

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 1st of July 2019

COMPLAINANT

CMP/180528/0000864

DEEPAK DEVARAJ
No. 35/9, Langford road
cross, Shanthinagar,
Bengaluru Urban - 560025.

VERSUS

RESPONDENT

1. R N SHETTY
7th Floor, Naveen Complex,
No. 14, M G Road,
Bengaluru - 560001.
2. NAVEEN R SHETTY,
7th Floor, Naveen Complex,
No. 14, M G Road,
Bengaluru - 560001

The complaint is filed against the respondents being the promoters of project by name RNS Shrinikethan, Mutthyala nagara, Bengaluru North, Bengaluru Urban. The said project is registered with RERA with registration No. PRM/KA/RERA/1251/309/PR/171031/001215.

The complainant in his complaint dated 28.05.2018 has stated as under:

1. That the respondent has taken up a project which is under construction in joint family land which is under dispute.

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2. That the Hon'ble High Court of Karnataka passed a preliminary decree in their favour. That the land doesn't belongs to the respondents.
3. That the respondents have suppressed the fact of litigation while seeking registrations from the RERA.
4. That proceeding for the final decree (FDP-No. 8/2015) is pending before the City Civil Court, Bangalore. And there is another partition suit OS No. 26695/2010 pending Adjudication.
5. The registration granted by RERA may be revoked and the respondent be restrained from marketing, advertising, booking, selling or offer on sale any apartments in the said project.

A notice of hearing under Sec. 35 of the Real Estate (Regulation and Development) Act, 2016 was issued to the respondents, and on 03.06.2019 Ms. Annapurna, Advocate has filed vakalat for the respondents. The complainant submitted that construction is being put up on his land. This has to be stopped. The advocate for the respondent submitted that, it is in the nature of a civil dispute and the case is pending before the Hon'ble Supreme Court and further the advocate for respondent has requested time to file written objections. The case was posted to 17.06.2019.

On 17.06.2019 both the complainant and also the advocate for the respondent were present. The respondents advocate filed a written arguments and the copy of the same given to the complainant. Who requested time to file rejoinder. The case was posted for orders, the complainant was asked to file rejoinder within 28.06.2019.

The statement of objections filed by the respondent is as follows.

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1. That the complainant has no locus standi to file the complaint as he is neither a buyer nor he has any interest in the project.
2. The complaint is filed against the chairman and the managing director and not against the company, namely RNS infrastructure Ltd.,
3. That the company while seeking registration with RERA had disclosed the fact of litigation before the Hon'ble Supreme Court.
4. The project was started with the approval of BBMP during 2015 before the commencement of RERA. No mortgage has been created on the land. A case is pending before the Hon'ble Supreme Court and it is partially settled out of 6 acres 1 gunta, 0.75 acres is under litigation. None of the courts have passed injunction orders restraining constructions.

The complainant has filed a rejoinder on 29/06/2019 stating the history of civil litigations.

From the complaint, objections of the respondent and the rejoinder so filed, it is clear that the complainant is neither a purchaser nor an allottee under the provisions of Real Estate (Regulation and Development) Act.

Sec. 31(1) of the Real Estate (Regulation and Development) Act reads as under

"Any aggrieved person may file a complaint with the Authority or the Adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the Rules and Regulations made there under against any

6/6/17/19

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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promoter allottee or Real Estate Agent as the
case may be”

The complainant has not made out a case that the promoter has violated any specific provision of the Act. The complainant has claimed property rights over the land for which proceedings are pending before the competent courts and also before the Hon'ble Supreme Court of India. Moreover no stay or injunction has been issued against either the construction or the project itself. In view of the same, following order is passed.

ORDER

The complaint dated 28.05.2018 is hereby rejected as it is in the nature of a Civil dispute. The complainant is at liberty to seek remedy in the appropriate forum.

(Adoni Syed Saleem)

Member-1

KRERA