

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

Dated 17th February 2023

Present

SHRI. H.C. KISHORE CHANDRA, HON'BLE CHAIRMAN

COMPLAINT No: CMP/UR /200907/0006517

COMPLAINANT....

B. Prasanna Venkataramana
Flat No: 401, 5th Floor
Mani Vihar, Ramavarappadu
Vijayawada-521108
Krishna District
Andhra Pradesh

**(represented by Sri. K. Santosh
Kumar, Advocate)**

V/S

RESPONDENT.....

- 1. M.S. Divya**
Chairman
M/s Trinco Infra Private Limited
No: 305A, Anand Onxy
2nd Floor, 15th Cross
100 feet road
J.P. Nagar, 5th Phase
Bengaluru-560 078
- 2. M.S. Prasad**
M/s Trinco Infra Private Limited
Managing Director
No: 305A, Anand Onxy
2nd Floor, 15th Cross
100 feet Road
J.P. Nagar, 5th Phase
Bengaluru-560 078

Lab

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. **M.P. Devaraj**

Director

M/s Trinco Infra Private Limited

No: 305A, Anand Onxy

2nd Floor, 15th Cross

100 feet road

J.P. Nagar, 5th Phase

Bengaluru-560 078

JUDGEMENT

1. The aforesaid complainant had filed this complaint under section 31 of RERA Act against the project "**Trinco Nandanavana**" developed by "**Trinco Infra Private Limited**" for the relief of refund of booking advance along with interest.
2. The promoter has developed this project situated in the land bearing Sy.No.72 Vajarahalli Village, Uttarahalli Hobli, Bengaluru South Taluk. In the interim order of this Authority dated 3rd October 2022, in the absence of project address being produced by the complainant, it has been inadvertently mentioned as APENGO Township, Nelatur, Nellur-524347. This mistake crept in the judgement dated 3rd October 2022 has been now been rectified on perusal of the document submitted by the complainant on 14/2/2023.
3. This project is not a registered project. This Authority has passed interim order dated 3rd October 2022 directing the respondent to register the project as required under section 3 of the RERA Act. Further, on 3/11/2022 show cause notice was issued as to why

Asf

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

penalty under section 59 should not be imposed upon the respondent for failing to register the said project.

4. The gist of the complaint is that the complainant herein booked a site no. 44 in the project "**Trinco Nandanavana**" by making payment of Rs.5,00,000/- towards booking advance of the site to the respondent/promoter. It is submitted by the complainant that before entering into an agreement towards the purchase of the flat, he sought certain clarification with regard to authenticity of the title of the project, however, the respondent did not provide any clarifications. It is further submitted that the builder has not got necessary approvals from the competent statutory authority towards this project. The complainant on 16.07.2019 has sought refund of the booking advance of Rs.5,00,000/- but the respondent deliberately avoiding refund since more than a year. The complainant contended that the builder even stopped payment of his cheque bearing No: 001112 dated 05.03.2020 for Rs.5,00,000/-. The complainant alleged that despite several requests and reminders, the respondent did not consider to refund the amount paid by him and has sought relief of refund of booking advance with interest Hence this request.

5. After registration of the complaint, in pursuance of notice served, the respondents abstained from appearance before this Authority during the proceedings held on 29/07/2022, 29/08/2022, 30/9/2022, 21/10/2022, 28/10/2022, 14/11/2022 and on 28.11.2022 . But whereas its counsel was present on 19/9/2022 but has not contested

128

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

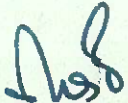
1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

the matter by filing objections and producing documents on its behalf.

6. In support of his claim the complainant has produced documents such as (1) copy of Trinco Nandanavana brochure (2) copy of booking application form (3) copy of cheque bearing no.696722 dated 11.3.2019 for payment of booking amount (4) copy of receipt issued by Trinco property for receiving booking amount of Rs.5,00,000/-. (5) copy of email conversation between the complainant and the respondent (6) copy of cheque issued by respondent towards refund of booking amount (7) copy of endorsement towards cheque bounce.
7. On the above averments, the following points would arise for my consideration:-
1. Whether the complainant is entitled for the relief claimed?
 2. What order?
8. My answer to the above points are as under:-
1. In the Affirmative.
 2. As per final order for the following

FINDINGS

9. **My findings on point No.1:-** The grievance of the complainant is that the respondents are deliberately avoiding refund of booking amount of Rs.5,00,000/- for more than a year. Further the builder has deliberately stopped payment of cheque bearing No.001112 dated 5.3.2020 drawn on Kotak Mahindra Bank. Despite many requests and reminders, the respondents were not considered his refund of booking advance.



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

10. In pursuance of notice, the respondent remained absent continuously and except on one occasion its counsel/ authorized representative has appeared before this Authority on 19/9/2022 but has not filed any authorization letter in this regard. Subsequently the respondent has failed to file statement of objections, furnishing documents on its behalf. Hence, the respondent has not resisted the claim of the complainant in any manner.
11. As per Section 18 of RERA Act, in case the allottee wishes to withdraw from the project the promoter is liable without prejudice to any other remedy available, to return the amount received by him in respect that flat, plot, building as the case may be with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.
12. Therefore, as per Section 18 of the Act, the promoter is liable to refund the amount received along with interest.
13. From the averments made in the complaint, it is obvious that the complainant has paid the advance sale consideration amount and is entitled to get his amount paid along with interest as per the memo of calculation submitted by the complainant on 21/10/2022. The Promoter-respondent has not submitted any memo of calculation in spite of sufficient opportunities provided to him.
14. Though the respondent has appeared before this Authority through its counsel/authorized representative, subsequently it has failed to file statement of objections and furnishing documents in support of



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

its defence and hence not contested the matter. In the absence of any resistance by the respondent and considering the claim of the complainant which is corroborated with the documentary evidence, there is no option left to this Authority except to accept the claim of the complainant. Considering all these aspects, the point raised above is answered in the Affirmative.

15. Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as under:

**Memo of Calculation submitted by the complainant as on
21.10.2022**

PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2 + I3) AS ON 21-10-2022	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
5,00,000	1,94,236	0	6,94,236

16. **My findings on point no.2.** In view of the above discussion, I conclude that, this complaint deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

In exercise of the powers conferred under Section 31 sub section 18 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No: **CMP/UR/200907/0006517** is hereby allowed as under:

1. The respondent is hereby directed to refund the entire amount of **Rs.5,00,000/-** (Rupees Five lakhs only) to the complainant within 60 days from the date of this order along with interest calculated at the rate of SBI MCLR + 2% from **12.3.2019** till the date of realization.

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

2. The complainant is at liberty to enforce the said order in accordance with law if the respondent fails to comply with the order.

No order as to costs.


(H.C. Kishore Chandra)
Chairman
K-RERA

NOT AN OFFICIAL COPY

NOT AN OFFICIAL COPY