

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

Dated 31st of August 2019

COMPLAINT No. CMP/190418/0002686

INDIRA PRIYADARSHINI PANDA

....Complainant

Oceanus Vista,
Tower 7-107, Kasabanahalli,
Off Sarjapur Road,
Bengaluru Urban - 560035.

VERSUS

M/S OCEANUS DWELLINGS (P) LTD.,

....Respondent

No. 297, 1st Cross, 7th Main,
2nd Stage, BTM Layout,
Bengaluru - 560076.

This complaint has been filed against the above said promoter concerning Oceanus Vista II- Tower 7 project situated at Kasabanahalli, Off Sarjapur Road, Bengaluru Urban.

The complaint in brief is that the complainant booked an apartment during December 2014 and as per the sale agreement, possession of the flat should have been received in August 2016 but the possession was given in June 2018. The amenities like electricity, swimming pool etc., were provided in November 2018. The complainant has requested for compensation from July 2017 till November 2018 for delayed possession.

[Signature]
31/8/19

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Notices were issued. On 29/05/2019 the complainant was present and has filed a statement. Mrs. Sujatha, Advocate has filed a vakalat on behalf of the promoter. The complainant submitted that the builder is insisting on repayment of interest paid to them which is not acceptable. On 27/06/2019, the advocate on behalf of the promoter has filed a statement of objection. The objection in brief is as under:

- (i) The promoter has paid compensation of Rs. 7,500/- per month for the delay caused for the first 12 months and Rs. 11,250/- per month thereafter till the possession was given. Therefore the promoter has given excess of Rs. 4,41,040/- which has to be returned by the complainant. The delay caused for completing common areas, facilities cannot be considered for the purposes of compensation.
- (ii) Though application for occupancy certificate was given to BBMP on 21/12/2017 but the certificate was received on 09/04/2018.
- (iii) Since the sale deed was executed by the complainant, she has become the owner of the property and cannot be considered to be an allottee. Hence she is not eligible for any compensation.
- (iv) On the other hand the complainant has to pay Rs. 50,00,000/- as compensation for deformation.
- (v) To dismiss the complaint.

Heard both sides and perused the documents.

A sale agreement has been entered into by the promoter and the complainant on 19/01/2015. The clause 8 of the sale agreement reads as "the developers shall handover the possession of schedule "C Apartment" on or before completion of 18 months period from September 2014 (with an additional of 6 months grace period).

An absolute sale deed dated 12/04/2018 says "that they have delivered the vacant possession of the schedule of B and C properties to the purchasers on this day".

10/31/8/19

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The complainant has acknowledged the receipt of possession vide possession certificate dated 12/04/2018.

Hence as per the mutually agreed dates, the possession was supposed to be delivered within 31/08/2016. But actually the possession has been delivered on 12/04/2018. The complainant has to be compensated for the delay in handing over possession of the apartment.

In view of the above, following order is passed.

ORDER

The respondent promoter is hereby directed to pay compensation to the complainant at the following rates.

- (a) To pay interest at the rate of 9% from 01/09/2016 to 30/04/2017 on the amount paid by the complainant to the promoter.
- (b) To pay interest at the rate of 10.75% from 01/05/2017 to 11/04/2018 on the amount paid by the complainant to the promoter.
- (c) While paying compensation at the above rates, the amount already paid by the promoter to the complainant, by way of compensation shall be deducted from the total of (a) and (b) above.

(Adoni Syed Saleem)

Member - 2
K-RERA