

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 14th October 2022

COMPLAINANTS.....

1. **CMP/UR/210709/0008111**
2. **CMP/UR/220321/0009166**
3. **CMP/UR/220321/0009167**
4. **CMP/UR/220321/0009168**
5. **CMP/UR/220321/0009169**
6. **CMP/UR/210726/0008163**

Gaddam Murthy

Plot No: 150, Sri Krishna
Palace, Vasavi Nagar
Karkhana, Telangana
Hyderabad-560 015.

7. **CMP/UR/210806/0008220**

Balraj Gaddam

Godrej Eternity
L-2103, Holiday Village Road
Mallasandra,
Bangalore-560 062

8. **CMP/UR/210730/0008174**

Neeraja Gaddam,

Godrej Eternity
L-2103, Holiday Village Road
Mallasandra, Bangalore-560062

(In person)

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Respondents...

1. Ravinder Reddy Arrabolu

Suavity Otium, Yelanahalli Main
Road, Akshayanagar,
Bengaluru-560068

2. Puttaraju

Kalkere Village,
Union Bank Post,
B.G. Road, Bangalore-560 083

3. Md. Nazim

Flat No: B-403, Suavity Otium
Yelanahalli Main Road,
Akshayanagar,
Bengaluru-560 068

**4. Sanjay Kumar & Suman
Singh**

Flat No: B-001,
Suavity Otium
Yelanahalli Main Road,
Akshayanagar,
Bengaluru-560 068

5. Md. Ali Aman

Flat No: B-402,
Suavity Otium
Yelanahalli Main Road,
Akshayanagar,
Bengaluru-560068

6. Sathyanarayanan

Sarvanamuthu
Flat No: B-007,
Suavity Otium
Yelanahalli Main Road,
Akshayanagar,
Bengaluru-560 068

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7. Guru Shamnur & Rekha

Gururaj,

Flat No: B-302,

Suavity Otium

Yelanahalli Main Road,

Akshayanagar,

Bengaluru-560 068

8. Saranya S

Flat No: B-308,

Suavity Otium

Yelanahalli Main Road,

Akshayanagar,

Bengaluru-560 068

9. Naveen Kumar Nagaraj

Flat No: C-408

Suavity Otium

Yelanahalli Main Road

Akshayanagar,

Bengaluru-560 068

10. Uday V Shetty &

Sushmita V. Shetty

Flat No: C-108, Suavity Otium

Yelanahalli Main Road

Akshayanagar

Bengaluru-560 068.

(Exparte)

JUDGEMENT

1. The complainants, Mr. Gaddam Murthy, Mr. Balraj Gaddam and Mrs. Neeraja Gaddam have filed these complaints against the respondent-1 Ravinder Reddy Arrabolu & respondent no.2 Mr. Puttaraju in respect of the project "SUAIVITY OTIUM". The respondent nos. 3 to 10 are the third parties who are said to be in the possession of flats booked by the complainants.

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2. The promoter has developed a project known as "SUAVITY OTIUM" in the limits of Yelanahalli village, Begur Hobli, Akshayanagar, Bangalore South Taluk, having Amalgamated BBMP Khatha No.225/Sy.No.11/7,11/8,11/9,11/10 & 12/3. This project is not a registered project.

3. All these eight complaints are arising out of the same project and hence they are taken up together for disposal in order to avoid repetition and for the sake of convenience.

4. The gist of the complaints is as under:

(i) **CMP/UR/210726/0008111**: The complainant Mr. Gaddam Murthy had purchased a flat no. **B-403** in the project "Suavity Otium" on the ground floor vide registered sale of undivided interest and construction agreement executed on 20/01/2016 while the said project was under construction. The complainant has paid the entire sale consideration of Rs.35,50,000/- towards the construction of the said flat to the respondent nos 1 & 2. The respondent was obligated to deliver the possession of the flat to the complainant by 30/09/2017. The complainant contends that when he asked the promoter about possession of the said flat, the respondent promised him to be deliver in another 6 months citing the delay due to demonetization and inadequate labour workers.

Later, when the complainant visited Bengaluru in 2018, the said flat was sold and registered in the name of one Mohammed Nazim S/o Md. Noorul Amin. The respondent convinced the complainant that he will provide him a bigger flat in the upcoming block in lieu of the delay caused. Further, the construction work was going on from 2012 to 2020 and the flats were being handed over block wise and phase wise. The complainant prayed for registration of the sale deed of flat no.B-403 with possession and compensation for delay in delivery by cancellation of the sale deed executed in favour of third party or an alternate flat. Hence, this complaint.

Ans

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In support of his claim, the complainant has produced documents such as (a) copy of registered sale of undivided interest and construction agreement dated 20.01.2016(b) Encumbrance Certificate

(ii) **CMP/UR/220321/0009166**

The respondents 1 & 2 have executed a registered sale of undivided interest & construction agreement dated 20/01/2016 towards the purchase of flat no. **B-001** in the project "Suavity Otium" in favour of complainant who is a nominee of his youngest sister and her husband. The complainant has paid the entire sale consideration of Rs.**35,50,000/-** to the respondent nos. 1 & 2 towards the purchase of the said flat which was duly acknowledged by them. As per the said deed, the respondents 1 & 2 were obligated to hand over the possession of the flat by the end of 2017 but was extended beyond the due date by an year i.e. by the end of 2018 citing reasons of demonetization and inadequate labourers. Later, the developer with willful and malafide intention has sold and registered the said flat to one Sanjay Kumar and Suman Singh. On enquiry, the respondents then promised him a bigger and better flat in their upcoming block in the same building in lieu of the booked flat, but failed to do so. Hence the complainant prayed for registration of the sale deed of flat no.**B-001** with possession and compensation for delay in delivery by cancellation of the sale deed of third party or an alternate flat. Hence, this complaint.

In support of his claim, the complainant has produced documents such as (a) copy of registered sale of undivided interest and construction agreement dated 20.01.2016 (b) Encumbrance Certificate.

(iii) **CMP/UR/220321/0009167:**

The respondents 1 & 2 have executed a registered sale of undivided interest and construction agreement in favour of the complainant in respect of the flat No: **B-402** dated 20/01/2016 in the project "Suavity Otium". The complainant has paid the entire sale

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consideration of Rs.35,50,000/- to the respondents 1 & 2 towards the purchase of the said flat which was duly acknowledged by the respondents 1 & 2. Later, the developer has sold and registered the said flat to one Mr. Mohammed Ali Aman, represented by its GPA holder Mr. Fazle Ali on 11.07.2016 as per the encumbrance and sale deed certified copies obtained by the complainant. On enquiry, the respondents then promised him a bigger and better flat in their upcoming block in the same building in lieu of the booked flat, but failed to do so. The complainant prayed for registration of the sale deed of flat no. **B-402** with possession and compensation for delay in delivery by cancellation of the sale deed executed in favour of third party or an alternate flat. Hence, this complaint.

In support of his claim, the complainant has produced documents such as (a) copy of registered sale of undivided interest and construction agreement dated 20.01.2016 (b) Encumbrance Certificate.

(iv) **CMP/UR/220321/0009168**

The respondents 1 & 2 have executed a sale of undivided interest and construction agreement in favour of the complainant towards the purchase of a flat No. **B-007** dated 10/07/2015 in the project "Suavity Otium" who is a nominee of his cousin and his wife. The complainant has paid the entire sale consideration of Rs.35,50,000/- to the respondents 1 & 2 towards the purchase of the said flat which was duly acknowledged by the respondents 1 & 2. As per the agreement of sale, the respondent was obligated to hand over the possession of the flat by the end of 2017 but was extended beyond the due date by an year i.e. by the end of 2018 citing reasons of demonetization and inadequate labourers. Later, the developer with willful and malafide intention has sold and registered the said flat to one Sathyanarayanan Saravnamuthu. Then the respondents promised him a bigger and better flat in their upcoming block in the same building in lieu of the booked flat, but failed to do so. The complainant prayed for registration of the sale deed of flat no. **B-007** with possession and compensation for delay in delivery by

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cancellation of the sale deed executed in favour of third party or an alternate flat. Hence, this complaint.

In support of his claim, the complainant has produced documents such as (a) copy of sale of undivided interest and construction agreement dated 10.07.2015 (b) Encumbrance Certificate.

(v) **CMP/UR/220321/0009169**

The respondents 1 & 2 have executed a sale of undivided interest and construction agreement in favour of the complainant towards the purchase of the flat No: **B-302** dated 10/07/2015 in the project "Suavity Otium" who is a nominee of his cousin and his wife. The complainant paid the entire sale consideration of Rs.35,50,000/- to the respondents 1 & 2 towards the purchase of the said flat which was duly acknowledged by the respondents 1 & 2. As per the agreement of sale, the respondent was obligated to hand over the possession of the flat by the end of 2017 but was extended beyond the due date by an year i.e. by the end of 2018 citing reasons of demonetization and inadequate labourers. Later, developer with willful and malafide intention has sold and registered the said flat to one Gururaj Shamanur & Rekha Gururaj. On enquiry, respondent 1 & 2 then promised him a bigger and better flat in their upcoming block in the same building in lieu of the booked flat, but failed to do so. The complainant prayed for registration of the sale deed of flat no. **B-302** with possession and compensation for delay in delivery by cancellation of the sale deed of third party or an alternate flat. Hence, this complaint.

In support of his claim, the complainant has produced documents such as (a) copy of sale of interest & construction agreement dated 10.07.2015 (b) Encumbrance Certificate.

(vi) **CMP/UR/210726/0008163**

The respondents 1 & 2 have executed a registered sale of undivided interest and construction agreement in favour of the complainant towards the purchase of the flat No: **B-003** dated 20/01/2016 in the project "Suavity Otium" who is a nominee of his youngest sister

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and her husband. The complainant has paid the entire sale consideration of Rs.35,50,000/- to the respondents 1 & 2 towards the purchase of the said flat which was duly acknowledged by the respondents 1 & 2. As per the agreement of sale, the respondent was obligated to hand over the possession of the flat by the end of 2017 but was extended beyond the due date by an year i.e. by the end of 2018 citing reasons of demonetization and inadequate labourers. Later, the developer with willful and malafide intention has sold and registered the said flat to one Sharanya S. The respondents 1 & 2 then promised him a bigger and better flat in their upcoming block in the same building in lieu of the booked flat, but failed to do so. The complainant prayed for registration of the sale deed of flat no.B-003 with possession and compensation for delay in delivery by cancellation of the sale deed executed in favor of third party or an alternate flat. Hence, this complaint.

In support of his claim, the complainant has produced documents such as (a) copy of registered sale of undivided interest & construction agreement dated 20.1.2016 (b) Encumbrance Certificate.

5. CMP/UR/210806/0008220: The Respondents 1 & 2 have executed a registered sale of undivided interest and construction agreement cum construction agreement in favour of the complainant towards the purchase of flat No.**C-408**, 3 BHK, 4th floor in the project "Suavity Orium" in Akshaynagar, Yelenahalli Main Road, Bengaluru-560 068 on 30/09/2013. The complainant has paid the entire sale consideration of Rs.35,50,000/- to the respondents 1 & 2. As per the agreement deed dated 30/09/2013, the respondents 1 & 2 shall endeavor to hand over the possession of the flat by the end of 2016. The delivery/possession was further extended by the respondents 1 & 2 by over a year i.e. by the end of the year 2018 citing the reasons of demonitization and inadequate labour force by informing the complainant over phone. Later, when the complainant visited Bengaluru in the beginning of 2019, the complainant found that the said flat No. B-402 was sold and registered in favour of one Naveen Kumar Nagaraj. The respondents 1 & 2 then promised him a bigger

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and better flat in the upcoming block in the same building in lieu of the booked flat, but failed to do so. The complainant prayed for registration of the said flat or an alternate flat and compensation for delay from promised date of possession i.e. September 2016. Hence, this complaint.

In support of his claim, the complainant has produced documents such as Sale of Undivided Interest & Construction Agreement dated 22nd October 2013.

6. CMP/UR/201730/0008174: The Respondents 1 & 2 have executed a registered sale of undivided interest cum construction agreement in favour of the complainant towards the purchase of flat of Flat No.C-108, 3 BHK, first floor in the project "Suavity Otium" in Akshaynagar, Yelenahalli Main Road, Bengaluru-560 068 on 30/09/2013. The complainant has paid the entire sale consideration of Rs.35,50,000/- to the respondents 1 & 2 . As per the agreement deed dated 30/09/2013, the respondents 1 & 2 shall endeavor to hand over the possession of the said flat by the end of 2016. The delivery/possession was further extended by the respondents 1 & 2 by over a year i.e. by the end of the year 2018 citing the reasons of demonitization and inadequate labour force by informing the complainant over phone. Later, the developer has sold and registered the said flat to one Uday V.Shetty and Sushmita V. Shetty. Then respondents 1 & 2 have promised him a bigger and better flat in the upcoming block in the same building in lieu of the booked flat but failed to do so. The complainant prayed for registration of the said flat or an alternate flat and compensation for delay from promised date of possession i.e. September 2016. Hence, this complaint.

In support of her claim, the complainant has produced documents such as registered sale of undivided interest & construction Agreement dated 22.10.2013.

7. After registration of the case, in pursuance of notice served, the respondents absented themselves from appearance before this Authority during the proceedings held on 1/12/2021,13/01/2022, 17/02/2022,16/03/2022, 20/04/2022, , 01/06/2022, 29/8/2022,

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the complainants did attend the proceedings on these days except on 16.03.2022 whereas the respondent remained absent on all these days. Hence, it is decided ex-parte.

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

1. Whether the project required to be registered under RERA?
2. Whether the complainants are entitled to the relief claimed?
3. What order?

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

10. 1. In the Affirmative

2. In the Affirmative

3. As per final order for the following:

FINDINGS

11. Our findings on point no.1: It is apparent from the records that this project is not a registered project in RERA. The Authority vide order dated 1st September 2022 has directed the respondent 1 & 2 to get register the project under RERA as per section 3 of the Real Estate (Regulation and Development) Act, 2016.

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

12. Our findings on point no.2: The grievance of the complainants is that the respondents 1 & 2 have defaulted and not handed over the possession of their respective flats as per terms of registered/sale of undivided interest and construction agreement agreement of sale. The respondents 1 & 2 were supposed to hand over the possession

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of their respective individual flats on the due dates as envisaged in the terms and conditions of the registered/agreement of sale and construction. It is pertinent to note that the respective flats booked by the complainants have been sold and registered in the name of third parties. Further, the respondents 1 & 2 have promised the complainants bigger and better flats in their upcoming block in the same building in lieu of the booked flats being sold and registered in the name of third parties. But the respondents 1 & 2 have neither registered the respective flats in favour of the complainants nor have provided alternate flats despite complainants have paid the entire sale consideration to them.

Having accepted the entire sale consideration and failure to keep up the promise to hand over possession of their respective flats or an alternate flats in lieu of the booked flat being sold and registered in favour of the third parties, certainly entitles the complainant for registration of their respective flats, possession and interest on delay period.

Having regard to all these aspects, we conclude that the complainants are entitled for registration of their respective flats, possession and interest on delay period. Accordingly, the point raised above is answered in the Affirmative.

13. Our findings on point no.3: In view of the above discussion, we conclude that the complaints 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 complaints

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bearing Nos: 0008163, 0009166 to 0009169, 0008111, 0008220 and 0008174 are allowed and pass the following order.

1. Respondents 1 & 2 are hereby directed to get register the respective flats viz: B-403, B-001, B-402, B-007, B-302, B-003, C-408 & C-108 in favour of the complainants or an alternative flats in the same block .
2. Respondents 1 & 2 are hereby directed to hand over the possession of their respective flats to the complainants.
3. The respondents 1 & 2 are hereby directed to pay delay period interest to the complainants by way of interest calculated at the rate of 9% p.a. on respective amounts from the dates of receipt of respective amounts paid by the complainants till 30.4.2017. Further, at the rate of SBI MCLR + 2 per annum from 1.5.2017 till the date of execution of sale deeds in favour of the complainants.
4. Respondent/promoter is hereby directed to complete and register the project.
5. The respondents 1 & 2 are directed to register, hand over possession and pay delay period interest to the complainants within 60 days from the date of this order failing which, the complainants are at liberty to enforce the said order in accordance with law.

No order as to costs

(D. Vishnuvardhana Reddy)

Member-1
K-RERA

(Neelmani N Raju)

Member-2
K-RERA

(H.C. Kishore Chandra)

Chairman
K-RERA