

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 01st November 2022

COMPLAINT NO: CMP/UR/210729/0008170

COMPLAINANT.....

Shri. Robert Dsouza,

Flat No. 312, C Wing Crystal Valley,

5th Cross Road, Nayampalli, Udupi-576175.

(Rep. by Srinivas L, Advocate)

V/S

RESPONDENT.....

Thomas Charles Lewis,

K.G Road, Uppoor Village,

Thenkabettu Post, Udupi Taluk/Dist.

Udupi-576105.

(In person)

JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act against the respondent with regard to the project "Crystal Valley" developed by Thomas Lewis which is a unregistered project. Complainant had filed complaint no.75/2020 before District Consumer Commission, Udupi for the relief but not progressed due to insufficient address of land owners. Hence, requested to initiate action against the builders under RERA Act.

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BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

2. The complainant had booked a flat, in the project of respondent in February 2020 to be ready on 30-04-2020. The respondent has obtained occupancy certificate before completion of the project. There are visible structural defects. This project has not been registered under RERA. Building is not matching with the brochure. Hence, this compliant.
3. 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.
4. They have commenced the construction in the year 2012 with all necessary approvals. There are three blocks. They had completed the construction and obtained occupancy certificate in respect of A block before commencement of RERA Act and waiting for occupancy certificate in respect of B & C blocks. They were under the impression that the RERA Act is applicable only to those projects which are yet to begin. In the meanwhile, the complainant who was on rent in one of their apartment started lodging false complaint against them before various authorities including this Authority. The complainant has filed complaint before Udupi District Consumer Disputes Redressal commission. Hence prayed to dismiss the complaint.
5. In support of his claim, the complainant has produced in all 4 documents such as copies of Agreement of Sale, Notice issued by Udupi Municipal dated:04/10/2021, 22/06/2021, correspondence exchanged between the complainant and the Municipal and Photographs of project.
6. The respondent has furnished 01 document in support of his defense such as copy of consumer forum complaint No. 75/2020.
7. This matter was heard on 10/11/2021, 09/12/2021, 01/02/2022, 22/02/2022.

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8. Heard arguments on both sides.

9. Complainant has submitted written arguments.

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

Point No.1 :- Whether this project "Crystal Valley" requires registration?

Point No.2 :- Whether the complainant is entitled for the relief claimed?

Point No.3:- What order?

11. Our findings on the above points are as under.

1. In the Affirmative

2. In the Negative

3. As per final order for the following

REASONS

12. **Our findings on Point No.1:-** From the materials available on record, it is apparent that there are 3 blocks such as A, B and C in the project "Crystal Valley". The respondent had completed the construction and obtained occupancy certificate only in respect of A block on 16/09/2020 i.e., after commencement of RERA Act. Further the blocks B and C were not completed. Hence, the said project is ongoing project as on the date of RERA Act came into force. Therefore the said project "Crystal Valley" requires registration under sec.3 of the RERA Act which reads as under.

No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act: Provided that projects that are ongoing on the date of commencement of this Act

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and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act: Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration. (2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required— (a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases: Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act; (b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act; (c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project. Explanation.—For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a standalone real estate project, and the promoter shall obtain registration under this Act for each phase separately.

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

13. **Our findings on Point No.2:-** Grievance of the complainant is that the respondent has obtained occupancy certificate before completion of the project and there are visible structural defects. This project has not been registered under RERA.

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14. On the other hand, it is the contention of the respondent that the said project commenced in the year 2012 and after completion of A block before commencement of RERA Act they had obtained occupancy certificate and were waiting for occupancy certificate in respect of B and C block.
15. Looking to the averments of the complaint, they are not clear and specific enough as to infer what are the structural defects found in the construction of the apartment or how the flats are in contrast with the brochure. Only acceptable contention of the complainant is that respondent has not registered the project though it was coming under the category of ongoing project when RERA came into force. Therefore, this Authority deems it appropriate to issue necessary direction to the respondent to take steps for registration of the project by stipulating a time frame.
16. As regards other lapses pointed out in the project, no relief can be granted in favour of complainant for lack of particulars. Considering all these aspects, this complaint is disposed of with a direction to the respondent to register the project "Crystal Valley" under RERA. Accordingly, the point raised above is answered in the Negative.
17. **Our findings on point No.3:-** In view of the above discussion, the complaint deserves to be disposed of with a direction to the respondent to register the project 'Crystal valley' under RERA as an ongoing project as per section 3 of the Act. Accordingly, the following order is passed.




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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/210729/0008170** is hereby disposed of with a direction to the respondent to register the project 'Crystal valley' under RERA as per section 3 of the Act, within 30 days from the date of this order, failing which appropriate action will be initiated against the respondent.

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