

**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/181014/0001454

Between

Mr. Vibhu Bhola
(In Person)

..... Complainant

AND

M/s. Reddy Shelters Pvt. Ltd.,
(By: Smt. Sujatha H.H. Advocate.)


..... Respondent

Award

The dispute between the parties with regard to execution proceedings in the above case having been referred for determination to the Lok Adalat and the parties having compromised/settled the dispute in connection with execution proceedings in the matter, as per the joint memo filed during the pre Lok Adalat sitting dated: 16.12.2022, same is accepted. The settlement entered between the parties is voluntary and legal one.

The execution proceedings in the case stands disposed off as per the joint memo and joint memo is ordered to be treated as part and parcel of the award.


Judicial conciliator


Advocate conciliator

CMP-1454

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 joint memo dated: 16.12.2022 filed in the case is accepted and the said joint 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 KARNATAKA REAL ESTATE REGULATORY AUTHORITY, AT
BENGALURU**

Complaint No. : CMP/181014/0001454

Complainants : Vibhu Bhola And Anu Endavara Srinivas

-Vs-

Respondent : Reddy Shelters Private Limited

JOINT MEMO

The complainant and the respondent represented by his Advocate Smt. Sujtha. H. H. jointly submits as under:

1. The complainant/allottee submits that they will go for registration and possession of the property and the promoter is agreed for the same and the Promoter represented by his Advocate submits that the above complaint may be closed as settled amicably out of court.
2. Parties further submits that they have no claim whatsoever against each other and submits that if there is any existing case pending between them before any forum or court, they have agreed to withdraw/close the same as it does not survive for consideration on either of the parties to the said case by filing an appropriate memo.
3. Parties further request that this compromise may be recorded and the complaint may be closed Before the KRERA Authority.
4. The mail copy/ Complaint withdrawal letter dated: 22-11-2022 is attached here with.

Bengaluru

Complainants/allottees

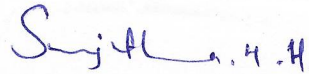
Date: 24-11-2022

Advocate for Respondent

16/12/2022



(VIBHU BHOLA)





ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Cmp. No: 1454

ಪುಟ ಸಂಖ್ಯೆ

ವಿಷಯ

Vibhu TShola
Mahaveer Ranches Ph-1

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

CMP- 1454

16.12.2022

As per the request of the complainant and Advocate for the respondent, 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 complainant Sri. Vibhu Bhola and Smt. H.H.S. Advocate for the respondent are present, in the pre-Lok-Adalat sitting held on 16.12.2022. The matter is settled in terms of joint memo dated:16.12.2022 during the pre Lok Adalat sitting. The parties settled the dispute in terms of joint memo entered between the parties same 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 joint memo. For passing of award, matter is referred to Lok-Adalat to be held on 11.02.2023.

(VIBHU BHOLA)

Judicial Conciliator.

Advocate Conciliator.

BY RELATIONSHIP PROCEEDINGS...

Authorized Signatory

Advocate for Respondent

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BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA

PRESIDED BY: Sri K.PALAKSHAPPA

Adjudicating Officer

Complaint No. CMP/181014/0001454

Date: 02nd APRIL 2019

Complainant : VIBHU BHOLA
No. 2371, 1st floor, 16th main, HAL
2nd Stage, IndiraNagar,
Bengaluru -560038

AND

Opponent : MAHAVEER RANCHES PHASE I
Reddy Shelters Private Limited,
The residency, 133/1, 2nd floor
Residency Road.
Bengaluru- 560037

J U D G E M E N T

1. Vibhu Bhola under complaint no. CMP/181014/0001454 has filed under Section 31 of RERA Act against the project "Mahaveer Ranches Phase I" developed by Reddy Shelters Private Limited as the complainant is the consumer in the said project. The complaint is as follows:

"1. That having been attracted by the amenities shown by Mahaveer Ranches in the marketing material of the current project, the complainant booked a 2.5 BH flat No. 306, 3rd floor, B3 block measuring 1364 sq.ft at Naganathapura village, BegurHobli, Bangalore 560 099 for Rs 60,56,346 excluding registration charges vide Agreement of Sale dated 24-12-2014 executed by M/S Reddy Shelters Pvt Ltd RERA Number

PRM/KA/RERA/1251/310/PR/171015/000421 in favour of the complainant. A construction agreement was also executed between the two on the same day. 2. That the respondent had undertaken to handover possession of completed construction within 24-12-2017 with a grace period up to 24-06-2018 3. That so far the complainant has paid a total of Rs. 53,29,585/- to the respondent and is ready and willing to pay the balance as per the terms of the said agreement provided promised amenities are extended. 4. That the respondent has failed to deliver possession of the said flat inspite of expiry of stipulated period including grace period. Now the respondent has promised to give possession in November 2018, having failed to meet the previous extended deadline on 01-09-2018.

Relief Sought from RERA : possession with all amenities by Nov 2018 or refund"

2. In pursuance of the notice issued by this Authority, the parties have appeared on 27/11/2018, the developer has appeared through advocate and heard the arguments.
3. The complainant has entered into agreement on 24/12/2017 with respect to flat No. 306 measuring 1364 Sq ft. According to complainant as per the construction agreement the developer was expected to deliver the possession on or before 24/6/2018 including grace period. The complainant has paid RS. 53,29,585 towards sale consideration but because the delay made by the developer, this complaint has been filed for possession with all amenities or refund of the amount.

[Handwritten signature]
02/04/19

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4. During the course of trial it is submitted that he is ready to receive delay compensation in case the developer has assured him to deliver the possession with all amenities within short period. This kind of submission made because the developer has submitted in his written argument which reads as under:

" Para 6: however, the construction of the apartment No. 306 belonging to the complainant is completed. Construction of the super structure, flooring work, plastering work, one coat painting are completed. The plumbing, electrical wiring and sanitary works are also completed. Only work pending is fixing the bath room accessories. The photographs in this regard are produced to show that there is no stoppage of work at any point of time, as well as the exiting stage of the construction.

Para 7: It is submitted that, now the apartment is ready for taking up the work of interior by the complainant providing ward robe, show case etc., so that final coat of painting can be done by the respondent. otherwise while carrying out the interior work the painting of the walls would be affected.

Para 8: therefore, there is no delay that can be attributed to the conduct of the respondent. However, the complainant may start the work of interior immediately and the respondent would executed all co-operation in this regard. It may take a period of two months minimum to complete the interior work. By that time the respondent would also hand over the apartment belonging to the complainant by installing the bath room fitting etc., as provided in the specification and complainant may take possession of the apartment on or before 31.03.2019.

however, it is submitted that the delivery of the apartment is as per the clause 3 of the construction agreement entered into between the parties on 24.12.2014 which is binding on the parties to the said contract.

Para 9: it is submitted that the project is massive project of 15 Acres and the delay happened is only 6 months which is negligence when compared to the vast extent of the project. However, by mutual discussion of the parties hereto, it is agreed upon that in case of any delay the respondent shall pay a sum of Rs. 5000/- per month to the complainant as liquidated damages. Therefore, once the liquidated damages is fixed under the solemn Agreement entered into between the parties, the same would be binding on the complainant and it operates as estoppel to claim more, since what was agreed was liquidated agreement entered into between the parties cannot be brushed aside merely because there is a subsequent enactment came into force subsequently. Therefore, it is submitted that being a party to the contract, the complainant cannot turn around and claim for recession of the agreement when the respondent has completed the project substantially and only minor works are pending."

5. From the above facts of the case there is small misunderstanding between the parties regarding reliefs. The complainant is ready to take compensation subject to assurance of delay of possession. The counsel for developer submits that he is ready to hand over the possession within short period until then he is ready to pay compensation of Rs. 5000/- per month. It means the developer wanted to give the compensation @Rs.0.2728 per Sq.ft. It is not reasonable and justifiable also.

Handwritten signature and date: 02/04/19

6. In view of the same I hold that the delay amount shall be enhanced by taking consideration of the present status of the project and its development. In this regard I would say that Rs.12/- per Sq.ft. would be reasonable and justifiable. If it calculates with the measurement of the unit that is $1364 \times 12 = 16368$. In order to make it round figure Rs.16,500/- would be the compensation amount payable to the complainant.
7. On verification, it is learnt that the developer has not yet applied for OC. It is the duty of the developer to convey the title within 2 months from the date of receipt of OC. Further the project shall be completed with all amenities and the title shall be transferred in accordance with Act. Therefore at this stage it is not possible to deliver the unit on or before 31/03/2019 with all amenities. It doesn't mean that the developer shall be directed to refund the amount because it was the submission made on behalf of the developer that his project is almost nearer to completion. In this connection the developer has produced some photo to show the progress for the block where the complainant unit is situated. The photo produced by him supporting the stand taken by the developer.
8. The developer has built the apartment based upon the money contributed by the customers. As per the photos and written argument, the project is going to complete within 3 or 6 months or by the end of this year. At this stage, if the consumer like the complainant and others demands for refund of the amount the purpose of the construction of apartment will be defeated.

[Handwritten signature]
02/06/19

9. My finding is supported by the HRERA decision in his **Complaint NO. 161/2018** where in the HRERA has made the observation as under:

However keeping in view the present status of the project and intervening circumstances, the authority is of the view that in case refund is allowed in the present complaint, it shall hamper the completion of the project at the project is almost complete and the respondent has committed to handover the possession of the said unit by 31st December 2018. The refund of deposited amount will also have adverse effect on the other allottees in the said project. Therefore, keeping in view the principles of natural justice and in Public Interest, the relief sought by the complainants cannot be allowed".

10. From the above principle of Law, the prayer of complainant may be modified to some extent. At the same time quantum of compensation also to be modified.

11. As per S.71(2) RERA, the complaint shall be closed within 60 days from the date of filing. In this case the parties were present on 14/10/2018. As per the SOP the 60 days be computed from the date of appearance of parties. In this case the parties have appeared on 27/11/2018. After hearing the parties it is now being disposed off. Hence there is little delay in closing this complaint. With this observation I proceed to pass following order.

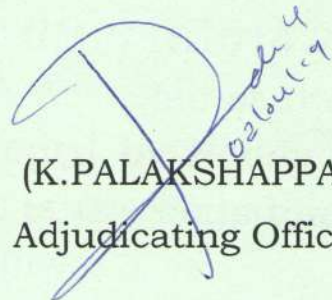
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ORDER

- a) The Complaint No. **CMF/181014/0001454** has been allowed by directing the developer to pay Rs. 16,500/- per month as delay compensation commencing from July 2018 till possession is delivered.
- b) The developer shall deliver the possession on or before 31/12/2019 with all amenities. In case of failure to deliver the possession as directed, the complainant is entitled for refund of money along with interest.
- c) Further the developer shall pay Rs. 5,000/- as cost of the petition.

Intimate the parties regarding the Order.

(Typed as per Dictated, Verified, Corrected and Pronounced on 02/04/2019)


(K.PALAKSHAPPA)
Adjudicating Officer