

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 31st October 2022

CMP/220202/0008924

Complainants.....

Mr..Bhojaraj T. Shetty
and Mrs. Nayana Shetty
Both are residing at 6206,
Anriya Dwelling Town
RMV 2ndstage, Dollars colony,
Bengaluru -560094.
(By Sri. Prashant Mirle, Adv)

V/S

Respondent.....

Mr.K.Balaraman
Prop.: M/S. KRSNA Projects
Office at: Krishna Gardenia,
559, RMV 2nd stage, New BEL Road,
Dollars Colony, Bengaluru Urban
Karnatka -560094
(By Sanjay ,Adv.)

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J U D G E M E N T

1. The complainants Mr..Bhojaraj T. Shetty and Mrs. Nayana Shetty have filed this complaint u/s. 31 of the Real Estate (Regulatory and Development) Act, 2016 for the relief of registration of sale deed in respect of the apartment bearing No. B-5, in the apartment building known as in "KRSNALABURNUM", in the project of respondent.
2. This project has been registered under RERA vide registration No. PRM/KA/RERA/1251/309/PR/171214/001226.

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Brief facts of the complaint are as under:-

3. The complainants have entered into an agreement of sale and construction agreement on 24.08.2015 in the project of KRSNA LABURNUM with respondent to purchase a flat bearing No.B-5 situated at Chikkamaranahalli Village, Kasaba Hobli, Bangalore North, Bangalore Urban. The respondent has agreed to handover the possession of the apartment in October 2016 with grace period of 6 months. But he has failed to comply with the same. The promoter has obtained the modified sanctioned plan for the entire apartment complex and partial occupancy certificate from BBMP on 27/09/2021. Even after obtaining the occupancy certificate the respondent has not come forward to execute the sale deed in favour of complainants despite several requests. Hence, this complaint.
4. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel and filed objections as under.
5. It has denied entire allegations made against it by the complainants as false. It contends that apart from the sale consideration, the complainants are supposed to pay club deposit, maintenance, BESCOM, GAIL gas, BWSSB. After the sale agreement the complainants have requested the respondent to make additional construction inside their flats for which he sought for the plan and budget for doing the same. The respondent builder after obtaining the permission and preparing the plan for re-doing the work inside the flat, the additional work was taken up. For doing the said work the complainants have not paid any amount so far, but promised to pay at the time of registration.
6. When the respondent asked for the balance sale amount and amount incurred for alteration, the complainants asked for the mediation. Accordingly, there was a meeting on 10/04/2022 among the complainants, other allottees, respondent advocates and matter was settled and same was putup in writing and signed by both the parties. The respondent contends that as per the said settlement the respondent started executing his

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part and in the said meeting. It was stated to have agreed by the complainants that they would deposit/pay the amount which is due to the respondent about 3.5 to 4.00 crores and get the sale deeds registered. Then the respondent on next 2 days has circulated the draft sale deed for verification and acceptance. But none of them have come forward to pay the balance and to get the sale deed registered. Hence, the respondent has made arrangement on his own regarding amount and started completing 4 to 5 % balance work. From 10/04/2022 till date the respondent has completed the works.

7. The respondent has installed both the generators, 3 lifts commissioned to work, KEB cabling work from transformer to main pole has been measured and the contractor has been appointed and as the contractor has given an estimate which approximately would be around 98 lakhs. Therefore, this amount has to be paid by the builder out of the amount to be paid by the complainants for execution of the same. Even after laps of 2 months, the complainants have not come forward to pay the amount and to get the registration done.

8. The respondent is making arrangement to complete the cable work and has completed the works of STP and water treatment plant. For permanent connection of BWSSB towards water and sewerage the respondent has already completed the documentation and BWSSB has demanded Rs.1.2 crores for the same. The complainants along with other allottees have promised to pay the said amount by way of sale proceeds as per settlement dated 10/04/2022. But so far they have not paid the same. Hence, the respondent is not in a position to execute the sale deeds.

9. The respondent has availed a loan of Rs.9.50 crores from Sriram Housing Finance Ltd for the purpose of construction. If the complainants pay the amount as agreed, the respondent is ready to execute the sale deeds. Hence, prayed to direct the complainants to pay the balance and to get executed the sale deeds.

10. This matter was heard on 15/03/2022, 19/04/2022, 17/05/2022, 14/06/2022, 27/07/2022, 10/08/2022, 24/08/2022, 01/09/2022, 13/09/2022.

6/10/22

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11. The complainants have produced 5 documents in support his claim such as copies of Plan, agreement of sale, payment receipts, Occupancy certificate, deed of declaration.
12. The respondent has furnished 8 documents in support his defense such as copies of occupancy certificate, NOC from Airports Authority of INDIA, building permission letter, NOC by BESCOM, NOC from Karnataka state pollution control board, Khatha Extract, Khatha certificate, Property tax receipt.
13. Both parties have submitted written submissions.
14. On the above averments, the following points would arise for our consideration:-
 1. Whether the complainants are entitled for the relief claimed?
 2. What order?
15. Our answer to the above points is as under:-
 1. In the Affirmative.
 2. As per final order for the following

REASONS

16. Our findings on Point No.1:- The grievance of the complainants is that the respondent has failed to handover the possession of the apartment in his favour as agreed. Even after obtaining the occupancy certificate, the respondent has not come forward to execute the sale deed.

17. As against this, the contentions of the respondent are that the respondent has made additional reconstruction inside the flats as per request of complainants who have promised to pay the amount incurred for the same at the time of registration. According to the meeting dated 10/04/2022 which was held in writing and signed by both the parties, the respondent has performed his part of work. But the complainants have not paid the amount to the respondent as agreed. Even the complainants have come forward to pay the balance and to get

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the sale deed registered though the respondent had circulated the draft sale deed for verification and acceptance.

18. During the proceedings on 01/09/2022 the respondent has produced the occupancy certificate(partial) dated : 27/09/2021, NOC by Airport Authority, building license, sanction letter by BESCOM and consent for operation issued by Karnataka State Pollution Board, addendum issued by Karnataka state Pollution control board, lift erection permission by Electrical inspectorate department, etc.

19. Perused the copy of minutes in the meeting held on 10/04/2022 in which action plan has been discussed and timeline was fixed to complete the project and to execute the sale deeds after receipt of balance sale consideration. On going through the entire records, no where it is mentioned that the complainants have agreed to pay the amount towards amount incurred for alteration inside the flats as per the request of complainants. Hence, said minutes in the meeting held on 10/04/2022 is not going to establish that the complainants are liable to pay additional charges to the respondent for additional works if at all done as per their request in their respective flats.

20. The materials placed before this Authority reveal that as of now the respondent has completed the project by securing occupancy certificate. The parties have taken several rival contentions shifting responsibility of delay in completion of project on each other while complainants alleged that respondent went on making several modification to the units and obtained permission for increasing the number of units over and above the sanctioned plan resulting in inordinate delay in completion of the project. Respondent alleges that he has made several changes in the original plan as per the request of the complainants themselves incurring additional charges apart from sale consideration.

21. Only formality now remains to be completed is the execution of registered sale deed in favour of complainants. Thus, having regard to the status of the project as evident from the materials available on record, so also contention of the parties this Authority deems it just and proper to issue direction to the respondent to execute the sale deeds in favour of complainants in respect of their







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respective flats. Accordingly, the point raised above is answered in the Affirmative.

22. 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

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. CMP/220202/0008924 is hereby allowed as under.

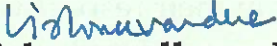
Respondent is directed to execute the registered sale deed in favour of complainants within 15 days from the date of this order.

No order as to costs.


(Neelamani N Raju)

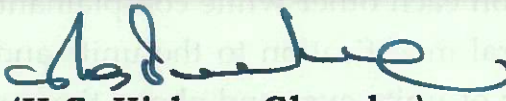
Member-2

K-RERA


(D. Vishnuvardhana Reddy)

Member-1

K-RERA


(H.C. Kishore Chandra)

Chairman

K-RERA