

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 BEFORE THE AUTHORITY

Dated 13th March 2023

CM/190115/0001874

COMPLAINANT.....

Varsha balusa

Flat No. B506, Sree Mahalakshmi
Meadows, H No 6-1-72.
Hyderabad -500004.

(Rep. by Sri. Govindraj Muthyalu,
Authorized Representative)

V/S

RESPONDENT.....

Mr. Ebenezer Devasahayam

2nd floor, Shobha pearl, No.1,
Commissariat road,
Bengaluru - 560025.

(Rep. by Uday Shankar R.M, Advocate)

JUDGEMENT

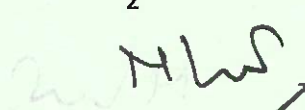
1. This complaint is filed under section 31 of the RERA Act against the project "Expat Central-The Hub" developed by "Expat projects Bangalore Holdings Pvt. Ltd" for the relief of refund of amount with interest.
2. This project is not registered under RERA.
3. The said project is situated at Avadadenahalli and Arvantigepura village, Anekal Taluk, Bengaluru Urban.

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Brief facts of the complaint are as under:-

4. The complainant had booked 2BHK apartment of 900sqft in the project Expat Central-The Hub of the respondent in December 2014 by paying Rs.13,74,500/- (Thirteen lakh seventy four thousand and five hundred rupees only) to the respondent. As per the contract if project is failed to launch by January 2015 after a grace period of 6 months, the respondent will pay principle amount along with 12% interest. After several follow-ups till now the project is not launched and the respondent has refused to refund the money. Hence, this complaint.
5. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority and contested the matter by filing statement of objections as under:
6. The respondent has denied the entire allegations made against it by the complainant as false. The complainant had approached the respondent with a view to invest in one of the respondents proposed projects in the year 2014 and invested in the project namely Expat Central-The Hub which is located in Avadadenahalli and Arvatigepura village of Anekal Taluk in Bangalore urban district.
7. This complaint is filed by the father of the complainant i.e. by one Vivekanand Balusa and email address provided in the complaint is viveknote@gmail.com which happens to be the email address of Vivekanand Balusa. However, said Vivekanand Balusa does not fall under the purview of definition of an allottee as defined in section 2(d) of RERA Act. Hence, Vivekanand Balusa is not an allottee and he does not possess GPA executed by the allottee Varsha Balusa and this complaint



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is filed without authorization. The said project was not marketed and development work was not carried out subsequent to enactment of RERA Act. Hence, the said project is not an ongoing project. The respondents have neither developed nor constructed any structure as on this date. Hence, prayed to dismiss the complaint with costs.

8. In support of her claim, the complainant has produced the documents such as the copy of Letter of intent dated 08/12/2014 and authorization letter.
9. On the other hand, in support of his defence, the respondent has furnished the documents such as copy of E-mail conversation, judgement of Hon'ble High Court dated 10/01/2020.
10. This matter was heard on 14/01/2020, 04/02/2020, 06/03/2020, 04/07/2020, 12/08/2020, 01/09/2020, 15/09/2020, 07/10/2020, 01/03/2021, 20/04/2021, 25/06/2021, 07/09/2021, 10/06/2022, 20/06/2022, 11/07/2022, 13/09/2022, 11/10/2022 and 27/10/2022 .
7. Heard Arguments.

8. Based on the above averments, the following points would arise for our consideration:-

- 1) Whether the complainant is entitled for the relief claimed?
- 2) What order?

9. Our findings to the above points are as under:-

- 1) In the Affirmative
- 2) As per the final order

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REASONS

10. **Our findings on point No. 1:-** The complainant has approached this Authority seeking for the relief of refund of amount with interest on the ground that she had booked an apartment in the project of respondent in December 2014 by paying Rs. 13,74,500/- (Thirteen lakh seventy four thousand and five hundred rupees only) to the respondent. In spite of several follow ups till now the respondent has not launched the said project and also has refused to refund the amount to the complainant as per the contract.
11. Same is resisted by the respondent on the ground that this complaint is filed by the father of the complainant without any authorisation. The said project was not marketed and development work was not carried out subsequent to enactment of RERA act. Hence, the said project is not an ongoing project. They have neither developed nor constructed any structure as on this date.
12. Considering the contentions of both the parties, coming to the aspect of maintainability of complaint, the complaint is filed on 15/01/2019 by one Varsha Balusa who is the owner of 2BHK apartment of 900sqft in the project of respondent. Subsequently, during the proceedings on 15/09/2020 before this Authority, one Vivekananda Balusa has submitted authorization letter dated 14/08/2020 stating that the complainant Varsha Balusa has authorized him to represent her in this proceedings and to take all decisions pertaining to this complaint. Therefore, one Vivekananda Balusa has a locus standi to represent the complainant Varsha Balusa in this case.
13. During the proceedings, the respondent/promoter was directed to register the said project under RERA within 2 weeks from the date of receipt of interim order dated 17/10/2022. Further, it is apparent from the letter of intent dated 08/12/2014 furnished by the complainant that the respondent has clearly admitted the receipt of entire sale consideration of Rs.13,74,750/- from the complainant towards the purchase of flat in the project of the respondent. The

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respondent has produced the copy of email conversation with the complainant dated 26/04/2017 asking the complainant to pay extra charge of Rs.4,17,625/- on the ground that at the initial stage, the saleable area was 900 sqft and now it is increased to 1157 sqft. From this it is crystal clear that the respondent had received an amount of Rs. 13,74,750/- from the complainant towards the purchase of flat in the said project. Having accepted the entire sale consideration and failure to keep up promise to register the flat, certainly entitles the complainant herein for refund of amount with interest. Accordingly, the point raised above is answered in the Affirmative.

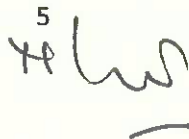
14. **Our findings to point No.2:-** In view of the above discussion, the complaint deserves to be allowed. Accordingly, we proceed to pass the following

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CM/190115/0001874**, is hereby allowed as under.

- i. Respondent is directed to pay a sum of Rs. 13,74,750/- (Thirteen lakh seventy four thousand and seven hundred fifty only) towards refund of amount along with interest at the rate of 9 % calculated from 08/12/2014 to 30/04/2017 and MCLR + 2% from 01/05/2017 till realization of amount to the complainant within 60 days from the date of this order.



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- ii. If the respondent fails to comply, the complainant is at liberty to initiate action against the respondent accordance with law.

No order as to costs.



(Neelamani N Raju)

Member
K-RERA



(H.C. Kishore Chandra)

Chairman
K-RERA