

BEFORE ADJUDICATING OFFICER, RERA

BENGALURU, KARNATAKA

Complaint No. CMP/181114/0001632

Date: 20th MARCH 2019

Complainant : SANGEETA R CHAWLA
No.39, 1st main road, 1st B Cross,
Ashwathanagr Ex, RMV 2nd Stage,
Bengaluru- 560094.

AND

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

J U D G E M E N T

1. Mr SANGEETA R CHAWLA has filed this complaint under Section 31 of RERA Act against the project "MANTRI WEBCITY 3C" developed by M/s MANTRI DEVELOPERS PVT. LTD, bearing Complaint no. CMP/181114/0001632. The facts of the complaint is as follows:

"I have paid the entire amount in the year April 2014 by taking loan and as they had promised me to handover the possession by April 2017 and so far they have been dodging me by not giving me the possession till date after collecting the entire amount

Relief Sought from RERA: Refund of Entire Interest along with principal"

2. In pursuance of the notice issued by the authority, the parties appeared on 29/11/2018. The complaint is filed for refund of the amount. The complainant has sought for refund of his amount with agreed 2X amount. The complainant has said at the time of argument that he has paid Rs. 60,26,392/- from his pocket and the developer has raised the loan in the name of complainant of Rs. 65,36,835/- for which he has filed this complaint.
3. On behalf of 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.
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 his own objection statement accepts the relationship.
6. In para No. 14 of his objection statement which reads as under:
The complainant had paid through loan from PNBHFL (Punjab National Bank Housing Finance Limited) and the said bank has distributed a sum of Rs. 65,36,835/- (Rupees Sixty Five Lakhs Thirty Six Thousand Eight Hundred and Thirty Five Only). A sum of Rs. 59,564/- (Rupees Fifty Nine

Thousand Five Hundred and Sixty Four Only) was to be paid as monthly EMI towards the loan amount borrowed by the complainant to Punjab National Bank Housing Finance Limited.

From this para the payment made by the complainant is admitted.

7. Further the developer has also contended in para No.32 as under:

The Complainant has entered in to Assured return/Buy-back Scheme, and therefore the complainant is clearly an investor and not an end use consumer. Be that as it may, it is pertinent to note here that the Complainant in her complaint has only sought for relief as against the Pre-EMI and buy back scheme. This establishes that the Complainant never intended to be a final consumer always wanted to be an investor and get the benefit as per the scheme. Hence, the complainant being an investor and has no jurisdiction to approach this Hon'ble Authority and seek for any relief/s against the Respondent herein. This clearly establishes the oblique motive of the Complainant to harass the Respondent and get the Respondent to the terms.

8. 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 2016.
- b. Mantri developers will assure return of 100% on the own contribution made by the unit purchasers at the end of August 2016.

9. 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 loses its importance.

10. 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.

11. Further the complainant has submitted that he has paid Rs. 60,26,392/- as his personal contribution, which is 20% of the total consideration amount. The bank has released a sum of Rs. 65,35,835/- in the form of home loan which is 80% of the sale consideration. By this way it is the case of the complainant that he has paid a sum of Rs. 1,50,63,227/- towards purchase of flat bearing number Q 703. Further the complainant has filed an affidavit on 01/03/2019 stating that he has also paid a sum of Rs. 1,20,000/- towards interest to the loan.

12. 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 14/11/2018. As per the SOP, 60 days be computed from the date of appearance of parties. In this case the parties have appeared on 29/11/2018. Hence, there is little delay in closing the complaint. With this observation I proceed to pass the order.

A handwritten signature in blue ink, followed by the date '24/03/19' written vertically.

ORDER

The Complaint No. **CMP/181114/0001632** is allowed.

- a) The developer is hereby directed to return the own contribution amount Rs. 60,26,392/- to the complainant within 30 days from today. If not it will carry interest @ 10.75% P.A from 31st day.
- b) The developer is hereby directed to return the 2X amount to the complainant.
- c) The developer is hereby directed to discharge the loan raised in the name of the complainant with all its EMI and interest if any.
- d) The developer is hereby directed to deduct the GST amount out of amount payable to the complainant and 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.
- e) The complainant is hereby directed to execute the cancellation deed in favour of the Developer after the entire amount has been realized.
- f) 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 20/03/2019)

(K.PALAKSHAPPA)
Adjudicating Officer