

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 20TH March 2023

COMPLAINT NO. CMP/221007/0010059

COMPLAINANT:

NAVEEN KUMAR &
ASHWINI KUKHALLI
SRINIVAS
I-103, PRIDE PRISTINE
APARTMENTS
ANANTH NAGAR, 3RD PHASE
KAMMASANDRA, E-CITY
BENGALURE URBAN-560100

(BY SRI. SATEESH S.
KUDTARKAR, ADVOCATE)

V/s

RESPONDENTS...

M/s RD BUILDTECH AND
DEVELOPERS(KARNATAKA)
PRIVATE LIMITED
NO. 16 & 16/1, MUSEUM
ROAD
BENGALURU URBAN-560001.

(EX-PARTE)

PROJECT NAME &

RELIAABLE PRIME CITY
PHASE-1

REGISTRATION NO.

PRM/KA/RERA/1251/308
PR/191220/003094

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JUDGEMENT

1. This complaint has been filed under section 31 of the RERA Act against the project "**RELIAABLE PRIME CITY PHASE-1**" developed by "**M/s RD BUILDTECH AND DEVELOPERS(KARNATAKA) PRIVATE LIMITED**" for the relief of refund of booking amount paid along with interest.
2. The promoter has developed this project at Chikkanagamangala Village, Sarjapura Hobli, Anekal, Bengaluru Urban.
3. **Brief facts of the complaint are as under:** The complainant herein had booked plot bearing no. **121** in the project "**RELIAABLE PRIME CITY PHASE-1**" of the respondent by paying booking amount of Rs.2,00,000/ (Rs. Two lakhs only) on 19/1/2020. Subsequently, the complainant has paid in all total payment of Rs.12,56,250/- (Rs. Twelve lakhs fifty six thousand two hundred fifty only) on various dates which has been duly acknowledged by the respondent vide payment receipt nil dated 21.2.2020. The total sale consideration was fixed to the said plot was Rs.50,25,000/-. Both the parties were unable to entered into an agreement of sale to this effect due to outbreak of pandemic Covid-19 since the complainants were forced to leave their native place and perform their official duties in work from home mode. Further they were unable to perform their part of the contract and hence cancelled the booking of their plot. The same was intimated through e-mail dated 17.11.2020 as they were unable to conclude the transaction due to the prevailing situation in city. This cancellation of plot allotment was confirmed by RD Buildtech and

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Developers(Karnataka) Private Limited through their e-mail dated 23.11.2020 and they have shared calculation sheet mentioning the refund amount of Rs.10,05,000/- after deducting 5% of the total value of the site as per the clause mentioned in the booking form. The complainants have been constantly following up with their builder with multiple mails, phone calls and visit to their office for the refund as promised by them, but they did not pay the same till date. Therefore, they have caused a legal notice through their advocate dated 14.8.2022 requesting them to refund the amount. The builder has received the legal notice on 19th August 2022. Despite receiving legal notice, neither they have replied to legal notice nor refunded the amount. The complainants have approached this Authority for the relief of direction to the respondent to refund the amount with interest. Hence, this complaint.

4. After registration of the complaint, in pursuance of the notice, the respondent has been continuously remained absent during the hearings held on 27/12/2022, 18/1/2023, 22/2/2023 and on 13/3/2023. Hence, he has been placed as Ex-parte.
5. In support of their claim, the complainants have produced documents such as (1) Booking form of the plot 121 (2) details of payments made to the respondent (3) e-mail dated 17.11.2020 regarding request for cancellation of the plot (4) e-mail dated 23/11/2020 of the builder cancelling the plot no. 121 (5) series of emails sent by the complainants to the respondents as follow up for refund request. (6) Memo of calculation.
6. Head the complainant. This matter was heard on 27/12/2022, 18/1/2023, 22/2/2023 and on 13/3/2023. The complainant has filed

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memo dated 18/1/2023 stating that as directed by this Authority on 27/12/2022, he has issued notice to the respondent by email by email on 28.12.2022 to their registered email id but the emails got bounced. Further the complainant has also sent the notice through registered post with acknowledgement due on 29.12.2022 to the company's official address and the cover was returned to the complainants on 2.1.2023 with postal remarks as "Refused".

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) partly Affirmative
2) As per final order for the following:

FINDINGS

10. **My findings on point no.1:** From the payment receipt furnished by the complainants, it is apparent that the complainants have booked a plot bearing no. 121 in the project "**RELIAABLE PRIME CITY PHASE-1**" by making total payment of Rs.12,56,250/- (Rs. Twelve lakhs fifty six thousand two hundred fifty only) to the respondent on various dates and which has been duly acknowledged by the builder vide payment receipt no. nil dated **20.2.2020**. The complainants were forced to leave for their native place due to outbreak of pandemic Covid-19 and they were unable to perform their part of the contract as contemplated in booking form. The complainants voluntarily decided to exit from the project and have duly intimated the respondent-builder through their



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email dated 17.11.2020 to conclude the transaction due to the prevailing situation in the City. The said plot was cancelled by the respondent-promoter vide their e-mail dated 23.11.2020 as per the request made by the complainants and agreed to refund the amount paid by them subject to deduction of 5% of the total value of the site for which the complainants have agreed.

11. In pursuance of the notice, the respondent has not appeared before this Authority and has not contested the matter by filing statement of objections, producing documents etc., on its behalf. The claim of the complainant is remained unchallenged. It is apparent from the payment receipt that the complainants have paid an amount of Rs.12,56,250/- and which has been duly acknowledged by the respondent vide payment receipt no. nil dated 20.2.2020. However, this issue is not related to delay but due to the complainant voluntarily seeking withdrawal of amount. Hence, they can claim that much of the advance amount paid after proper deductions as per allotment letter dated 20th January 2020 offered by M/s RD Buildtech and Developers(Karnataka) Private Limited for the said apartment. In the absence of any resistance by the respondent and considering the claim of the complainants which is corroborated with the documentary evidence, there is no option left to this Authority except to accept the claim of the complainant. Accordingly, the point raised above is answered as partly Affirmative.

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



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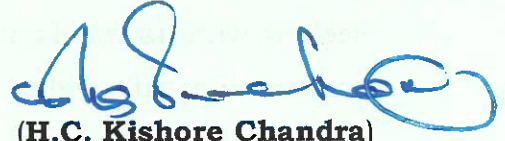
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ORDER

In exercise of the powers conferred under section 31 of the Real Estate Regulation and Development) Act, 2016, the complaint bearing No.CMP/221007/0010059 is hereby partly allowed.

1. The respondent is hereby directed to refund booking amount of Rs.12,56,250/- (Rs. Twelve lakhs fifty six thousand two hundred fifty only) with such deductions as per the terms and conditions provided in the Booking form to the complainants within 60 days from the date of this order.
2. The complainants are at liberty initiate action in accordance with law if the respondent fails to comply with the above order.

No order as to costs.


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