

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

PRESIDED BY MR. H.C. KISHORE CHANDRA, HON'BLE CHAIRMAN

DATED 23rd January 2023

COMPLAINT NO. CMP/UR/211214/0008721

COMPLAINANT:

M/s VBHC Value Homes Private Limited

Having its registered office at:

VBHC House No.74 & 75

Millers Road

Vasanth Nagar

Bengaluru-560 052.

Rep. by its Authorized Signatory

Mr. Sanjeev Kumar

Rep. by his POA holder

Mr. Ganesha

**(By Mr. E. Suhail Ahmed and
Jasleen Kaur, Advocates)**

V/s

RESPONDENTS...

Archana Gowda &

Keerthi Gowda M

No. 531, 2nd Main Road

BSK 1st Stage, Srinagar

Bengaluru South, Banashankari

BENGALURU-560 050.

(ex-parte)

PROJECT NAME &

VBHC PALMHAVEN-2

REGISTRATION NO.

PRM/KA/RERA/1251/310

PR/171014/000192

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. The aforesaid complainant has filed this complaint under section 31 of the RERA Act against the respondents and sought for the relief of direction to the respondents to come forward and cancel sale agreement for violation of terms of agreement.
2. This project has been registered in RERA vide registration bearing no. PRM/KA/RERA/1251/310/PR/171014/000192.
3. **Brief facts of the complaint are as under:** The aforesaid complainant has formulated a scheme of development of an apartment complex in various phases consisting of various blocks of residential buildings and provision for civic amenities area, park and play ground and identified the development under the common name as "VBHC Palmhaven-2" on a portion of the land measuring 15 acres 1.25 guntas in the survey nos.25,28/1, 28/2,29/4,29/6, 29/7, 29/9, 29/10, 29/11, 29/12, 29/13, 29/14, 29/15 and 32/1A, situated at Doddabele Village, Kengeri Hobli, Bengaluru South Taluk, Bengaluru District. The respondents have entered into an agreement for sale on 12/10/2018 with respect to apartment no. C2-1407, having carpet area of 354.03 sq.ft in the block C2 of "VBHC Palmhaven-2". The respondents till date have paid as booking and advance, an amount of Rs.16,21,328.15/- (Rs.Sixteen lakhs twenty one thousand three hundred twenty eight and paise fifteen only) out of total sale consideration of Rs.22,74,435.47/- (Twenty two lakhs, seventy four thousand four hundred thirty five and paise forty seven only) to the complainant. Thereafter, they have not paid any amount towards allotted apartment and are not willing to come forward and register the sale deed. The present complaint is for payment of outstanding amounts and other reliefs. The respondents

128

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

have sought for the relief of cancellation of sale agreed executed in favour of the respondents. Hence, this complaint.

4. After registration of the complaint, in pursuance of notice, the complainant has appeared before the Authority through its counsel during the hearings held on 27/9/2022, 10/10/2022, 17/10/2022, 31/10/2022, 14/11/2022 and on 21/11/2022 whereas the respondents neither present before the Authority during the aforesaid dates of hearings nor contested the matter by filing objections and producing documents on its behalf but continuously remained absent and hence he was placed ex-parte.
5. In support of his claim the complainant has produced documents such as (1) RERA registration certificate (2) copy of the agreement dated 12/10/2018 (3) copies of print outs of the emails sent by the complainant to the respondents between March 2020 and December 2020. (4) copy of the occupancy certificate dated 30.4.2019 (5) copy of the letter dated 28.6.2021 (6) copy of the statement of account as on 30.11.2021.
6. Heard the complainant.
7. On the above averments, the following points would arise for my consideration.
8. 1) Whether the complainant is entitled for the relief claimed?
2) What order?
9. **My answer to the above points is as under:**
 - 1) In the Affirmative.
 - 2) As per final order for the following:

6/3/22

23

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

10. **My findings on point no.1:** The grievance of the complainant is that they have completed the entire project work and have obtained occupancy certificate on 30.4.2019 for Block-C in the project "VBHC Palmhaven-2" and e-khatha for the schedule residential apartment of the respondents, the respondent have not come forward to register their apartment. They have sent several e-mail communications between March 2020 and December 2020 to the respondents giving an opportunity to pay the balance sale consideration towards the purchase of the said residential apartment and called upon the respondents to come forward and get the sale deed executed, but they failed to do so.
11. From the materials available, it is apparent that the respondents have been delaying in fulfilling their obligations for more than a year on one or the other pretext thereby exposing the complainant to huge financial losses. Even after project having been completed, the complainant is neither able to realize the sale price towards the apartment nor able to sell it to any other prospective purchaser. The said acts of respondents in not paying the outstanding amounts nor cooperating in execution and registration of cancellation deed for the allotted residential apartment amounts to breach of terms of the agreement for sale and in violation of the provisions of the RERA Act 2016. ***As per section 19 sub clause (6) of RERA Act, every allottee, who has entered into an agreement for sale to take an apartment, plot or building, he shall be responsible to make necessary payments within the time as specified in the***

16/8

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

*agreement for sale and shall pay at the proper time and place,
the charges.*

12. Though notices and summons were served to respondents, they have not taken any interest to participate in the proceedings by appearing before the Authority during the hearings and not contested the matter by filing objections or producing documents on their behalf. Therefore, they have not resisted the claim of the complainant in any manner. The complainant sought for the relief of cancellation of agreement for sale dated 12/10/2018 on the aforesaid grounds. The claim of the complainant remained unchallenged by the respondents and the same is corroborated with cogent documentary evidence. Hence, there is no option left to this Authority except to accept the claim of the complainant. Considering all these facts, this Authority concludes that the complainant is entitled for the relief claimed. Accordingly, the point raised above is answered in the Affirmative.

13. **My findings on point no.2:** In view of the above discussion, the complaint deserves to be allowed. Hence, I proceed to pass the following:

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/211214/0008721** is hereby allowed.

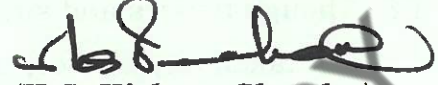
The jurisdictional Sub-Registrar, Jayanagar(J.P. Nagar), Bengaluru is to be directed to cancel the agreement for sale dated 12/10/2018 registered as document no. JPN-1-07227-2018-19, CD No. JPND530 pertaining to the apartment bearing No. C2-1407 in the project namely **"VBHC Palmheaven-2"** situated at Doddabele Village, Kengeri Hobli,

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

Bengaluru. Hence, same shall stands cancelled. The jurisdictional sub-registrar shall arrange to make necessary entries in the concerned records and submit compliance report within 60 days from the date of this order.



(H.C. Kishore Chandra)

Chairman
K-RERA

NOT AN OFFICIAL COPY