

**BEFORE ADJUDICATING OFFICER, RERA**  
**BENGALURU, KARNATAKA**

**Presided by Sri K.PALAKSHAPPA**

**Adjudicating Officer**

**Complaint No. CMP/190624/0003375**

**Dated: 6<sup>th</sup> September 2019**

Complainant : Kehava Prasad,  
No. 97, 2<sup>nd</sup> Main, 5<sup>th</sup> Cross,  
Saryabhounanagar,  
Chikkalasandra,  
Bengaluru-560061.

AND

Opponent : Nallur Ravi,  
No.2, Devasandra, off BEL Road,  
Bengaluru-560094.

**J U D G M E N T**

1. The complainant has filed this complaint against the Respondent praying for the relief of refund of his amount. The Complaint reads as under:

We had booked a Flat ( No. 103 in B block) from the Developer in Garden Residency Project at Bommasandra. The Developer is not picking up his calls nor is answering mails. I was following up for getting the flat registered in my name and have now come to know that the promoter has resold the flat to other person. We have taken a bank loan to fund the purchase and have been paying our installments till date. We need to get the money paid by us back along with the payments made to Bank till date.

Relief Sought from RERA :Refund of money paid along with Cancellation

*[Handwritten signature]*  
06/09/19

2. After registration of the complaint notice has been issued to the parties. Complaint was present. The respondent failed to appear. The Complainant has sought for the relief of refund which is not contested by the developer.
3. In view of the same I have heard the arguments of the complainant and posted the matter for judgment on its merits.
4. The point that arise for my consideration is:
  1. Whether the complainant is entitled for the relief of refund of his amount?

My answer is affirmatively for the following:

### **REASONS**

1. The complainant has filed this case against the Respondent seeking the refund of his amount paid towards purchase of a flat bearing NO.103 through an Agreement of Sale dated 29/12/2014 for refund of his amount paid to developer. The main reason is that the developer has re sold the same to some other person. The complainant has filed a memo of calculation wherein he has paid Rs. 9,55,000/- as down payment and he says that Rs. 9,95,553.38/- has been paid towards EMI. Further he said that the rest of amount of Rs. 32,84,627.59/- is the loan raised by the Complainant. The claim for refund is only because of delay in completing the project. The developer has failed to contest the case of the complainant. In spite of notice he has not appeared and submitted his stand means he is nothing to say on the claim of the complainant. As per S.18 of the Act, it is the obligation on the developer to complete the project. If not, to refund the amount as per the wish of the complainant. No contra evidence to dismiss the complaint.

*Done*  
*06/09/19*



2. Before passing the final order I would say that as per S.71 (2) RERA, the complaint will have to be closed within 60 days from the date of filing. In this case the complaint was filed on 24/06/2019. The developer never appeared and as such the complaint is being disposed of within time. Hence, I proceed to pass the following;

**ORDER**

The Complaint No. CMP/190624/0003375 is hereby is allowed.

- a. The developer is hereby directed to pay Rs. 9,55,000/- with interest @ 9% p.a. on the respective amount paid on the respective date of prior to 30/04/2017 and @ 2% above the SBI marginal lending rate of interest on home loans till the amount is realized.
- b. The developer is also directed to discharge the loan, with its interest, EMI if paid by the Complainant, EMI if any due and any other incidental charges.
- c. The developer shall pay Rs. 5,000/- as cost of this petition.
- d. The Complainant is hereby directed to execute Cancellation of Agreement of Sale after the entire amount is realized.

(Typed as per dictation Corrected, Verified and pronounced on 06/09/2019)

(K.Palakshappa)  
Adjudicating Officer