

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

Dated 19th December 2022

Present

Shri. H.C. Kishore Chandra, Chairman

| | |
|---------------|---|
| Complaint No. | CMP/190104/0001825 |
| Complainants | Nandkumar Sharanappa Narel Flat No. G-11, Sri Sai Enclave 4 th Cross Bengaluru-560 035. (In person) |
| Respondent | M/s Mangal Reality A-2 & 3, Shivasharan Sankiran Khuba Plot Court Road, Kalaburagi-585102 (Rep. by Sri.E. Suhail Ahmed, Advocate). |

JUDGEMENT

1. The complainant Sri. **Nandkumar Sharanappa Narel** has filed this complaint under section 31 of the RERA Act, against the project '**Gita Nagar**' developed by "**M/s Mangal Reality**" for the relief of interest on delay period.
2. The respondent has developed this project in the limits Sedam Road, Kalaganoor Village, Kalaburagi.
3. This project has been registered in RERA vide registration no. PRM/KA/RERA/1263/419/PR/171223/002299.

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4. The brief facts of the complaint are as under:-

The complainant has entered into an deed of agreement dated 2nd day of January 2012 for purchase of the plot bearing No. 75 in the project "Gita Nagar " developed by the respondent/promoter. Out of sale consideration of Rs.14,20,000/- the complainant has paid an amount of Rs.10,05,000/- towards the cost of the plot to the respondent as on February 2016. As agreed, the respondent would be endeavour to hand over the plot on the 59th month from the payment of 1st installment i.e. from 3rd January 2012. The project is delayed and the layout is still not completed. It contends that the complainant has requested the promoter to share the project completion certificate, layout plan and property id of plot no. 75 before making the balance payment. Despite repeated mails and follow-up conversations, the promoter did not provide any such details stage wise time schedule of completion originally planned and the actual time of completion.

5. Further the complainant in his written complaint has contended that the respondent has falsely claimed that the layout is fully developed though development works related to water and UGD are not completed and that there is no overhead water tank(OHT) and STP(Sewage Treatment Plant) in Gitanagar Layout. The club house and swimming pool is not provided though the promoter promised in Brochure of Gita Nagar.

6. It is further contended that the respondent has suppressed the fact about actual plot size of site no.75 which is 3875 sqft and is lesser than 4000 sqfts as agreed in the deed of agreement dated 2nd January 2012.

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But maintained the original price of Rs.14,20,000/- for balance payment in his book of records and issued the same to him as the statement of payment and balance. In all book of records, the amount taken is maintained as plot no.75 whereas the promoter has changed the reserved and allotted plot no. of 75 without taking the consent of the complainant.

7. It is contended that the respondent has demanded extra payment but the complainant did not pay any additional amount as demanded. The complainant sought relief of interest on delay period in handing over the possession of the plot. Hence, this complaint.

8. After registering the complaint, in pursuance of notice, the respondent has appeared before the Authority through its counsel and filed statement of objections as under:-

9. The respondent has denied all the allegations made against by the complainant as false. The respondent has entered into an deed of agreement dated 02/01/2012 with the complainant for allotment of site. Further, upon sanction of the layout plan for the project namely "Gita Nagar" as on 07/10/2015, the complainant was allotted plot no.75(new no. 91) in the project situated at Kalnoor Village, Sedam Road, Kalaburgi.

10. It is contended that at the time of allotment and execution of the deed of agreement dated 02/01/2012, it was made clear to the complainant that in addition to payment of sale price, he will have to

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pay additional sum towards Government levies and development charges etc., for the said plot.

11. It is contended that the complainant was required to make the payments of his installments in timely manner which he defaulted and respondent has accordingly demanded for payment of pending installments along with delay charges in terms of the agreement and the communication dated 09/08/2013. However, the complainant till date has failed to pay his remaining installments even after repeated reminders.

12. It is contended that the plot having been allotted to the complainant bearing no.91(old no. 75) which as per the deed of agreement is shown to measure 4000 square feet had been planned prior to sanction of the layout plan. However as per the sanctioned layout plan the measurement of the plot having been reduced to 3874 square feet, the respondent would proportionately reduce the total price by Rs.355 square feet and accordingly would reduce Rs.44,730/- and accept the payment accordingly.

13. Further, in addition to the statement of objections, the respondent has submitted written arguments on 17/10/2022 as under:

14. It is contended that the respondent obtained the layout plan sanction from the Urban Development Authority, Kalburgi on 07.10.2015 for development of the plotted development project,

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consisting in all 329 sites of various dimensions and 40% of the sites i.e. 132 sites were released for sale.

15. It is contended that as per the terms of deed of agreement, 59 months period from the date of the agreement ended on 02.01.2017 and the release of the plot bearing No.91 which was allotted to the complainant had been obtained as on 31.12.2016 after which he was duly intimated about the same. Having paid the statutory amounts as provided under clause 12 of the agreement, the respondent demanded payment of a sum of Rs.44,955/- from the complainant towards the Government levies. It is further contended that the complainant has admitted that he had visited the office of the Respondent on 19.10.2018 on which date again the respondent requested him to pay the balance sale consideration along with additional charges towards government levies as above. However, the complainant himself has admitted that he denied payment of additional charges as claimed by the respondent. The respondent has issued legal notice dated 8.7.2022 cancelling the plot allotted of the complainant for non-adherence to payment conditions. Hence the respondent prays to dismiss the above complaint.

16. In support of his claim, the complainant has produced documents such as (1) Gita Nagar Project status published by RERA on 2nd January 2019 (2) Notification by Mangal Reality claiming that Gita Nagar is fully developed with all amenities and plots are ready for registration dated 3.9.2018 (3) Brochure of Gita Nagar, (4) Plan approval order of Gita Nagar and layout map.(5) Deed of agreement

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17. In support of his defence, the respondent has produced documents such as (1) copy of the agreement dated 02/01/2012 (2) copy of communication intimating the complainant to pay delay payment (3) copies of orders of release of plots dated 7.5.2015, 31.12.2016 and 28.3.2018 (4) Copy of release order dated 7.10.2015 reflecting the payment of charges (5) Receipt dated 02/08/2017 with regard to payment made to KUWS&DB, Kalaburagi (6) Estimation letter dated 27.02.2017.

18. Heard both the parties. This matter was heard on 13/06/2022, 20/06/2022, 04/07/2022, 18/07/2022, 26/09/2022 and on 17/10/2022,

19. On the above averments, the following points would arise for the consideration of the Authority.

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

2. What order?

20. My findings on the above points are as under:

21. 1. In the Negative

2. As per final order for the following:

FINDINGS

22. My findings on point no.1: The grievance of the complainant is that the respondent has defaulted and not handed over the possession of his plot as per deed of agreement dated 2nd January 2012. As agreed,

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the respondent would be endeavour to hand over the plot on the 59th month from the payment of 1st installment i.e. from 3rd January 2012 as was envisaged in the terms and conditions of the deed of agreement.

It is pertinent to note that the respondent obtained the layout plan sanction from the Urban Development Authority, Kalburagi on 07.10.2015 for development of the plotted development project consisting in all 329 sites of various dimensions and 40% of the sites i.e. 132 sites were released for sale.

It is apparent from the available materials on record that as per at clause 2 of the deed of agreement, the plot would be allotted to the complainant after completion of payment of 59 monthly instalments and only thereafter the complainant would get particular number of the plot which he would get in the proposed project. Further, the plots will be of various dimensions and allocation would be made accordingly. The total sale consideration payable was fixed at Rs. 14,20,000/-.

It is pertinent to note that after sanction of the layout plan, plot No.91, measuring 15 metres x 24 metres which is 360 sq.mtrs came to be allotted to the complainant which converted into feet is equivalent to 50 feet x 80 feet = 4000 square feet. Though the measurement of the plot is more than 3875 sqft. the physical measurement of the site was 4000 square feet. Despite of the measurement being proper it was offered to the complainant that the respondent shall proportionately reduce the total price of the plot and accept the payment accordingly, the complainant did not come forward to make the balance payments and get the sale deed executed.

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Further, the complainant instead of adhering to the terms of deed of agreement and paying the balance sale consideration and the money towards government levies of Rs.44,955/- kept on delaying making the payments on one or other pretext, in spite of having been informed that the release of plot no.91 as on 31.12.2016. Release order in respect of plot No;91 having been obtained on 31.12.2016, the complainant having failed to pay the amounts, became liable to pay interest for the delay in making the payments. Admittedly, even as on 21.10.2018, he had not paid the balance sale consideration.

Considering all these facts and circumstances of the case, the respondent has established that the complainant has defaulted in compliance with the terms of deed of agreement dated 2nd January 2012 and not paid the installments as agreed in spite of repeated reminders by the respondent. Hence, the complainant is not entitled for the relief claimed. Accordingly, the point raised above is answered in the Negative.

Further, the complainant has sought for the relief of compensation for mental agony. The relief of compensation for mental agony does not come under the purview of this Authority. In this regard, the complainant has to file complaint before the Adjudicating Officer, RERA for claiming such relief.

23. My findings on point no.2: In view of the above discussion, I conclude that the complaint deserves to be dismissed. Hence, I proceed to pass the following order:

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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/190104/0001825** is hereby dismissed.

No order as to costs.


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

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