

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು
KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU
ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,
ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

1

BEFORE ADJUDICATING OFFICER

PRESIDED BY SHRI I.F. BIDARI

DATED 17TH FEBRUARY 2023

Complaint No: CMP/221027/0010133
(Before Amendment CMP/220805/0009857)

Complainant: Mr. Praveen Gopinathan
17, Sri Manjunatha Nagar, 10th Cross,
2nd Main, Opp LN Road, Kalkere Road,
Ramamurthy, Bengaluru urban - 560016.
(In person)

V/S

Respondents: 1. Kolte Patil Developers Ltd.,
The Estate, No. 121, 10th Floor,
Dickenson Road,
Bengaluru Urban-560042.
2. Dinesh R Ranka since deceased by his
LR's
2(a). Mr. Nishanth Dinesh Ranka
2(b). Mr. Dharmesh Dinesh Ranka,
2(c). Manish Dinesh Ranka,
4, Ranka Chambers,
31 Cunningham Road, Vasanth Nagar,
Bengaluru Urban - 5600052.
(By: Sri. Vishwanath & Associates Advocates.)

J U D G M E N T

Complainant Mr. Praveen Gopinathan, initially did file complaint bearing No. CMP/220805/0009857, under Section 31 R/w Sec. 71 of The Real Estate (Regulation and Development) Act 2016 (here-in-after referred as RERA Act) against the respondent No.1 Kolte Patil Developers Ltd., (here-in-after referred as respondent No.1) and respondent No. 2 Dinesh R Ranka, praying to direct the respondents to pay jointly and severally Rs.1,00,000/- as compensation for



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,
ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

2

mental agony and detriments and Rs.50,000/- as cost of litigation. The respondent No.2 Dinesh R Ranka has died hence his LR's respondent No. 2(a). Mr. Nishanth Ranka, respondent No. 2(b). Mr. Dharmesh Dinesh Ranka and respondent No. 2(c). Manish Dinesh Ranka, consequently necessary amendment effected in the aforesaid complaint Number CMP/220805/0009857 and after amendment said complaint has been numbered as CMP/221027/0010133. Thereafter the amendment complainant has filed the detailed complaint in Form -"O".

2. The brief facts of the complaint are as under:

The complainant has purchased an apartment No. 206 in 'C' Block with one covered car park in a residential complex project "Mirabilis" being developed and constructed by the respondent No.1 Kolte Patil Developers Ltd., situated in Sy.No.71 at Horamavu Agra Village, at Bengaluru East Taluk, Bengaluru. The deceased respondent No.2 is an owner of the land on which residential complex in the project is being built. The complainant got registered the apartment on 21.10.2021 after long legal battle with the respondent in K-RERA which decided in his favor. There after respondent took another 10 more months to rectify the snags in the apartment. The respondent handed over the physical possession of the apartment to the complainant on 10.07.2022. The complainant when applied for transfer of Khata of the apartment in his name, he came to know that the respondent has violated the provisions of Section 11(4)(G) of the RERA Act, in as much as not paying the property tax due on them (as out goings) in respect of apartment before handing over the physical possession of the apartment. It is alleged that complainant paid dues payable by the promoter to the BBMP for the period from 2019 to 2023 which was the obligation of the promoter, to process Khata transfer of the apartment in the name of the complainant. The complainant has filed another case against respondent in K-RERA for refund of aforesaid



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,

ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

3

amount. The aforesaid acts of the promoters are causing mental trauma and agony also causing unnecessary expenses and investment of time of the complainant. These main grounds among others urged in the complaint, prayer to grant the relief as prayed in the complaint.

3. There-after receipt of the complaint from the complainant, notice was issued to the respondents. The respondent No.1 has appeared through its Advocate. The respondent No.1 has filed statement objections mainly contending that the complaint of the complainant is misconceived, false and based on misleading assertions. The respondent No.1 admitted the fact that the complainant has purchased apartment No.206 in C block of the project. The respondent No.1 is pleading that the aforesaid apartment 206 fell to the land owners share under the allocation agreement between the developer and landowner as such the respondent No.1 is not liable to pay compensation to the complainant. It is contended that the instant complaint of the complainant is hit by the principles of res-judicata U/Sec. 11 of CPC, as the complainant has filed another complaint No. CMP/220725/0009809 seeking delay compensation which is pending adjudication in K-RERA Authority. The provisions of RERA Act are not permitting to award compensation for mental trauma and agony. The amount of compensation sought by the complainant is disproportionate and exorbitant. The instant complaint of the complainant is abuse of process of law. The respondent has not caused mental trauma and agony to the complainant as alleged in the complaint or otherwise. These main grounds, among others, contended in the statement of objections, prayer to dismiss the complaint with exemplary cost.

✓

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,
ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

4

4. The respondent Nos. 2(a) to 2(c) remained absent in-spite of service of notice. The statement objections of the respondent Nos. 2(a) to 2(c) taken as not filed.
5. I have heard the complainant Mr. Praveen Gopinathan and heard Ms. D.V. Advocate for respondent No.1. The argument of respondent Nos. 2(a) to 2(c) taken as nil. The complainant has filed the written arguments. Perused the materials and records also the written arguments of the complainant.
6. The points that would arise for consideration are:
Point No.1: Whether the complainant is entitle for compensation? If so, to what extent?
Point No.2: What order?
7. My findings on the above points are as under:
Point No. 1: Yes, to the extent as shown in the final order.
Point No. 2: As per final order, for the following:-

REASONS

8. Point No.1: The records disclose that the respondent No.1 being a developer and deceased respondent No.2 being the land owner have developed and constructed the residential complex apartment in a project "Mirabilis" (here-in after-referred as project), in a land situated in survey number 71 of Horamavu Agrahar Village, K. R. Puram Hobli, Bengaluru East Taluk, Bengaluru, described as Schedule "A" Property in a copy of Sale deed dated: 21.10.2021. The complainant did book and purchased a 2 Bedroom apartment bearing No.206 in "C" Block, on 2nd Floor, constructed in schedule "A" property having super built up area of 1185 Sq.ft., along with 1 covered car park, described as schedule "C" property in the aforesaid sale deed and also undivided right title and

✓

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,

ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

5

interest and ownership, to the extent of 392 Sq.ft., in schedule "A" property, described as schedule "B" property in the sale deed, for consideration amount mentioned therein.

9. Ms. D.V. learned Advocate for the respondent No. 1 during argument submits that the complainant has filed another complaint bearing No. CMP/220725/0009809 in K-RERA Authority in respect of same apartment No.206, for delay compensation, as such, the present complaint is hit by the principles of res-judicata as contemplated U/Sec.11 CPC, hence prayed to dismiss this complaint on that count also, similar facts are contended in the objection statement of the respondent No.1. Per contra the complainant Mr. Praveen Gopinathan submits that he had filed a complaint in K-RERA Authority against the respondents seeking relief of refund of property tax paid by him, delay compensation and compensation but as per the direction of the registrar of the K-RERA Authority he has filed this separate complaint for compensation and he has filed another separate complaint No. CMP/220805/0009855 in K-RERA Authority for refund of property tax paid by him with interest which is pending hearing. The complainant further submits that in view of the ratio laid down by the Hon'ble Supreme Court M/s Newtech Promoters and Developers Pvt. Ltd., Vs State of UP & ORS.ETC., the Adjudicating Officer (here-in-after referred as AO) shall have jurisdiction to adjudicate compensation U/Sec. 71 taking into account the factors enumerated U/Sec.72 of the RERA Act and the K-RERA Authority is empowered to adjudicate the relief of refund and delay compensation, as such, he has filed separate complaint No. CMP/220805/0009855 for refund of property tax paid by him because respondents violated the provisions contemplated U/Sec. 11(4)(g) of RERA Act and said complaint is not finally decided, hence instant complaint is



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,
ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

6

not hit by the principles of res-judicata. As rightly submitted by the complainant, in view of the judgment dated: 11.11.2021 passed by the Hon'ble Supreme Court of India, in Civil Appeal Nos. 6745-6749 of 2021, in the case of M/s Newtech Promoters and Developers Pvt. Ltd., Vs State of UP & ORS.ETC., With Civil Appeal Nos. 6750/21, 6751/21, 6752/21, 6753/21, 6754/21, 6755/21, 6756/21 and 6757/21, the AO is only empowered to adjudicate the compensation and interest thereon U/Secs.12, 14, 18 & 19 RERA Act, as contemplated U/Sec. 71 taking into account the factors enumerated U/Sec.72 of the RERA Act. The relevant portion in Para No. 86 of the said judgment reads as under:

"From the scheme of the Act of which a detailed reference has been made and taking note of power of Adjudication delineated with the regulatory Authority and adjudicating officer, what finally culls out is that although the Act indicate the distinct expressions like "refund", "interest", "penalty", "compensation", a conjoint reading of Section 18 and 19 clearly manifests that when it come to refund of amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon it is regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudicating compensation and interest thereon under Section 12,14,18 and 19 the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Section 12,14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,

ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

7

71 and that would be against the mandate of Act 2016”.

10. The complainant has produced the copy of the complaint No. CMP/220805/0009855 filed against the respondent No.1 and deceased respondent No.2 seeking relief of refund of property tax paid by him with interest, in respect of apartment No.206 pertaining to the period prior to hand over of possession in Hon'ble K-RERA Authority. Admittedly the complaint No. CMP/220805/0009855 is pending hearing and not finally decided and relief sought in the instant case and in the said complaint No. CMP/220805/0009855 are different, as such, the instant complaint is not hit by principles of res-judicata contemplated U/Sec. 11 CPC much less, as contended by the respondent No.1. This apart as rightly submitted by the complainant in view of the ratio and principles laid down by the Hon'ble Supreme Court in the case of M/s Newtech Promoters and Developers Pvt. Ltd., Vs State of UP & ORS.ETC., cited supra the complainant has filed instant complaint separately before the AO seeking compensation U/Sec. 31 read with Section 71 of RERA Act, hence at any cost same may not be an abuse of process of law and misconceived, much less, as contended by the respondent No.1.
11. The complainant even if has filed compliant No. CMP/220725/0009809 in K-RERA Authority for delay compensation as contended by the respondent No.1 and the complainant has filed another complaint No. CMP/220805/0009855 for refund of property tax in Hon'ble K-RERA Authority then also the instant complaint of the complainant for the relief of compensation U/Sec.31 R/w Sec. 71 of RERA Act before the AO, as the relief of compensation to be granted is, in addition to refund of



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,
ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

8

invested amount and interest for every months delay. In this context it is worth to mention observation of their lordships in Para Nos. 22 & 25 of the ruling reported in 2021 SCC online SC 1044 in the case of New tech Promoters and developers Pvt., Ltd.. Versus State of UP and Others. The relevant portions read as under:-

“22. If we take a conjoint reading of sub-sections (1), (2) and (3) of section 18 of the Act, the different contingencies spelt out therein, (A) the allottee can either seek refund of the amount by withdrawing from the project; (B) such refund could be made together with interest as may be prescribed; (C) in addition, can also claim compensation payable under Sections 18(2) and 18(3) of the Act; (D) the allottee has the liberty, if he does not intend to withdraw from the project, will be required to be paid interest by the promoter for every months' delay in handing over possession at such rates as may be prescribed.

25. The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed.”



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,

ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

9

12. The complainant has produced copies of (1) Occupancy Certificate (here-in-after referred as OC) date:06.09.2019, (2) Possession letter dated:10.07.2022, (3) Absolute Sale Deed dated:21.10.2021, (4) Property Tax receipt showing the tax paid for the year 2019-2020 Rs.5,981/-, (5) Property Tax receipt showing the tax paid for the year 2020-2021 Rs.5,098/-, (6) Property Tax receipt showing the tax paid for the year 2021-2022 Rs.4,494/-, (7) Property Tax receipt showing the tax paid for the year 2022-2023 Rs.4,128/-, (8) copy of legal notice dated:20.07.2022 issued by the complainant to the respondent No.1 demanding refund of property tax paid by him amounting Rs. 19,701/- in respect of apartment No.206 for the period from April 2019 till April 2022 with interest & cost of legal notice, (9) Copy of E-mail dated:22.07.2022 forwarded by the official of the respondent No.1 to the complainant directing the complainant to approach the land owner deceased respondent No. 2 as apartment 206 allocated to landowner share. The complainant referring to these documents submits that in-fact the apartment has been handed over to him on 10.07.2022, as such, the respondents were liable to pay property tax to the BBMP in-respect of apartment No. 206 for the period prior to 10.07.2022, as contemplated U/Sec. 11(4)(g) of RERA Act but when he applied for transfer of Khata of apartment in his name it was found that from 2019-2020 the respondents were not paid property tax. The complainant further submits that to process transfer of Khata of the apartment he has paid the property tax shown in the property tax receipts as demanded by the BBMP. The complainant submits that the respondents being promoters jointly and severally were liable to pay said property tax but committed violation of provisions contemplated U/Sec.11(4)(g) of the RERA Act. The complainant submits that because of the said act of the



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,
ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

10

respondents, he was forced to approach the RERA Authority, BBMP and invest his valuable time and money which caused him not only financial loss and also caused mental pain and agony hence the respondents are liable to pay him compensation as prayed in the complaint. Per contra Ms. D. V. learned Advocate for the respondent No.1 submits that the complainant has not produced materials to prove that the respondents caused the mental pain and agony to the complainant as such he is not entitle for the relief claimed in the complaint and prayed to dismiss the complaint.

13. There is no dispute the actual physical possession of the apartment 206 has been handed over to the complainant on 10.07.2022 which is also evident from copy of possession letter dated: 10.07.2022. As per Section 11(4)(g) promoters are liable to pay all out goings including municipal or other local taxes. The proviso to Section 11(4)(g) makes it clear that even after the transfer of the property also the promoters shall continue to liable to pay such outgoing, if any, remained unpaid. This apart in the copy of the sale deed dated: 21.10.2021 in page 10, one of the agreed term is that promoter is liable to pay outgoing mentioned therein including taxes. The relevant portion in the said sale deed reads as under:

"14. The Owners assure the Promoter/s that all the taxes, cess and other levies and duties up to date of sale have been paid and there are no dues in this regard. In the event of the Purchaser/s being called upon to pay any taxes/cess etc., in respect of any liability having arisen prior to the date of this sale, whether intimated to the Owner and/or to their knowledge or not the Owners undertakes to make such payment of discharge such liability or in the alternative to reimburse the same to the Purchaser/s."



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,

ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

11

14. The above discussed reasons and materials on record particularly tax paid receipts for the period from 2019-2020 to 2022-2023 evidences that the complainant has paid the property tax of apartment No. 206 to the BBMP and got the Khata transferred in his name and in fact it was the liability of the respondents to pay the same as contemplated U/Sec. 11(4)(g) of RERA Act. As the respondents had not paid the property tax of the apartment No.206, hence the complainant being allottee forced to wander from house to BBMP, RERA and office of the respondents investing his valuable time apart from paying an amount to the extent of Rs.19,711/-. The respondents being promoters having collected amount from the complainant in this regard had not paid the tax thereby violated provisions of Section 11(4)(g) of RERA Act, and liable to pay compensation to the complainant as contemplated U/Sec.18(3) of RERA Act. This apart the default committed by the respondents is causing financial loss to the complainant apart from disproportionate gain to the respondents. Therefore as rightly submitted by the complainant these acts of the respondents caused the mental pain and agony to the complainant for which the respondents are liable to pay the compensation. The contention of the respondent No.1 that the provisions of RERA Act are not permitting to grant the compensation for mental pain and agony will not holds good as the Hon'ble Haryana Real Estate Appellate Tribunal through order dated: 16.05.2022 in appeal No. 305 of 2021 in the case of Anil Kumar Suri S/o Late P L Suri and another VS Jindal reality Pvt. Ltd, Sonapat through its C.E.O., among others has upheld the order of the AO awarding Rs.5,00,000/- to the allottee towards mental pain agony and harassment. Under the circumstances taking into consideration the facts and circumstances of the case it is just and proper to direct the respondents to pay

A

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ,

ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್, 3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

12

compensation of Rs.25,000/- to the complainant towards mental pain and agony. The complainant has produced a copy of circular No. KRERA/circular/03/2019 dated: 31.10.2019 issued by the K-RERA Authority to show that land owners having area/revenue share in real estate project to be treated as promoter. The land owner and developer both deemed to be the promoters and shall jointly be liable for functions and responsibilities specified under the RERA Act or rules and regulations made there under as could be seen from the definition of promoters mentioned in Sec.2(zk) of RERA Act. Therefore the contention of the respondent in as much, as directing the complainant to approach the deceased respondent No.2 for the relief sought much less as mentioned in the E-mail copy dated 22.07.2022 forwarded by the officials respondent No. 1 to the complainant will not holds good, as such, the respondent No.1 and respondent No. 2(a) to (c) are jointly and severally liable to pay the compensation to the complainant. Thus I hold point No.1 in the accordingly for consideration.

15. As per the provisions contemplated U/sec. 71(2) RERA Act, the complaint shall have to be disposed off within 60 days from the date of receipt the complaint. This complaint has been filed on 05.08.2022, thereafter notices issued directing the parties to appear for hearing. The parties given the reasonable opportunities to contest the case, as such, the judgment is being passed on merits, with some delay.

16. Point No.2: In view of my findings on point No. 1, I proceed to pass the following:-



ORDER

- (i) The complaint filed by the complainant bearing No.: CMP/221027/0010133 (CMP/220805/0009857) is partly allowed against the respondents.
- (ii) The respondents is hereby directed to pay compensation of Rs.25,000/- (Rupees Twenty Five Thousand only) to the complainant within 45 days from this date failure to which it will carry 6% interest per annum till payment of the said entire amount.
- (iii) The respondents shall have to pay an amount of Rs.5,000/- (Rupees Five Thousand only) to the complainant towards cost of litigation.
- (iv) The respondents are jointly and severally liable to pay the aforesaid compensation amount and cost of litigation to the complainant.
- (v) The complainant may file memo of calculation as per this order after 60 days in case respondents failed to comply with the order and to enforce this order.
- (vi) Intimate the parties regarding this order.

(Typed to my dictation directly on the computer by the DEO, corrected, verified and pronounced on 17.02.2023)


I.F. BIDARI

Adjudicating Officer-1
K-RERA