



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Cmp.No: 01177/2023

ಪುಟ ಸಂಖ್ಯೆ

ವಿಷಯ

Prathik Gupta

Pragathi Amber

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

CMP- 01177/2023

07.03.2024

As per the request of the complainant and Mr. Muniraju M partner of the respondents, the execution proceedings in the above case are taken-up for amicable settlement, in the National Lok Adalat to be held on 16.03.2024.

The complainant and Mr. Muniraju M partner of the respondents for the respondent present, in the pre-Lok-Adalat sitting held on 07.03.2024. The dispute in connection with execution proceedings in the above case are settled as per the joint memo, stating that matter has been settled between the parties in terms of the joint memo and joint memo for withdrawal dated: 07.03.2024 entered between them filed during the pre Lok Adalat sitting on 07.03.2024. The settlement entered between the parties is voluntary and legal one and as per which the complainant has no further claims against the respondents whatsoever in the above case. The dispute in connection with execution proceedings in the above case are settled between the parties in the pre-Lok Adalat sitting in terms of the joint memo and joint memo for withdrawal dated: 07.03.2024. The complainant submits that he has already received Rs.11,89,577/- (Rupees Eleven Lakhs Eighty Nine Thousand Five Hundred Seventy Seven Only) from the respondents. The execution proceedings in connection with above case are closed, as settled in the Lok Adalat. The RRC if any issued against the respondents is hereby recalled. The matter referred to conciliators to pass award.

Prathik Gupta
PRATHIK GUPTA

Judicial Conciliator.

For SLV CONCRETES

Advocate Conciliator.

Partner

Advocate Conciliator.

**BEFORE LOK-ADALAT IN THE KARNATAKA REAL ESTATE
REGULATORY
AUTHORITY, BENGALURU
COMPALAINT Nos. 1177/2023 & 01655/2023**

Complainant in both cases : Pratheek Gupta

-Vs-

Respondents in both cases : M/s. S.L.V. Concretes & another

JOINT MEMO

The complainant and the respondents in the above complaint jointly submit as under:

7/3/24. The complainant and the Mr. Muniraju M partner of the respondents present before pre Lok Adalat sitting and after due deliberation and in view of the receipt of amount Rs.11,89,577/- by the complainant from the respondents in complaint No. 01177/2023 the complainant does not press for execution proceedings and the execution proceedings in complaint No. 01177/2023 be closed as settled and complaint No. 01655/2023 is also amicably settled before the pre Lok-Adalath sitting held on 07.03.2024, stating that complainant has no further claim whatsoever in the aforesaid both cases against the respondents. The complainant has agreed to withdraw C.C. No. 60423/2023 pending before XXX111 ACMM at Mayohall Bengaluru reporting about compromise entered in these cases.

2. Parties further request that this settlement be recorded in both cases complaint Nos: 01177/2023 & 01655/2023 in the National Lok-Adalat to be held on 16.03.2024.

Bengaluru

Date: 07.03.2024


Complainant

Partner of Respondents

(Mr. Muniraju M)

For SLV CONCRETES

Partner


Advocate for respondents

BEFORE THE REAL ESTATE REGULATORY AUTHORITY OF KARNATAKA
AT BENGALURU

CC: 1177/2023 and
C. C. No. 01655 of 2023

BETWEEN:

Pratheek Gupta

... Complainant

AND

M/S S.L.V. Concretes & Ors.

... Respondent

Joint

MEMO FOR WITHDRAW

The complainant respectfully submits that the parties has been amicably settled out of the court in view of the same the complaint agreed to withdraw the all cases filed against respondent .

Wherefore Complaint no.01177/2023 filed Before Authority and C.C NO.60423/2023 pending before XXX111 ACMM at Mayohall Bangalore the complainant and also submits that there is no further claims from any manner against the Respondents.

The Respondents paid vide **D.D.No. 064118** drawn at HDFC for Rs. **11,50,000/-** (Rupees Eleven Lakh fifty thousand) and **Rs 39,577/-** By Way of **NEFT** , in my name and I acknowledge the same - **IMPS - 406711489808**.

Hence I request this Hon'ble court permit me to withdraw all the cases filed against respondents and dismiss as not pressed in the interest of justice.

Bengaluru

Date: 07/03/2024

[Signature]
Complainant

[Signature]
Respondent .

[Signature]
Adv for Respondents

For SLV CONCRETES

[Signature]
Partner

D. D. No. 064118 Received on 06/03/2024
for Rs. 11,50,000/- *[Signature]*

Complaint No. 01177/2023

16.03.2024

Before the Lok-Adalat

The execution proceedings in this case are taken up before the pre-Lok-Adalat held on 07.03.2024. The joint memo for withdrawal dated: 07.03.2024 in the pre Lok Adalat sitting by both the parties is hereby accepted. Hence, the dispute in connection with the execution proceedings of this complaint is settled before the Lok-Adalat as per joint memo for withdrawal dated: 07.03.2024. The joint memo for withdrawal filed by the parties shall be part and parcel of award/order.

The execution proceedings in this complaint referred above stands disposed off accordingly.


Judicial Conciliator.


Advocate Conciliator.

KARNATAKA STATE LEGAL SERVICES AUTHORITY
BEFORE THE LOK ADALAT
IN THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY AT
BENGALURU

DATED: 16TH DAY OF MARCH 2024

: CONCILIATORS PRESENT:

Sri. I. F. Bidari

..... Judicial Conciliator

AND

Ms. Sumathi M

..... Advocate Conciliator

COMPLAINT NO: 01177/2023

Between

Mr. Pratheek Gupta

..... Complainant

AND

M/s. S.L.V. Concretes.,

..... 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 dated:07.03.2024 & Joint memo for withdrawal dated:07.03.2024 filed during the pre-Lok Adalat sitting on dated:07.03.2024, 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 dated:07.03.2024 & Joint memo for withdrawal dated: 07.03.2024 and said joint memo & Joint memo for withdrawal are ordered to be treated as part and parcel of the award.


Judicial conciliator


Advocate conciliator

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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 BEFORE BENCH 6

Dated 2ND JANUARY, 2024

PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU

COMPLAINT NO.:01177/2023

COMPLAINANT.....

**PRATHIK GUPTA
8172, PRESTIGE SUNRISE PARK
BIRCHWOOD TOWER 8
NEO TOWN
ELECTRONIC CITY PHASE-1
BANGALORE-560100.**

(IN PERSON)

Vs

RESPONDENT.....

**SLV CONCRETES
NO.183/2, SINGENA AGRAHARA VILLAGE
FRUIT MARKET, GOLD COIN CLUB ROAD
SARJAPUR HOBLI
ANEKAL TALUK
BANGALORE-560100.**

**(BY MR.T.K. RAJAGOPALA & OTHER
ADVOCATES)**

*** * * * ***

J U D G E M E N T

1. This complaint is filed under section 31 of the RERA Act against the project "**PRAGATHI AMBER**" developed by **M/S. SLV CONCRETES** situated at Sy.No.13/1, 13/3, 13/4, 13/5, 14/1, Kammasandra, Ananth Nagar, Electronic City, Anekal, Bengaluru Urban for the relief of refund with interest.
2. This project has been registered under RERA vide registration No.PRM/KA/RERA/1251/308/PR/171130/000629 and is valid till 10/08/2021. The Authority gave covid extension for 9 months valid till



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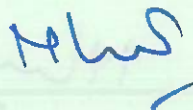
Karnataka Real Estate Regulatory Authority,

1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

10/05/2022. The registration was extended by the Hon'ble Authority for a period of 12 months valid till 10/05/2023.

Brief facts of the complaint are as under:-

3. In October 2022, the complainant has booked a flat bearing No.A-1402, 14th Floor in the project of the respondent for a total sale consideration of Rs.52,50,000/- and paid Rs.10,50,000/- as booking amount. The complainant was given a draft copy of agreement of sale and construction in respect of the above flat for signature. As the draft was full of errors, the agreement was sent back with review comments for rectification to the respondent. Till March 2023, there was no response from the respondent. When the respondent sent an Assignment Agreement for execution between Ms. Nagalalitha and Prathik Gupta, that the complainant realized that the flat was already sold to one Ms.Nagalalitha in 2019 thereby misrepresenting the facts. The complainant's attempt to reach out the respondent went in futile. Later, the respondent forced the complainant to execute the Assignment Agreement or else his money will not be returned.
4. The respondent after couple of months sent a message to the effect that the complainant can cancel the booking. On 01/06/2023, the complainant had requested the respondent for cancellation of booking of flat A-1402. After many days, the respondent told the complainant to collect cheques from their Jayanagar Office. On 5/6/2023, the complainant had collected a post-dated cheque for Rs.10,50,000/- dated 01/07/2023. The cheque was returned dis-honoured for insufficient funds. When the complainant tried to inform the respondent about this, there was no response, which shows that the respondent is an habitual offender and does not seem to worry much about the consequences of cheque bounce case.



5. Though the respondent has got extensions 3 times from RERA, they have not completed the project and defaulted and have applied once again for the 4th time for extension by RERA. The respondent has no intention to complete the project and handover flats to the homebuyers but are looking to make quick money by cheating and misleading the customers. The complainant submits that the respondent is not responding to his email, phone calls and are refusing to repay the money, even though there is a cheque bounce case in addition to fraud, the complainant has approached this Hon'ble Authority and prays for directions to the respondent for refund of full amount with interest and to take action against the respondent. Hence this complaint.
6. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through its counsel/representative, and have filed their statement of objections as under:
7. The respondent submits that they had reached a mutual oral agreement with the complainant in respect of the payment of Rs.14,30,678/- paid towards Flat No.A-1402 and A-1404 in their project. The reason for cancellation of oral agreement is that the complainant has to sign an Assignment Agreement sent by the respondent for signature and return, which the complainant did not comply with and also did not make further payment towards sale consideration amount of the said two flats and the complainant has opted for cancellation, proves that there is a lapse on the part of the complainant to keep up his commitment, which has rendered in cancellation of the mutual oral agreement.

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Karnataka Real Estate Regulatory Authority,

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8. The respondent contends that they have agreed to pay the amount of Rs.14,30,678/- and that they have already paid a sum of Rs.3,80,678/- through RTGS to the complainant. The respondent admits that the cheque for Rs.10,50,000/- issued to the complainant has come back dishonoured and that the complainant has initiated proceedings u/s 138 of Negotiable Instruments Act and as such, the complaint is not maintainable as a criminal complaint has already been initiated. The respondent further contends that the cheque for the above amount was given to the complainant without mentioning the date and requesting him to present when the respondent intimates him to do so in writing. The respondent submits that the complaint needs to be closed in view of the said criminal complaint. Moreover, when the mutual oral agreement is cancelled, the Hon'ble Authority has no jurisdiction to deal with the matter and prays the Hon'ble Authority to dismiss the complaint.
9. In support of their defence, the respondents have not filed any documents and have also failed to submit their memo of calculation despite several opportunities were given.
10. In support of his claim, the complainant has produced documents such as copies of booking form, payment receipts, agreement of sale and construction agreement executed between Nagalalitha and the respondent, Assignment Agreement (sent for signature of the complainant) and Memo of calculation for refund with interest as on 29/11/2023.
11. This case was heard on 02/11/2023, 28/11/2023 and 14/12/2023. Heard arguments of both sides.

12. **On the above averments, the following points would arise for my consideration:-**

1. Whether the complainant is entitled for the relief claimed?
2. What order?

13. **My answer to the above points are as under:-**

1. In the Affirmative.
2. As per final order for the following -

REASONS

14. **My answer to Point No.1:-** It is undisputed that the complainant has booked a flat A-1402 in the project of the respondent vide booking form dated 16/10/2022 and has paid Rs.10,50,000/- as booking amount and that the complainant came to know that the flat was sold to Ms. Nagalalitha in 2019 itself, when the respondent sent the Assignment Agreement for execution. It is also evident that the cheque issued by the respondent was dishonoured by the Bank due to insufficient funds, due to which the complainant has initiated proceedings under section 138 of Negotiable Instruments Act against the respondent.

15. During the process of the hearing, the Hon'ble Authority has perused the written submission filed by the complainant and the statement of objections filed by the respondent. The Hon'ble Authority has noticed that the respondent remained absent from the hearings despite having received the summons. The Authority has not accepted the contention of the respondent that it was a mutual oral agreement with the complainant as the complainant has booked the flat in the project of the respondent vide booking form. The Authority has noticed that the respondent has not produced any evidence to substantiate their claim and hence, the Authority disagrees with their contention.

16. At this juncture, my attention is drawn towards the decision of Hon'ble Supreme Court in Appeal No.6750-57/2021, M/s Newtech Promoters v/s The State of Uttar Pradesh it is held that:

"Section 18(1) of the Act spells out the consequences if the promoter fails to complete or is unable to give possession of an apartment, plot or building either in terms of the agreement for sale or to complete the project by the date specified therein or on account of discontinuance of his business as a developer either on account of suspension or revocation of the registration under the Act or for any other reason, the allottee/home buyer holds an unqualified right to seek refund of the amount with interest at such rate as may be prescribed in this behalf."

17. In the Judgement reported in Civil Appeal No.3581-3590 of 2020 at Para No.23 between M/s Imperia Structures Ltd v/s Anil Patni and another by the Hon'ble Supreme Court it is held that:

"In terms of section 18 of the RERA Act, if a promoter fails to complete or is unable to give possession of an apartment duly completed by the date specified in the agreement, the promoter would be liable, on demand, to return the amount received by him in respect of that apartment if the allottee wishes to withdraw from the project. Such right of an allottee is specifically made "without prejudice to any other remedy available to him". The right so given to the allottee is unqualified and if availed, the money deposited by the allottee has to be refunded with interest at such rate as may be prescribed. The proviso to section 18(1) contemplates a situation where the allottee does not intend to withdraw from the project. In that case he is entitled to and must be paid interest for every month of delay till the handing over of the possession. It is upto the allottee

to proceed either under section 18(1) or under proviso to section 18(1). The case of Himanshu Giri came under the later category. The RERA Act thus definitely provides a remedy to an allottee who wishes to withdraw from the project or claim return on his investment."

18. In case the allottee wishes to withdraw from the project the promoter is liable without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, flat, building as the case may be with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.
19. Therefore, as per **section 18(1)** of the Act, the promoter is liable to return the amount received along with interest and compensation if the promoter fails to complete or provide possession of an apartment etc., in accordance with sale agreement.
20. The complainant has claimed Rs.11,60,478/- (Rupees Eleven Lakh Sixty Thousand Four Hundred and Seventy Eight only) vide their memo of calculation as on 29/11/2023 towards refund with interest.
21. Having regard to all these aspects, the Hon'ble Authority concludes that the complainant is entitled for refund with interest calculated vide his memo of calculation as on 29/11/2023.
22. The complainant has claimed compensation for mental agony, which does not come under the jurisdiction of this Authority. Hence, the same is not considered.
23. Therefore, it is incumbent upon the respondent to pay refund with interest which is determined as under:

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Interest Calculation Till 30/04/2017 (Before RERA)					
S.NO	DATE	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	INTEREST @9%
1	01-04-2017	0	0	30-04-2017	0
2		0		TOTAL INTEREST (I1)	0

Interest Calculation From 01/05/2017 (After RERA)							
S.NO	DATE FROM 01/05/2017	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	MCLR INTEREST X%	INTEREST RATE X+2%	INTEREST @X+2%
1	01-05-2017	0	2403	29-11-2023	8.15	10.15 as on 01-05-2017	0
2	21-10-2022	1,00,000	404	29-11-2023	8.25	10.25 as on 15-10-2022	11,345
3	26-11-2022	9,50,000	368	29-11-2023	8.35	10.35 as on 15-11-2022	99,133
4	TOTAL AMOUNT	10,50,000				TOTAL INTEREST (I2)	1,10,478

Memo Calculation			
PRINCIPLE AMOUNT (A)	INTEREST (B = I1 + I2) AS ON 29-11-2023	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
10,50,000	1,10,478	0	11,60,478

24. Accordingly, the point raised above is answered in the Affirmative.

25. **My answer to Point No. 2:-** In view of the above discussion, I proceed to pass the following order:-

ORDER


In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing **No.01177/2023** is hereby allowed.

The respondent is directed to pay the amount of **Rs.11,60,478/- (Rupees Eleven Lakh Sixty Thousand Four Hundred and Seventy Eight only) towards refund with interest** calculated at MCLR + 2% from 21/10/2022 to 29/11/2023 to the complainant within 60 days from the date of this order.

The interest due from 30/11/2023 up to the date of final payment will be calculated likewise and paid to the complainant.

The complainant is at liberty to initiate action for recovery in accordance with law if the respondent fails to pay the amount as per the order of this Authority.

No order as to the costs.


(Neelmani N Raju)
Member, K-RERA

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