

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 BEFORE BENCH-4

Present

Shri. H.C. Kishore Chandra, Chairman

Dated 12TH December 2022

COMPLAINT No: CMP/180308/0000557

COMPLAINANT....

1. K.M. Muneer Ahmed

#9, First Floor, 1st Cross
Nandi View Layout,
Ex-Servicemen Colony
Dinnur Main Road
R.T. Nagar
Bangalore-560 032.

(In person)

Vs

RESPONDENTS.....

**M/s Powerhills Construction
Private Limited**

51, 18th Cross Road, Sector-3
HSR Layout
Bengaluru Rural
Bengaluru-560 102.

(exparte)

JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act against the project "Habitat developed by "Powerhills Construction Private Limited " in the limits of no.558, Anekal Taluk, Anekal Kasaba Hobli, Anekal Town,

Ans

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Bengaluru South-562106 and sought relief of compensation under section 18 of the RERA Act.

2. This project is registered in RERA bearing registration no.PRM/KA/RERA/1251/308/PR/171102/001798.
3. Earlier, this matter was heard by the Adjudicating Officer who has passed an order. As against this order, the complainant has preferred an appeal before the K-REAT which has remanded all the appeals setting aside the orders of the Adjudicating Officer for fresh consideration in view of judgement of Hon'ble Supreme Court in M/s. Newtech Promoters and Developers Pvt. Ltd., v/s. State of UP and others (2021).
4. **Brief facts of the complaint:** One M.K. Narayana Swamy who is the landowner of Sy.No.558 of Anekal entered into Joint development agreement on 23rd March 2016 with the developer M/s Powerhills Constructions Private Limited. The said survey no.558 was alienated to the complainant on 23/05/2014 by the said M.K. Narayana Swamy. Both the landowner and the developer have violated rules of RERA. Hence, this complaint.
5. After registration of the complaint, in pursuance of the notice and summons, the respondent has not appeared before the Authority and hence he has been placed ex-parte.
6. This matter was heard on 10/06/2022, 1/07/2022, 15/07/2022, 12/08/2022, 12/08/2022, 29/08/2022.

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7. In support of the claim, the complainant has produced documents such as
(1) Bank statement of advance amount paid to respondents (2) court copy
also confirming the development and sale of the plots before registration with
RERA (3) Respondents empowerment letter for plots sold to the complainant
(4) Joithipura Sy.no. 54/3 layout plan for 32 guntas, conversion copy for 21
guntas and DHFL, rejected copy, layout invested and developed photo
copy (5) agreement copy dated 16/05/2016 (6) "Mahalakshmi-Nakshtras-62
with bifurcation layout plan of plotted area showing 41,700 square feet each,
BMRDA HABITAT encroached 558. Copies of proof for marketing plots
@Rs.2499/-, brochure. (7) Memo of calculation.

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

1. Whether the complainant is entitled to the relief claimed?

2. What order?

9. My findings on the points are as under:

1. In the Negative.

2. As per final order for the following reasons:

10. **My findings on point no.1:** The grievance of the complaint is that one M.K.
Narayanaswamy approached him for development of his non-agriculture
land bearing Sy.no. 558 measuring 3 acres of Anekal and to form sites. He
has agreed for the same and gave Rs.50,000/- through cheque to the said
M.K. Narayana Swamy. When he has started the development of the said

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land, said M.K. Narayana Swamy and one Kempegowda interfered in the said and he has invested about Rs.35,00,000/- for marketing.

It is pertinent to note that this Authority is established to resolve the dispute between the builder, allottees and real estate agents inter se.

From the materials available on record, it is apparent that the complainant is neither an allottee nor a person aggrieved under the said project.

“Section 2(d) “allottee” in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent”

Therefore, under section 2(d) of the Act, complaint would have no locus standi to approach this Authority.

On careful scrutiny of the entire materials place on record, there are absolutely no records to infer as to how the complainant is aggrieved. That apart, it is needless to say the RERA Act was enacted to address the grievance of allottees, promoter and real estate agents inter se. On the other hand, any commercial contract which is the one the complainant claims to have been entered into with respondent does not come within the purview of this Authority.

From the materials placed on record it is apparent that there is a Joint development agreement dated 23rd March 2016 between one M.K. Narayanaswamy and present respondent and that the complainant has

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given advance amount to M.K. Narayana Swamy towards marketing and development of land involved in this project.

Considering all these aspects, this Authority concludes that this complaint is not maintainable. Accordingly, the point raised above is answered in the Negative.

11. **My findings on point no.2.** In view of the above discussion, I conclude that, this complaint deserves to be dismissed.

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No: **CMP/180308/0000557** is hereby dismissed as not maintainable.

No order as to costs.


(H.C. Kishore Chandra)
Chairman
K-RERA

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