

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, Hon'ble Chairman

Dated 3rd JANUARY 2023

Complaint No. CMP/221116/0010348

Clubbed with

Complaint No. CMP/210223/0007613

COMPLAINANT....

COMMUNE 1 OWNERS CO-
OPERATIVE SOCIETY
LIMITED
Club House 1st Floor,
Commune 1 Apartments
building, Chandapura - Anekal
Road, Survey No. 477/4,
478/A2, 479/A & 480/3
Marasur village, Kasaba Hobli,
Anekal Taluk,
Bengaluru South- 562106.

(Pradeep Kumar P.K, advocate)

And

RESPONDENTS.....

**1. COMMUNE PROPERTIES
INDIA PVT LTD.,**

A company incorporated under
the provisions of the
Companies Act, 1956,
having its registered office at
No. 823, Ground Floor, 21st
Main Road, 8th Block,
Koramangala,
Bangalore - 560095,
Represented by its Director

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Karnataka Real Estate Regulatory Authority,

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

2. PRATAP SATYANARAYANA KUNDA

S/o Mr. SatyanarayanaKunda

Aged - adult

Founder director and promoter
of **COMMUNE PROPERTIES
INDIA PVT LTD**

Residing at:

8-2-703/4/P Road No. 12,

Banjara Hills,

Hyderabad, Telangana 500034.

3. Ratish Kumar Moorthy,

S/o not known to the

Complainant

Aged- adult

Director

**COMMUNE PROPERTIES
INDIA PVT LTD**

Residing at:

820, 80 Feet Road, 20th Main,

8th Block,

Koramangala, Bangalore 560095

**4. ANAND RATHI GLOBAL
FINANCE LIMITED,**

A non banking finance
company,

Having its registered Office at

4thFloor,Silver Metropolis, Jai

Coach Compound,

Opposite Bimbisar Nagar

Goregoan (East),

Mumbai, Maharashtra,

India 400063

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Karnataka Real Estate Regulatory Authority,

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3rd Cross, Mission Road, Bengaluru-560027.

**ORDER UNDER SECTION 32 OF REAL ESTATE REGULATION
AND DEVELOPMENT ACT, 2016**

1. This Authority vide order dated 05.07.2022 in the complaint CMP No. 210223/0007613 directed the complainants to register itself as a Co-operative Society and to submit a formal application under Sec.8 of the RERA Act. The complainant has filed this petition under sec 8 praying for grant of various reliefs including takeover of the project.
2. The complainant through a memo filed before this Authority has brought to our notice that the allottees have approached the Registrar of co-operative society for registration of the Association of the Allottees as a co-operative society and has filed their proposal on 12.09.2022 before the assistant registrar of co-operative society, zone 3 Bengaluru Urban district. The complainant has brought to the Authority's notice that the Assistant Registrar of co-operative society has sought guidelines and clarifications from the Additional Registrar (housing and others) on the points below:

ಪ್ರಸ್ತಾವನೆಯನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ

ಈ ಕೆಳಕಂಡ ಅಂಶಗಳಿಗೆ ಮಾರ್ಗದರ್ಶನ ನೀಡುವಂತೆ ಕೋರಿದೆ.

1. ಮೇಲ್ಕಂಡ ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ಅಪಾರ್ಟ್‌ಮೆಂಟ್
ಮಾಲೀಕರ ಸಹಕಾರ ಸಂಘವನ್ನು ನೋಂದಣಿ ಮಾಡಿಕೊಡಲು ಕೋರಿ
ರಿಉಲ್ಲೇಖ(1) ರಲ್ಲಿ ಪ್ರಸ್ತಾವನೆಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.
ಆದರೆ ಉಲ್ಲೇಖ(3) ರ ಸುತ್ತೋಲೆಯನ್ವಯ ತಾಲ್ಲೂಕು ಮಟ್ಟಕ್ಕಿಂತ ಕಡಿಮೆಯಿರುವ ಕೃಷಿಯೇತರ ಸಹಕಾರ ಸಂಘಗಳನ್ನು ನೋಂದಾಯಿಸಲು ಕನಿಷ್ಠ 200 ಜನಸದಸ್ಯರುಗಳನ್ನು ನೋಂದಾಯಿಸಬೇಕು ಮತ್ತು ಅವರಿಂದ ಕನಿಷ್ಠ ರೂ.4.00 ಲಕ್ಷಗಳ ಷೇರುಹಣಸಂಗ್ರಹಿಸಬೇಕು ಎಂದು ಇರುತ್ತದೆ. ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ,
ಮೇಲ್ಕಂಡ ಉದ್ದೇಶಿತ ನೂತನ ಸಹಕಾರ ಸಂಘವನ್ನು ನೋಂದಣಿ ಮಾಡಲು ಅವಕಾಶವಿರುವ ಬಗ್ಗೆ ಮಾರ್ಗದರ್ಶನ ನೀಡುವಂತೆ ತಮ್ಮಲ್ಲಿ ಕೋರಿದೆ.

16/9/22

16/9/22

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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2. ಅಪಾರ್ಟ್

ಮೆಂಟಲ್‌ಲೀಕರಸಹಕಾರಸಂಘದಸದಸ್ಯರಾಗಬೇಕಾದಲ್ಲಿಯಾವಅ
ಹ್‌ತೆಯನ್ನುಪಡೆಯಬೇಕಾಗುತ್ತದೆಎಂಬಕುರಿತುಸ್ಪಷ್ಟೀಕರಣನೀ
ಡುವಂತೆಕೋರಿದೆ.

3. ಬಿಲ್ಡರ್‌ರೊಂದಿಗೆಕ್ರಯಪತ್ರಮಾಡಿಕೊಂಡು, Occupancy certificateನ್ನುಪಡೆಯತಕ್ಕದ್ದಾಗಿದ್ದು, ಆದರೆ,

ಈಉದ್ದೇಶಿತಸಹಕಾರಸಂಘದನೊಂದಣಿಗಾಗಿಸಲ್ಲಿಸಿರುವಪ್ರಸ್ತಾವ
ನೆಯನ್ನುಪರಿಶೀಲಿಸಲಾಗಿ, Occupancy certificate
ಅನ್ನುಲಗತ್ತಿಸಿರುವುದಿಲ್ಲ. ಬದಲಾಗಿ,

ಕರಾರುಪತ್ರಗಳನ್ನುಮಾತ್ರಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ಹಾಗಾಗಿಅರ್ಜಿದಾರಪ್ರವರ್ತಕರನ್ನು ಅಪಾರ್ಟ್

ಮೆಂಟಲ್‌ಲೀಕರಂದುಪರಿಗಣಿಸಿಸಹಕಾರಸಂಘದನೊಂದಣಿಮಾ
ಡುವಸಾಧ್ಯಾಸಾಧ್ಯತೆಯಕುರಿತುಸ್ಪಷ್ಟೀಕರಣಕೋರಿದೆ.

4. ಇತ್ತೀಚಿನದಿನಗಳಲ್ಲಿಹಲವಾರುವ್ಯಕ್ತಿಗಳು/ವಕೀಲರುಕಛೇರಿಗೆಭೇಟಿ ನೀಡಿಉದ್ದೇಶಿತಅಪಾರ್ಟ್‌ಮೆಂಟಲ್‌ಲೀಕರಸಹಕಾರಸಂಘವನ್ನು ನೊಂದಣಿಮಾಡುವಂತೆಕೋರಲಾಗುತ್ತಿದ್ದು, ಆದರೆ,

ಪರಿಶೀಲಿಸಲಾಗಿ ಕೇವಲ ಬಿಲ್ಡರ್
ರೊಂದಿಗೆಕರಾರುಮಾಡಿಕೊಂಡು ಆ ಸ್ವತ್ತುಗಳು/ಪ್ಲಾಟ್
ಗಳನ್ನುಸಂಬಂಧಪಟ್ಟಬಿಲ್ಡರ್

ರೊಂದಿಗೆಕ್ರಯವಾಗದೆತೊಂದರೆಯನುಭವಿಸುತ್ತಿರುವವ್ಯಕ್ತಿಗಳಿಗೆಸ
ಹಕಾರಸಂಘವನ್ನುನೊಂದಣಿಮಾಡುವಂತೆಪ್ರಸ್ತಾವನೆಗಳುಸ್ವೀಕೃ
ತವಾಗುತ್ತಿವೆ. ಈ ಸಂಬಂಧ RERA (Real Estate Regulating
Authority)

ಪ್ರಾಧಿಕಾರದಲ್ಲಿದಾವಹೂಡಿಪ್ರಕರಣಗಳುಚಾಲ್ತಿಯಲ್ಲಿದ್ದು, RERA
ಪ್ರಾಧಿಕಾರದವರುಸಹಕಾರಸಂಘವನ್ನುಸ್ಥಾಪನೆಮಾಡಿಕೊಂ
ಡುದಾಖಲೆಸಲ್ಲಿಸುವಂತೆಸೂಚಿಸಿರುವುದಾಗಿತಿಳಿಸಿರುತ್ತಾರೆ.

ಉಲ್ಲೇಖ(3)ರ RERA ದಿನವಹಿಆದೇಶಪ್ರತಿಲಗತ್ತಿಸಿದೆ. RERA
ಪ್ರಾಧಿಕಾರದವರುಸಹಕಾರಸಂಘವನ್ನು

ಮೆಂಟಲ್‌ಲೀಕರ...ಸಹಕಾರಸಂಘವನ್ನುನೊಂದಣಿಮಾಡುವಸಂ
ಬಂಧಈಕಛೇರಿಗೆಯಾವುದೇನಿರ್ದೇಶನನೀಡಿರುವುದಿಲ್ಲ.

5. ಅದರಂತೆ, ಅಪಾರ್ಟ್

ಮೆಂಟಲ್‌ಲೀಕರಸಹಕಾರಸಂಘವನ್ನುಮಾಡಿಕೊಂಡುಪ್ರಸ್ತಾವ
ನೆಗಳನ್ನು ಈಕಛೇರಿಗೆಸಲ್ಲಿಸಿರುತ್ತಾರೆ, ಈಸಂಬಂಧಅಪಾರ್ಟ್

ಮೆಂಟಲ್‌ಲೀಕರತೊಂದರೆಯವರಿಗೆಸದರಿಸಹಕಾರಸಂಘವನ್ನು

ನೊಂದಣಿಮಾಡಿಕೊಂಡುಕುರಿತಂತೆತಮ್ಮಸ್ಪಷ್ಟೀಕರಣಕೋರಿದೆ.

(ಪ್ರಸ್ತಾವನೆಯನ್ನುಲಗತ್ತಿಸಿದೆ).

24/11/2017

24/11/2017

24/11/2017

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

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ಮೇಲ್ಕಂಡ ಅಂಶಗಳ ಬಗ್ಗೆ ದಯಮಾಡಿಸೂಕ್ತ ಮಾರ್ಗದರ್ಶನ ಹಾ
ಗೂಸ್ಥಿಪ್ತಿ ಕರಣಗಳನ್ನು ನೀಡಬೇಕೆಂದು ವಿನಯ ಪೂರ್ವಕವಾಗಿ ತ
ಮ್ಮಲ್ಲಿ ಕೋರಿದೆ.

3. It is apparent that, as a result the registration is withheld indefinitely awaiting the guidelines and clarifications on the above points from the additional registrar of co-operative societies.
4. The proposal is filed on 12.09.2022. However, the process for registration is not initiated till date which is causing hindrance to the complainant allottees. The allottees approached this Authority for redressal of their grievances when the promoter failed to complete the project as per the terms of agreement to sell.
5. From the materials placed on record, it is apparent that the sale of apartment units in the project commenced from the year 2012 and is not completed till date
6. The complainant has brought to our notice several violations made by the promoters including creation of a mortgage without consent of the agreement holders. The complainant is the association of the allottees who have paid consideration under agreement for sale towards purchase of apartments units in the project. It is also noted that the respondents are violating the directions of this Authority.
7. This project is registered with RERA. The Registration number is PRM/KA/RERA/1251/308/PR/171015/000813.
8. The promoters of the project have delayed the construction and completion of the project for several years. The allottees grievances are required to be addressed as per the provisions of RERA. The allottees to get their grievance redressed have to form an association. As per the Act the appropriate authority for formation of association of allottees includes Co-operative society as per section 11(4) (e) of RERA. The Act stipulates an obligation on the promoter to enable formation of association or co-operative society within a period of 3 months of the majority of the allottees have booked their apartments. The Hon'ble High Court of Karnataka in Writ petition No. 34660/2017 and its appeal WA 974/2019 has ruled that the association formed and

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registered under the Karnataka society registration act 1960 is not the appropriate association to be formed to manage the affairs of the apartment complexes. Formation of association of allottees is an essential requirement for all apartment projects having 8 or more apartment units and hence cannot insist to have minimum numbers of 200 allottees to register the allottees society. In the projects which are abandoned, stalled, and incomplete or delayed, the allottees association are required to approach this Authority to get their grievances redressed. The associations approaching this Authority for takeover of the project are required to be registered entity to avail the legal rights and entitlements. The eligibility criteria for an allottee is only an agreement for purchase of a unit as per the Act. The allottees under section 8 of RERA has the right to seek take over for completion of the projects, of which the registration is revoked by this Authority. Such take over can be done only by a society duly registered inter as cooperative society. The takeover is required when the project is abandoned, stalled or inordinately delayed and none of such project shall have occupancy certificate. In view of the above and as per the act the registrar of co-operative societies are required to register the applicant allottees/owners co-operative societies without insisting and stipulating conditions such as occupancy certificate, minimum members not below 200, share capital of not less than Rs. 4,00,000/- and allottees to be local residents etc. These conditions are contrary to the provisions of the Act. If the registration is denied on the grounds contrary to the Act, that shall jeopardise the rights of the allottees. The administrative delays shall further cripple the allottees from achieving any remedies for their grievances. The concerned authorities are mandated to assist in the implementation of the RERA Act which is a central enactment so as to ensure that the legislative objectives are achieved.

9. It is mandate of the RERA Act, that all the state instrumentalities shall function in coordination to achieve the objectives of the Act.
10. Section 32 empowers the Authority to make such recommendation to facilitate the growth and promotion of a healthy, transparent, efficient and competitive real estate sector for the protection of interest of the allottees and others.

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ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

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11. Hence, the following order is passed.

ORDER

In exercise of the powers conferred under section 32 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. CMP/210223/0007613 and CMP/221116/0010348 is hereby allowed and recommends to the Registrar of Co-operative Society and their subordinate offices to take steps to register the application of Commune 1 Owners Co-operative Society Limited under Co-operative Societies Act.

(G.R. REDDY)
Member
K-RERA

(NEELMANI N RAJU)
Member
K-RERA

(H.C. KISHORE CHANDRA)
Chairman
K-RERA

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