

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 27<sup>th</sup> December 2022**

**Complainant....**

**1. CMP/210827/0008276**

**B.M. Pristine Residents Welfare Association**

Sy.No. 46 & 48/1, B.M. Pristine Apartments, Gunjuru Kripanidhi College Road Mahadevapura, Varthur, Bengaluru-560 087.

(represented by Mr. Taha Khaleel, Abheeq Taha, Advocates)

**2. CMP/210530/0007967**

**Rupesh Godbole**

Q-204, Purva Fountain Square Marathahalli Bridge Bengaluru-560 037.

**V/s**

**Respondents.....**

**1. B.M. Developers**

No: 1688/A, 2<sup>nd</sup> Floor  
G.V. Complex, 14<sup>th</sup> Main  
HSR Layout  
**Bengaluru-560 102**

**2. P. Gajendra**

No: 1688/A, 2<sup>nd</sup> Floor  
G.V. Complex, 14<sup>th</sup> Main  
HSR Layout  
**Bengaluru-560 102**

**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

**3. P. Tulasi**

**W/o P. Gajendra**

No: 1688/A, 2<sup>nd</sup> Floor

G.V. Complex, 14<sup>th</sup> Main

HSR Layout

**Bengaluru-560 102**

**4. B. Karthik**

Flat No. 403, Vasanthi Sunshine

Apartment, AECS Layout

"A" Block, Chinnappanahalli

Marathahalli Post

**Bengaluru-560 037.**

**5. Prabhakar Naidu**

Flat No. 104, Rooma Cross Wind

Apartment, Brookfield

Kundanahalli

**Bengaluru-560 037.**

**6. P. Krishna**

Flat No. 403, Vasanthi Sunshine

Apartment, AECS Layout, A-Block,

Chinnappanahalli,

Marathahalli Post

**Bengaluru-560 037.**

(represented by Mr. M.S. Prakash  
for R1 to 3

**Mr. GV Sudhakar, Advocate for  
R5 & R6)**

1/28

1/28

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

**JUDGEMENT**

1. These complaints are filed under section 31 of the RERA Act, against the project **'BM Pristine'** developed by **"M/s B.M. Developers"** in the limits of Gunjur Village, Varthur Hobli, earlier Bengaluru South Taluk, presently Bengaluru East Taluk, and sought for the relief of direction to the respondent to provide amenities, individual electricity connection, compensation, legal fees etc.,
2. This project has been registered in RERA bearing registration no. PRM/KA/RERA/1251/466/PR/180319/001797.
3. Both these 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/210827/008276**: The members of the complainant association have entered into the sale and construction agreements with the respondents and the respondents till date failed to complete the project. It contends that the respondents in order to avoid their responsibility had given a possession of incomplete apartment and later failed to complete the same. It is further contended that the respondents have not provided the occupancy certificate besides no individual electricity connections are being provided. Further, amenities such as swimming pool, club house, play area, elevators have not been provided as per terms of agreement.

19

19

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

(ii) Further, the complainant Association contended that even after filing the present complaint, the complainant had approached the respondent to complete the project work. However, the respondents failed to do so.

(iii) It is contended that due to negligent act of the respondents, the life of the apartment owner is in danger, thus with the coordination of all the flat Owners of the apartment, the society has decided to complete some of the urgent components in the project by collecting the amount from the apartment owners. Further, the complainant society had obtained estimation from the registered civil engineer firm. Besides, the member of the society had voluntarily agreed to contribute a sum of Rs.80,000/- to the society and the society has already collected portion of the amount from its members. Further, since the pending work needs urgent attention, the society decided to spend the amount to complete the remaining work.

(v) It is contended that the voluntarily construction of the amenities by the member, does not preclude the society from claiming reimbursement and compensation from the builder as prayed in the complaint.

(vi) The complainant Association have sought relief for a direction to the respondents to complete all the amenities, individual electricity connection, compensation for mental agony, legal fees etc. Hence, this complaint.



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

1. In support of their claim, the complainant Association have produced documents such as (1) copy of the certificate of registration of the complainant society (2) copy of the resolution passed dated 21<sup>st</sup> March 2021 (3) copy of the brochure given at the time of booking of the apartment by the member of complainant society (4) copy of the few sale deeds and sale agreement with respect to the project (5) copy of the recent electricity bill (6) Copies of the photographs (7) copy of notice of AGM of the complainant Society (8) copy of minutes of meeting dated 10<sup>th</sup> January 2021. (9) copy of the email sent to the respondent and attachments (10) copy of the letter dated 30.01.2021 requesting the builder to reimburse the expenses incurred in red soil purchase for levelling of boundaries (11) copy of the letter dated 7.06.2021 requesting the builder to reimburse the expenses incurred in fixating certain basic issue.

(b) **CMP/210530/0007967:** The complainant Mr. Rupesh Godbole has entered into a joint development agreement including 90 landowners in November 2013. As per this agreement the builder is required to deliver their respective flats within 36 months as per agreement but still more than 7 years have been elapsed, the project is still incomplete. The complainant sought relief of completion of project by the builder and payment of rent. Hence, this complaint.

In support of his claim, the complainant has produced documents such as absolute sale deed dated 18/09/2013.

2. Respondent no.1 is the company, respondent no.2 is hereinafter called as continuing partner, respondent nos. 4,5 & 6 are herein called the

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

retiring/outgoing partners and respondent no. 3 is hereinafter called the incoming partner as per the Deed of reconstitution of partnership dated 10<sup>th</sup> August 2017.

3. After registering the complaint, in pursuance of notice, the respondents have appeared before this Authority through their counsel and filed written objections as under:-
4. **Objections filed by respondents:** The respondents 1 & 2 have denied all the allegations made against them by the complainant as false. It is contended that the respondents have filed the undertaking before this Hon'ble Authority on 22.06.2022 stating that all the pending work would be completed within six months without fail.
5. It is contended that the estimation taken by the society is not proper and it clearly shows that there is malafide intention behind it.
6. It is contended that almost 90% of the flats have been occupied by the residents and the complainant suppressed the matter before this Hon'ble Authority to mislead the court. Hence, the respondents prayed to dismiss this complaint.
7. **Written arguments filed by the Respondents No.5 & 6:** It is contended that respondent no.5 & 6 have retired from the respondent no.1 partnership firm i.e. M/s B.M. Builders by executing a Reconstitution deed dated 10.8.2017 and continuing partners have accepted the retirement of the respondent no.5 & 6. Further, the respondent no.5 and 6 have released all their rights, title, interest,

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

responsibilities and liabilities over the firm and properties belonged to the aforesaid firm in respect of "BM Pristine".

8. It is contended that respondent no.5 & 6 are not liable for any acts and consequence of the respondent no.1 firm. Further, if any grievance against the firm, the complainant can claim against the firm only and it cannot claim against retired partners. Therefore, the complaint does not survive against the respondent no.5 & 6 and liable to be dismissed.
9. In support of defence, the respondents have submitted documents such as (1) deed of reconstitution of partnership dated 10.08.2017 (2) affidavit dated 27.8.2022 with regards to pending works. (3) minutes of the meeting dated 09/08/2022.
10. Heard both the parties. This matter was heard on 18/11/2021, 14/12/2021, 03.02.2022, 04.03.2022, 07/04/2022, 31/05/2022, 15/6/2022, 22/06/2022, 12/07/2022, 27/07/2022, 02/08/2022, 30/08/2022, 07/09/2022 and on 21/9/2022.
11. On the above averments, the following points would arise for my consideration.
  1. Whether the complainants are entitled to the relief claimed?
  2. What order?
12. Our findings on the above points are as under:
  1. In the Affirmative
  2. As per final order for the following:

*Ad*

*reho*



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

**FINDINGS**

13. **Our findings on point no.1:** The grievance of the complainant is that the respondent has promised that the entire project would be provided with the amenities of swimming pool with deck and kid's pool, well equipped gymnasium, Basket ball court, indoor games, children's playing area, landscape areas, intercom facilities, 24 hours security and fire safety system, 24 hour generator back up for common area lighting, lifts and pump, provision for car wash, sewerage treatment plant, two wheeler parking and visitor's car parking, grand entrance lobby, garbage chute, provision for net connectivity, provision for cable T.V. etc. The STP completed but not as per industry standard which means that the old STP was delivered which had obsolete parts. The respondent promises 2 lifts for each block but has provided only one lift for each block and apart from this the respondent did not provide any amenities as promised.
14. It is pertinent to note that the entire project "BM Prestine" consisting of 224 apartments, out of which 140 members of the complainant society have already taken up the possession and are in occupation despite the developer not providing promised amenities. Further the respondents have failed to provide individual BESCOM meter to the apartments.
15. Further, the Residents Welfare Association of the project vide its letter dated 26.06.2022 have submitted details of pending work as certified by the structural engineers namely M/s Wintech and has arrived at an estimate of Rs.12,17,55,000/- as the required financial outlay for completion of the work. On perusal of the estimation and the pending



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

works running to 26 items, it is evident that there are certain important external and internal development works have not been completed till date. Notable aspects of incomplete works are Fire fighting system, lifts, basement parking, electrical wiring works, providing pumps for the bore wells, play area and sports courts works, incomplete Gym, amounts payable towards BESCOM, providing individual BESCOM and connection to all the flats, providing the account of funds collected from the allottees so on.

16. It is pertinent to note that the Association has proposed to spend Rs.1.4 crores to address certain immediate concerns to enable the allottees to live in the project with less concerns about their safety and ensure that they are able to live with availability of basic amenities.
17. This Authority has given innumerable opportunities to the respondent to complete all the pending works. Further, the Authority in its order dated 03.02.2022 has ordered that the apartments which are not sold by the developer-promoter till date, shall be not put up for sale/arrangements are entered into till such time the completion of the project is achieved.
18. Further, the complainant association in complaint no. **CMP/8276**, have 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 a separate complaint before the Adjudicating Officer, RERA for claiming such relief.

Ad

NLS

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

19. The complainant in complaint No. **CMP/7967** has sought for the relief of compensation of rent which cannot be considered by this Authority. In this regard, the complainant is at liberty to file a separate complaint before the appropriate authority or the jurisdictional forum for said relief.

20. It is pertinent to note that the advocate for the respondent no.1 & 2 has submitted that as mentioned in the affidavit dated 27.8.2022 the work could be executed and completed as per the timelines mentioned therein. The respondent has furnished status of pending works in progress of the project BM Prestine as below:

- (i) Due to unforeseen circumstances of Covid & others, the BM Developers could not complete the project BM Pristine in the given time;
- (ii) The respondent has re-organized Architect, Engineer and C.A. and he is in the process of organizing funds to complete the project as early as possible
- (iii) Completed the works of BESCOM permanent connection on 18<sup>th</sup> June 2022(Sr.No. 20/21 in the list of incomplete work)
- (iv) Works as Sl.no.04(Basement work), Sl.no.5(Acid wash of common area and painting) Sl.no. 11 of duct closing and Sl.no. 13 covering garbage area has been completed.
- (v) Process of obtaining occupancy certificate from BBMP authorities and it will be completed before 28/02/2023
- (vi) Other incomplete items would be completed on or before 28<sup>th</sup> February 2023.
- (vii) Fire Fighting System and its completion certificate is taken up by BMPRWA with their own contribution and that he will reimburse those expenses to BMPRWA within 15 months.

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

- (viii) Other works at Sl.No.14,15,16,17 are also taken up by the BMPRWA and that he will reimburse the expenses to BMPRWA within 15 months
- (ix) Funds arrangements for completing the pending works is being organized by the respondent as detailed hereunder:
- (x) There is a due amount around Rs.55,70,000 from flat owners
- (xi) Four flats which is yet to be sold which is valued approximately Rs.2,00,00,000. He has paid already a sum of Rs.80,00,000/- towards the following works
- a) For obtaining OC Rs.76,00,000/-  
b) For borewell Rs.2,00,000/-  
c) For Terrace duct closing work Rs.2,00,000/-
- (x) Remaining balance towards the completion of work will be arranged by him by borrowing from other sources.
- (xi) The respondent will complete the BM Pristine Project fully with OC on or before 30/4/2023.

21. In the light of the facts and circumstances as discussed above, the point raised above is answered in the Affirmative.

22. **Our answer to point no.2.** In view of the above discussion, we proceed to pass the following order:

**ORDER**

In exercise of the powers conferred under section 31 of the Real Estate(Regulation & Development) Act, 2016, the complaint bearing no. **CMP/210827/0008276** is hereby allowed & **CMP/210530/0007967** is hereby partly allowed as under:





ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

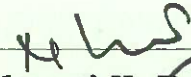
# 1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,  
3rd Cross, Mission Road, Bengaluru-560027

1. In Complaint No. **8276& 7967** the respondents no. 1 & 2 are hereby directed to complete all the pending works including providing individual BESCOM connection to all the flats of the project BM Prestine within the timeline on or before 30/4/2023.
2. The respondents 1 & 2 are hereby directed to immediately construct and provide all amenities as agreed for use by members of the "**BM Pristine Residents Welfare Association**" along with all common areas and civic amenity sites within the project.
3. In complaint No. **7967**, the complainant is hereby directed to seek relief of rent under the appropriate forum as this relief does not come under the purview of this Authority.
4. No order as to costs.



(H.C. Kishore Chandra)

Chairman  
K-RERA



(Neelmani N. Raju)

Member  
K-RERA