

KARNATAKA STATE LEGAL SERVICES AUTHORITY

BEFORE THE LOK ADALAT

**IN THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY AT
BENGALURU**

DATED: 11TH DAY OF FEBRUARY 2023

: CONCILIATORS PRESENT:

Sri. I. F. Bidari

..... Judicial Conciliator

AND

Smt. Preethi N

..... Advocate Conciliator

COMPLAINT NO: CMP/181126/0001669

Between

Mr. Sai Pramod G N

..... Complainant

(By: Authorized Person Sri. Raghunandan B C)

AND

M/s. Mantri Developers Pvt. Ltd.,

.....Respondent

(By: Sri. Ravi Shankar B.S,

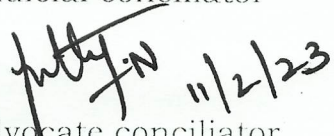
Authorized Person of the Respondent)

Award

The dispute between the parties having been referred for determination to the Lok Adalat and the parties having compromised/settled the matter, in terms of memo reporting settlement dated: 07.10.2022 filed in this case, same is accepted. The settlement entered between the parties is voluntary and legal one.

The complaint stands disposed off in terms of the memo reporting settlement and memo reporting settlement is ordered to be treated as part and partial of the award.


Judicial conciliator


Advocate conciliator

CMP-1669

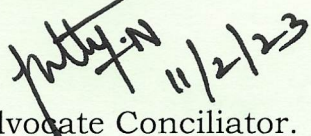
11.02.2023

Before the Lok-Adalath

The case in connection with execution proceedings in the above case taken up before the Lok-Adalat. The memo reporting settlement dated: 07.10.2022 filed in the case is hereby accepted and the said settlement memo shall be part and parcel of the award. Hence, the matter settled before the Lok-Adalat as per joint memo.

The execution proceedings in the above case stands disposed off as closed accordingly.


Judicial Conciliator.


Advocate Conciliator.

**BEFORE THE HON'BLE ADJUDICATING OFFICER,
REAL ESTATE REGULATORY AUTHORITY AT BANGALORE**

CMP/181126/0001669

BETWEEN:

Mr. Sai Pramod G N

COMPLAINANT

AND:

Mantri Developers Private Limited


RESPONDENT

MEMO REPORTING SETTLEMENT

- 1) It is submitted that I have filed the above complaint against the Respondent seeking for compensation as per the Act.
- 2) It is further submitted that this Hon'ble Authority was pleased to pass the order on 14.03.2019.
- 3) After passing the order by Hon'ble Authority in CMP/181126/1669, I cancelled the Agreement of Sale and Agreement of Construction both dated 12.08.2014 with respect to Webcity 3A, X-1501 on the receipt of refund of sale consideration paid by me. Therefore, in view of receiving the entire amount all my claims are fully satisfied. Hence, close the CMP 1669 as settled.
- 4) In view of the amicable settlement arrived with the Respondent, I am not proceeding with the Order passed by this authority claiming whatsoever against the Respondent and my claims does not survive for consideration and I have no claims whatsoever against the Respondent and the case registered before this Hon'ble Authority in the above complaint is fully complied by the Respondent and does not survive for further prosecution.

WHEREFORE, it is most respectfully prayed that this Hon'ble Authority may be pleased to take the memo on record and close the Order dated 14.03.2019 as settled and recall /withdraw the intimation sent to Deputy Commissioner as the subject complaint is amicably settled fully with the Respondent and matter is closed, in the interest of Justice and Equity.

**Place: Bengaluru
Dated: 07-10-2022**


Complainant



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತದ ಸಂಖ್ಯೆ Comp.No: 1669

ಪುಟ ಸಂಖ್ಯೆ

ವಿಷಯ

Sai Pramod G N

Mantri Webcity 3A

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

CMP- 1669

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

13.12.2022

As per the request of the Authorised signatory for the respondent and Sri. Raghunandan B C Authorised person of the complainant, execution proceedings, in connection with above case is taken-up for settlement, in the National Lok Adalat to be held on 11.02.2023.

The authorised person Sri. Raghunandan B C for the complainant present and filed Authorisation letter of the complainant dated: 13.12.2022 and Authorised signatory for the respondent Sri. Ravi Shankar B.S is present and Sri. Ravi Shankar B.S submitted copy of proceedings of the resolution dated: 28.10.2021, in the pre-Lok-Adalat sitting held on 13.12.2022. The matter is settled in terms of memo reporting settlement dated: 07.10.2022 filed in the case record. The claim of the complainant in this complaint is fully satisfied in terms of said memo reporting settlement and complainant has no further claim in this case against the respondent whatsoever. The settlement entered between the parties is voluntary and legal one. The settlement is accepted and consequently the execution proceedings in the above case have been closed as settled between the parties in terms of above settlement memo. Consequently the revenue recovery certificate issued against the respondent (developer) is hereby recalled. Issue intimation about the recall of the revenue recovery certificate to the concerned DC. For consideration of settlement memo and passing of award, matter is referred to Lok-Adalat to be held on 11.02.2023.

Raghunanda BC
[RAGHUNANDAN BC]
Authorised person
for Sai Pramod G N

13/12/22
Judicial Conciliator.

13/12/22
Advocate Conciliator.

CB.S. RAUPPANKAR

BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA

Complaint No. CMP/181126/0001669

Date: 14 MARCH 2019

Complainant : SAI PRAMOD G N
#1353, 10th, A Main, 6th Cross,
Bengaluru- 560050.

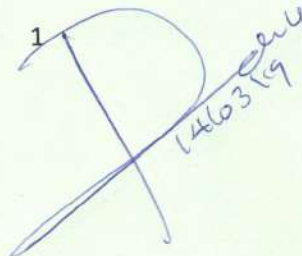
AND

Opponent : MANTRI WEBCITY 3A
MANTRI DEVELOPERS PVT. LTD,
#41, Mantri House, Vittal Mallya Road,
Bengaluru - 560001.

J U D G E M E N T

1. Mr. SAI PRAMOD G N has filed this complaint under Section 31 of RERA Act against the project "MANTRI WEBCITY 3A" developed by M/s MANTRI DEVELOPERS PVT. LTD, bearing Complaint no. CMP/181126/0001669. The facts of the complaint is as follows:

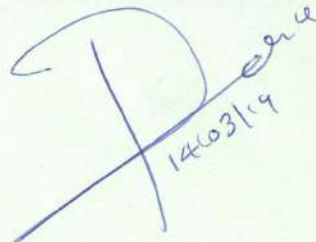
"My Self, Sai Pramod G N and my brother Prashanth G N, hereinafter called the petitioners, invested in Mantri Webcity 3A Project with the intention of buying a home and the investment was on unit X-1501 under buyback Scheme launched by Mantri Developers Private limited hereinafter referred as Developer Developer sold the flat no X-1501 in the project under buyback scheme where 99% of the total cost was released upfront to developers of which 24% was from the petitioners own contribution and the rest 75% was funded from loan No: 00196660005360

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14/03/19

taken from PNBHFL(Punjab National Bank Housing Finance Limited). Even though the payment was done towards the apartment there was not enough progress on the ground for 15 months and hence the petitioners decided to take back money as part of the buyback agreement they had with developer. As per the agreement here are a few points. The Pre EMI will be paid to the client on monthly basis. Developers assure return of 100% on the own contribution made by the unit purchaser at end of August 2016. The petitioners communicated to developers in Jan 2016 that they are not interested in retaining the unit X-1501 and requested the developer to honor the buyback agreement.

Relief Sought from RERA: MDPL to honor buyback and compensation for delay A"

2. In pursuance of the notice issued by the authority, the parties appeared on 14/12/2018. The complaint is filed for refund. The complainant has said at the time of argument that he has paid Rs. 23,19,274/- from his pocket and the developer has raised the loan in the name of complainant of Rs. 73,21,948/- for which he has filed this complaint.
3. Sri. G. V. Chandrashekar advocate representing the developer submits that as per section 18, the allottee to whom the developer has failed to deliver the possession of the flat, plot or building as the case may be as agreed failed to deliver or failed to complete the project then only the consumer could claim the relief. But in this case the complainant is seeking the double amount by asking the developer to purchase his flat means the complainant becomes the seller and developer becomes the purchaser.

A handwritten signature in blue ink, followed by the date 14/03/19.

4. In view of the same it is his argument that Section 18 cannot be invoked to seek this kind of relief. He also read the Section 12 & 71 before me and submits that there is no violation of either Section 12 or 14. When that being the case the complainant cannot file this complaint before the Adjudicating Officer. He also submits that the claim made by the complainant is out of jurisdiction of this authority and he requested the Authority to direct the complaint to go to civil court.
5. I would like to say that the submission made by the Advocate for the developer has no force since the document filed by the developer himself proves the same.

The complainant had paid through loan from PNBHFE (Punjab National Bank Housing Finance Limited) and the said bank has disbursed a sum of Rs. 73,21,948/- (Seventy Three Lakhs Twenty One Thousand Nine Hundred Forty Nine) A sum of Rs. 67,884/- (Rupees Sixty Seven Thousand Eight Hundred Eighty Four Only) was to be paid as monthly EMI towards the loan amount borrowed by the complainant to the Punjab National Bank Housing Finance Limited.

As per the said Pre-EMI scheme, the Complainant has opined to exit the project and receive return on his investment, thereby making him an investor and the Act would thus not apply to him. It is submitted that the liability to pay the Pre EMI and the Buy Back is purely a contractual matter and would not fall under the purview of this Hon'ble Authority and thereafter the Respondent has reimbursed a total sum of Rs. 45,00,000/- to the Complainant towards his own contribution and assured return as per MOU as per below mentioned details.

6. In order to attract the customer, the developer uses number of ways by giving advertisement. In the same way the present case stands by attracting the scheme released by the developer for which the complainant has entered in to agreement with the developer. By reading the clauses of the agreement all the terms and conditions are giving the status of complainant as purchaser and respondent as developer. The document called as TERMS AND CONDITIONS wherein the parties have agreed for certain conditions.

I have taken two important conditions which are as under:

- a. Mantri developers will bear the Pre- Emi till August 2017.*
- b. Mantri developers will assure return of 100% on the own contribution made by the unit purchasers at the end of August 2017.*

7. The above two conditions clearly proves the relationship of Developer and Customer and indirectly proves the case of the complainant. In view of the same I have no any hesitation to say that the argument of the developer has no force. The developer cannot blow hot and cold at the same time. In view of the above discussion his objection losses its importance.

8. I find no good reasons to dismiss the complaint holding that this authority has no jurisdiction. The parties are bound by the agreement and its clauses shall be respected.

Devi
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9. It is the case of a complainant that he has made payment of Rs. 23,19,214/- as his personal contribution which is 20% of the total consideration amount. The bank has released a sum of Rs. 73,21,948/- in the form of home loan which is 80% of the sale consideration.
10. Admittedly it is a buy back scheme. As per the terms of Pre EMI the developer has agreed to return 100% of the amount paid by the complainant. Further in this scheme the developer has agreed to pay 2 x amounts.
11. The learned Counsel for the developer has submitted that the complainant himself is defaulter and his amount has already been refunded. In this regard the developer has said in para No. 16 which reads as under:

SECTION 18 of the Real Estate Regulation and Development Act, 2016 clearly mentions that if the promoter fails to complete or is unable to give possession of an apartment in accordance with the terms of the agreement then only the allottees can claim under the Act for compensation. Here the said complainant is not asking/ seeking for possession of an apartment but has invested his amount for a scheme which will yield him substantial amount in return. From the day of his investment, the Complainant never bother about the completion of the apartment instead of was awaiting his returns for the investment. The purpose is only for the same amount either adjusted or claimed by the Complainant.

12. In view of the stand taken by the developer now as to know about the payment of Rs. 45,00,000/- in this regard I had made further enquiry with the parties. They had filed the memo of calculation which reads under.

The under signed counsel appearing on behalf of the respondent humbly prayed that this Hon'ble Authority be pleased to permit the Respondent to file calculation in addition to the objections for the kind perusal of this Hon'ble Authority in the interest of justice and equity.

13. AS per S.71(2) RERA the complaint shall be closed within 60 days from the date of filing. In this case the Complaint was presented on 26/11/2018. As per the SOP, 60 days be computed from the date of appearance of parties. In this case the parties have appeared on 14/12/2018. Hence, there is little delay in closing the complaint. With this observation I proceed to pass the order.

ORDER

The Complaint No. CMP/181126/0001669 is allowed.

- a) The developer is hereby directed to return the own contribution amount Rs.41,04,365/- to the complainant together with the interest of 10.75%p.a with effect from April 2019 till the release of entire amount.
 - b) The developer is hereby directed to hand over the necessary documents to the complainant in case he has paid GST to the Government to enable the complainant to take back that amount.
 - c) The complainant is hereby directed to execute the cancellation deed in favour of the Developer after the entire amount has been realized.
 - d) The developer shall pay Rs.5,000/- as cost of this petition.
- Intimate the parties regarding this order.

(Typed as per dictation Corrected, Verified and pronounced on 14/03/2019)

(K.PALAKSHAPPA)
Adjudicating Officer