

PROCEEDINGS OF THE AUTHORITY BEFORE BENCH 5

Present

SHRI. G.R. REDDY HON'BLE MEMBER

Dated 06th July 2023

COMPLAINT NO: CMP/UR/190921/0004228

COMPLAINANT...

YATNATTI

**No. 67/96, Gurugangadhara Nilaya,
Near SN Temple, SN Pet,
Ballary-583103.**

STATE: KARNATAKA

(Preethi.N Advocate)

Vs

RESPONDENT.....

**UTC(I) Pvt. Ltd.,
No.23, 1st Floor, Sankey Square,
Sankey Road, Sadashivnagar,
Bangalore-560080.**

(Absent)

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JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act against the project "UTV (India) Pvt Ltd.," developed by Mr. Naveen for the relief of refund with interest.
2. This project is not registered under RERA.
3. This project is situated at, Chikballapur.

Brief facts of the complaint are as under:-

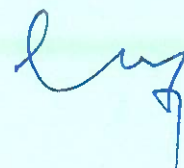
4. The complainant had booked a site in Chikballapur, in an unnamed project of UTV (India) Pvt Ltd., for the total sale consideration of Rs. 3,60,000/- (Rupees Three Lakhs Sixty

Thousand only) and he was given an allotment letter for Rs.1,00,000/- (Rupees One Lakh only) towards booking amount on 18-06-2014. At that time respondent confirmed the rate of the site is Rs.300/- per Sq.ft. After some days he increased the rate of the site from Rs.300/- per Sq.ft. to Rs.500/- per Sq.ft. The respondent had refused to give the same corner site, which was booked earlier and the price had also been raised. The complainant tried to convince the respondent to give the same corner site which was already booked. But the respondent has not responded properly. The complainant wants to cancel the booking, but the respondent did not refund the amount and from last three years the complainant did not find the respondent and his address. Hence, this complaint.

5. After registration of the complaint, in pursuance of the notices, the respondent has neither appeared before the Authority during the hearing held on 07-03-2023, 29-03-2023, 27-04-2023 and 20-06-2023 nor contested the matter by filing the objections and producing documents on its behalf.
6. In support of his claim, the complainant has produced documents such as copies of allotment letter, payment receipts and memo of calculation as on 31/03/2023.

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.

REASONS

9. **My answer to Point No.1:-** From the materials placed on record, it is apparent that in spite of the allotment letter issued on 18-06-2014, the respondent has not completed the project and he has not paid the amount which he had received from the complainant. When there is no response from the respondent, the complainant wants his entire amount with interest.
10. As per section 18(1) 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 of that apartment, 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.
11. Therefore, as per section 18(1) of the Act, the promoter is liable to return the amount received along with interest and compensation only if the promoter fails to complete or provide possession of an apartment etc., in accordance with sale agreement.
12. From the averments of the complaint, the copy of the allotment, it is obvious that the complainant has already paid Rs.1,00,000/- (Rupees One Lakh only) to the respondent.

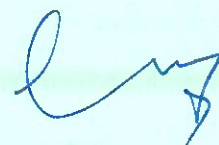


Even after five years of waiting there is no response from the respondent, hence, complainant had tried to meet the respondent for cancelation of the booking but the complainant had not traced the respondent. The complainant has tried to trace in his office address and the project area. But, they are unable to meet the respondent hence, the complainant had filed complaint before RERA for refund along with interest.

13. In response to the notice, the respondent had not appeared before the Authority. Subsequently despite summons sent to them, the respondent has not taken any interest to participate in the proceedings by filing statement of objections and producing documents on its behalf. The respondent has not at all disputed the claim of the complainant in manner. Therefore, the claim of the complainant remained unchallenged and it is corroborated with cogent evidence. These being the facts, in the absence of any resistance by the respondent, there is no option left to this Authority except to accept the claim of the complainant.

14. A thorough verification of the documentary evidence submitted by the complainant, reveals that his claim is genuine. Having regard to all these aspects, this Authority concludes that the complainant is entitled for refund with interest as submitted vide his memo of calculation as on 31/03/2023.

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



Interest Calculation Till 30/04/2017 (Before RERA)					
S.NO	DATE	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	INTEREST @9%
1	18-11-2015	1,00,000	1047	30-04-2017	25,816
				TOTAL INTEREST (I1)	25,816

Interest Calculation From 01/05/2017 (After RERA)							
S.NO	DATE FROM 01/05/2017	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	MCLR INTEREST X%	INTEREST RATE X+2%	INTEREST @X+2%
1	01-05-2017	1,00,000	2160	31-03-2023	8.15	10.15 as on 01-05-2017	60,065
2	TOTAL AMOUNT	1,00,000				TOTAL INTEREST 12)	60,065

Memo Calculation			
PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2) AS ON 31-03-2023	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
1,00,000	85,881	0	185,881

16. Accordingly the point raised above is answered in the Affirmative.

17. **My answer to point No.2:-** In view of the above discussion, I am of the opinion that this complaint deserves to be allowed. Hence, I 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. **CMP/UR/190921/0004228** is hereby allowed. Respondent is directed to pay a sum of **Rs.1,85,881/- (Rupees One Lakh Eighty Five Thousand Eight Hundred and Eighty One only)** towards refund with interest to the complainant within 60 days from the date of this order, calculated at 9% from 18/06/2014 to 30/04/2017 and at MCLR + 2% from 01/05/2017 till 31/03/2023.

The interest due from 01/04/2023 up to the date of final payment will be calculated likewise and paid to the complainant.

The complainant is at liberty to initiate action for recovery in accordance with law if the respondent fails to pay the amount as per the order of this Authority.

No order as to the costs.


(G R REDDY)
Member, K-RERA