20.05.2023

  
(VIJAY KUMAR M)

Complainants/Allottees

  
(CHANDANA C)

  
N. Anand Kumar

Authorized Signatory of Respondent/Promoter

Authorized Signatory

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