

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 BEFORE THE AUTHORITY

Dated 18th October 2022

Present:

Sri. H.C. Kishore Chandra, Hon'ble Chairman

COMPLAINT NO.: CMP/UR/220216/0009016

COMPLAINANT.....

SMT. USHA RANI,
No. 73/17, 5th Main,
Post Office Road, Sanjay Nagar,
Bengaluru – 560094.

(In person)

V/S

RESPONDENT.....

SRI. D.T. PRAKASH,
Registered Office No. 41, 42,
VV Market Building,
Agrahara, KR Mahalla,
Mysuru – 570004.

(Rep. by Sri. Srinivas Gowda, Adv.,)

1. This complaint is filed under section 31 of the RERA Act against the project "Madhuvana Gruhanirmana Sahakara Sangha Niyamita" for the relief of allotment of alternative site.

Brief facts of the complaint are as under:-

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2. One S R Shankar Babu is the brother of complainant who was having primary membership with respondent Madhuvana house building co-operative society Ltd, Mysuru. The complainant had booked a site No.45 measuring 40*60 at Sreerampura Village in Block 02 on 19/05/1990 by paying total sale consideration of Rs.37,240/- under receipt No.7581 to the respondent in his layout through her brother. Later, the respondent had purposely avoided the registration of the site and re allotted said site to someone. On enquiry, the respondent regretted and assured to provide an alternative site. But he didn't do so. Then on 29/12/1998 her brother Shankar Babu had filed an Affidavit to the respondent requesting to provide an alternative site measuring 50*80 to the complainant transferring the membership. Subsequently, a share certificate No.5151 was given to her on 25/01/1999.
3. From there she went on requesting the respondent several times to allot an alternative site and also made correspondence for the same the respondent assured her to provide a site in newly upcoming layout at R.T Nagar, Mysuru. She wrote letter to the respondent on 02/05/2016 and 20/06/2016. But the respondent didn't provide any alternative site. Hence, this complaint.
4. After registering the complaint, in pursuance of the notice, the respondent has appeared before the Authority and filed objections as under:-
5. The respondent has denied entire allegation made against it by the complainant as false. It contends that the complainant became a

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member of their society and had applied for allotment of a site in the city of Mysuru in the year 2008 by making initial deposit of Rs.37,240/- in the residential layout formed by the respondent society in Kergalli/Yadahalli. Thereafter, the complainant who is a permanent resident of Bengaluru never contacted the management of respondent for allotment of a site. She wrote letters to the Chairman of respondent (3 letters dated 22/01/2013, 02/05/2016 and 10/04/2018).

6. Further, the complainant has not paid entire sale consideration. However, the respondent is ready to refund amount of Rs. 37,240/- with interest to the complainant and prayed to dismiss the complaint.
7. The complainant has filed rejoinder to the statement of objections of the respondent as under.
8. She has denied the allegations made against her by the respondent and reiterated the contents of complaint. She has contended that respondent has not issued any notice to cancel her membership as non resident of Mysuru. She had paid the entire sale consideration to purchase the site from the respondent. It is bounden duty of society to complete the allotment and registration of the site by collecting the sital value amount. Hence, question of refund doesn't arise and prayed to allow the complaint.
9. This matter was heard on 03/06/2022, 07/07/2022, 01/08/2022, 26/08/2022 and 19/09/2022.

Ans

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10. The complainant in support of her claim has produced 07 documents such as copies of deed of relinquishment, plan, payment receipt, allotment letter, share certificate, passbook, letters dated : 22/01/2013 , 02/05/2016 , 20/06/2016.
11. On the other hand, the respondent has not produced any documents on its behalf.
12. Both sides have submitted written submissions.
13. On the above averments the following points would arise for my consideration.
 - (i) Whether the complainant is entitled for the relief claimed?
 - (ii) What order?
14. My findings on the above points are as under.
 - (i) In the Negative
 - (ii) As per final order for the following

REASONS

15. **My findings on Point No.1:-** During the proceedings the respondent has filed a memo on 19/09/2022 stating that the complainant had deposited a sum of Rs.37,240/- on 19/05/1990. From the year 1990 to 2017(27 years) the interest is calculated at the rate of 9% p.a. which comes to total amount of Rs.90,493/-. Thereafter, for 5 years from 2017 to 2022 interest is calculated at the rate of 8.15% p.a. which comes to Rs.15,175/-. For 6 months from April 2022 to September 2022 the

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interest is Rs.1,517/-. Hence, totally the respondent has to pay amount of Rs.1,07,185/- to the complainant and including Rs.37,240/- comes to 1,44,425/-.

16. Further, the respondent has produced preliminary notification dated 24/02/1990 and final notification dated 07/03/1991 under section 4 (1) and 6(1) of the Karnataka Land Acquisition Act, 1961 for the Sathgalli residential layout in Mysuru formed by the respondent. The respondent has executed the deed of Relinquishment dated 25/04/2009 in favour of Superintending Engineer, Mysuru Nagara Palike, Mysuru and the said land was used for formation of road and water drainage etc. Therefore, the respondent is not liable to register said project of Sathgalli residential layout which was formed before RERA Act came into force.
17. The complainant who is said to have deposited Rs.37,240/- with the respondent on 19/05/1990 has come up with a prayer to direct the respondent to allot alternative site on the ground that respondent had cancelled the site allotted to her and re allotted it to someone else.
18. As against this, though the respondent admits the allotment of site, it contends that due to land Acquisition in respect of proposed layout it couldn't proceed with the project. Instead it offers to refund the deposit amount with interest which together comes to Rs.1,44,425/-.
19. Looking to the facts and circumstances of the case, 1st and foremost question that arises before this Authority is point of Limitation. The complainant doesn't appear to have made any efforts to get the site

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allotted at the earliest. The said land Acquisition process was initiated in the year 1991. Except writing 3 letters dated 22/01/2013, 02/05/2016 and 10/04/2018, no legal steps are taken by the complainant to get the alternative site allotted by the society. Now in the year 2022 the complainant at once has come up with this complaint seeking relief as above.

20. Apparently, the claim of the complainant is hopelessly barred by limitation. Even if the cause of action deemed to have been arisen after relinquishment of rights of the society in favor of Superintending Engineer, Mysuru Nagara Palike, Mysuru in the year 2009, twelve(12) years have been lapsed. Therefore, the complainant would not be entitled to claim any relief much less than the alternative site.
21. Next question that arises before this Authority is the point of jurisdiction. From the facts narrated in the complaint itself, it is clear that the transaction took place about 27 years prior to the enactment of RERA Act. Even the formalities of transfer of layout from respondent society to Superintending Engineer, Mysuru Nagara Palike, Mysuru completed in the year 2009. The entire layout has been acquired by duly issuing notifications under section 4(1) and 6(1) of land acquisition Act. This being the fact, this Authority will not have any jurisdiction to entertain this complaint. Though, the respondent has under taken to refund the amount deposited by the complainant in the year 1990 with interest merely on that ground this Authority cannot assume jurisdiction which is nonexistent and issue direction to the respondent to pay the amount as undertaken. The refund of amount or any other relief which the

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respondent may be ready to extend in favor of complainant, it is purely left to the parties. This Authority cannot interfere in the same.

22. Therefore, viewed from any angle the complaint before this Authority is not maintainable either in law or on facts. Accordingly, the point raised above is answered in the Negative.

23. **My findings on point No.2:-** In view of the above discussion, the complaint deserves to be dismissed as not maintainable. Hence, 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/220216/0009016 is hereby dismissed as not maintainable.

No orders as to costs.


(H.C. Kishore Chandra)

Chairman
K-RERA

THE HISTORY OF THE UNITED STATES

The history of the United States is a story of a people who have grown from a small colony of settlers to a great nation. The story begins with the first settlers who came to the New World in search of a better life. They found a land of opportunity and freedom, and they built a nation that has become a model for the world.

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CHAPTER I

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THE HISTORY OF THE UNITED STATES
BY JAMES M. SMITH
NEW YORK: THE UNIVERSITY OF THE SOUTH ALABAMA PRESS
1968