

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 30<sup>TH</sup> JANUARY 2023**

**COMPLAINANTS:**

1. **CMP/UR/200916/0006600**  
**Rajesh Bhat K.**  
Flat No. 201, Durgashree Apartment  
Jodurasthe, Kukkundoor Village  
Karkala Taluk, Udupi  
**Udupi District-574104**
2. **CMP/UR/200921/0006632**  
**Usha Jayanth**  
"Shiva Kripa", near Taluk Office  
Karkala, Karkala Taluk  
**Udupi District-574 104.**
3. **CMP/UR/200922/0006638**  
**Usha Jayanth**  
"Shiva Kripa", near Taluk Office  
Karkala, Karkala Taluk  
**Udupi District-574 104.**
4. **CMP/UR/200926/0006670**  
**Ignatius Henry Pinto**  
"Sanskruithi-1", A-15, Flat No. 303  
Poonam Vihar Behind Reliance  
Fresh, Mir Road East  
Thane-401107  
Maharastra.
5. **CMP/UR/200903/0006504**  
**Siddhapura Nithyananda Pai**  
No.484/2, Maruthi, Pervaje Road  
Near LIC Office  
Karkala, **Udupi-574 104**  
Udupi District.

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6. **CMP/UR/201230/0007359**

**Shakunthala Krishna Kotian**

A-501, Building No.5, Kukkreja  
Complex L.S.B. Marg, Bhandup  
**West Mumbai-400 073.**

Maharashtra.

7. **CMP/UR/200803/0006308**

**Dr. Prathiba Kini**

Karkala Nursing Home  
Main Road

Karkala, **Udupi District-574014**

8. **CMP/UR/200803/0006302**

**Rahamath Kareem Saheb**

Flat No. 805, 8<sup>th</sup> Floor, Image Empire  
Near SDM Ayurvedic College  
Balalpade, Udyavara  
**Udupi-574118.**

9. **CMP/UR/200921/0006627**

**Usha Jayanth**

Shiva Kripa", near Taluk Office  
Karkala, Karkala Taluk

**Udupi District-574 104.**

10. **CMP/UR/200916/0006598**

**Prakash Shenoy**

No. 2-48/h, Balaram, Pervaje Road  
Shambavi Nagara

Karkala

**Udupi-574104.**

**Udupi District**

11. **CMP/UR/200818/0006385**

**Rekha S Hegde**

Balaji Estate, Kanangi Road  
Hirgana Grama, kukkundoor Post  
Karkala Taluk

**Udupi-574104.**

**Udupi District.**



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12. **CMP/UR/200828/0006459**  
**Babanna K Wagle**  
"Bharadwaj Kripa" Kukkundoor  
Post, Hirgana, Karkala Taluk  
**Udupi-576 117**  
**Udupi District.**
13. **CMP/UR/200817/0006381**  
**Vasanth T Kotian**  
Belladka, Majalu Mane  
Kuntaladi, Karkala  
**Udupi -574104.**  
**Udupi District**
14. **CMP/UR/200826/0006437**  
K. Narayana  
NC Soudha, Mallige Road  
Karkala, **Udupi-574104**  
Udupi District.  
(By Sri. Suhail Ahmed, Advocate)

V/s

RESPONDENTS...

1. **Strecon Builders & Developers**  
Solaris-1, Ground Floor, B-11  
Opposite L & T Gate No.6, Saki  
Vihar Road, Powai, Andheri(East)  
**MUMBAI-400 072.**  
Maharashtra.
2. **Suresh Sundar Shetty**  
Sattar Compound, Salmara  
Karkala  
**Udupi-574 104**  
**Udupi District.**
3. **Bhaskar Bairy Shetty**  
B1103/04, Mansarovar, Neelakanth  
Heights Pokaran Road  
**THANE-400 606**  
**Maharashtra State**  
**Dist: Mumbai Suburban**

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4. **Balu Bandu Bhise**

Sapreme, 5B-504, Laxmi Park-1  
Lokmanya Nagar, Pada No.1

**THANE-400606**

**Maharashtra State**

**Dist. Mumbai Suburban**

5. **Sathish Sundar Shetty**

"Samruddi", Palije House  
Hirgana Village  
Karkala,

**Udupi District-574104.**

6. **Ramesh Kumar Goyal**

No. 604, Jigna Arcade, Sector-13  
Koparkhairne,

**Navi Mumbai-400 701**

**Maharashtra State.**

**(Absent)**

**INTERIM ORDER**

1. The aforesaid complainants have filed these complaints under section 31 RERA Act against the project "**SAMRUDDHI HILLS**" developed by "**STRECON BUILDERS AND DEVELOPERS**" and sought for the relief of interest on delay period and completion of the project.

2. The gist of the complaints is that the aforesaid complainants have booked their respective flats in the project "Samruddhi Hills" of the respondent and the complainants have paid substantial sale consideration to the respondent. The respondent represented and agreed to hand over the possession of their respective apartments in April 2016. The respondent till date has not delivered the apartments to the complainants. The complaints have been filed praying for interest on delay period, completion of the project. Hence, these complaints.

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3. The project is being developed on the land situated at Karkala Town, Karkala Taluk, Udupi district. From the averments made in the complaints filed by the complainants it can be made out that the building plan approval was obtained on 28.1.2020 from the Karkala Town Municipal Corporation which has been further renewed for one year on 25.01.2011.

4. The promoter having commenced the construction work and having allotted the apartments in the project to the complainants in complaint nos:

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CMP/UR/200921/0006632,  
CMP/UR/200922/0006638,  
CMP/UR/200926/0006670,  
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CMP/UR/200828/0006459,  
CMP/UR/200817/0006381 and  
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and other allottees in the project, has not yet completed the development works in the project. It is the grievance of the complainants that the development works in the project are stalled and the promoter has not registered the project as required under section 3 of the RERA Act.

5. After registration of the complaints, in pursuance of notice, the respondent neither appeared before the Authority nor contested the matter by submitting

Asst



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statement of objections, documents if any. The respondents continuously remained absent during the hearings held on 6.5.2022, 3.6.2022 and on 15.12.2022.

6. The Authority during the hearing held on 3.6.2022 has directed the complainants advocate to file evidence to show that the project comes under RERA as this is an unregistered project. Till date, the respondent has failed to file an application for grant of registration of the project and also not appeared before the Authority. The project being an ongoing project as on the commencement of the project, was mandatorily required to be registered under the provisions of the Act. In view of the failure on the part of the respondent to complete the development works in the project and since the provisions of the Act apply to the project in question which was an ongoing project, it become incumbent upon this Authority to take cognizance of the complaints and also to the fact that the project has become stalled and the interest of the allottees in the project is at stake. In the given circumstances, the allottees can come forward to file an application to seek for take over of the project so that the development works in the project could be completed and the allottees get their homes.

7. For the purpose of take over of the project and to carry out the functions of a promoter, it is necessary that the allottees can come together and form an association which will enable them to collect money, incur expenses for the development and also do all such commercial activities for the benefit of the allottees in the project form a Cooperative Society under the Karnataka Cooperative Societies Act, 1959. During the hearings, this Authority has already orally directed that a Cooperative Society be formed and it is submitted that the jurisdictional Registrar of Cooperative Societies has not accepted the application for registration of a Cooperative Society and hence the allottees have prayed for a direction to be issued to the Registrar to accept

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the application for grant of registration of a Cooperative Society in order to enable the allottees in the project, take over and carry out the remaining development works in the project in order to achieve the objectives of the Cooperative Societies Act which aims at promotion of economic interest and general welfare of the members of the society.

8. Taking all the above facts into consideration, this Authority is of the view that it is just and necessary that a Cooperative Society of the allottees in the project "Samruddhi Hills" be formed in order to enable the allottees in the project to take over the project.

9. The promoters of the project have delayed the construction and completion of the project several years. The allottees grievances are required to be addressed as per the provisions of RERA. The allottees to get their grievance addressed 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 cooperative 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 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 for takeover of the project are required to be registered entity to avail the legal rights and entitlements. Such take over can be done only by a



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society duly registered 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 cooperative 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 jeopardize 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 RERA Act which is a central enactment so as to ensure that the legislative objectives are achieved.

10. It is mandate of the RERA Act, that all the state instrumentalities shall function in coordination to achieve the objectives of the Act.

11. 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.

12. On consideration of the submissions of the complainant, the following order is passed.

### **INTERIM ORDER**

In exercise of the powers conferred under section 32 of the Real Estate(Regulation and Development) Act, 2016, complainants in complaint nos:





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the Authority recommends to the Jurisdictional Registrar of Co-operative Society and their subordinate offices to take steps to accept the application and to register "Samruddhi Hills" Owners Co-operative Society Limited under Co-operative Societies Act.



(H.C. KISHORE CHANDRA)

Chairman  
K-RERA

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