



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತದ ಸಂಖ್ಯೆ CMP/2921

ಪುಟ ಸಂಖ್ಯೆ

ವಿಷಯ Appl (K-RERA) no-235/2020 (old no-306/2019) Chawla
v/s NHDPL

ಕಂಡಿಕೆ ಸಂಖ್ಯೆ	Cmp.2921	ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು
	04/03/2022	<p>As per oral request of Sri. Harish Kumar M.D, Authorized person of the respondent the matter in connection with execution proceedings is referred to Lok Adalat to be held on 12/03/2022.</p> <p style="text-align: right;"><u>4/3/22</u> Adjudicating Officer/ Co-ordinator, Lok Adalat</p> <p style="text-align: right;">K-RERA</p> <p><u>CMP-2921</u> <u>04.03.2022</u></p> <p>As per the request of the complainant and Sri.Harish Kumar, Authorized person of the respondent the above case in connection with execution proceedings is taken-up for amicable settlement, in the National Lok Adalat to be held on 12.03.2022.</p> <p>The complainant and Sri.Harish Kumar, Authorized person of the respondent, in the Pre-Lok-Adalat sitting held on 04.03.2022 settled the matter in terms of Joint memo dated : 03/03/2022 already filed in the case. The settlement entered between the parties is voluntary and legal one and the complainant has no further claim against the respondent whatsoever. The settlement is accepted and consequently the entire case has been closed as settled between the parties in terms of aforesaid joint memo. For consideration of joint memo and award, matter is referred to Lok-Adalat to be held on 12.03.2022.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> <p><u>Harish Kumar</u> [Authorized Signatory of Respondent Harish Kumar.M.D]</p> </div> <div style="text-align: center;"> <p><u>4/3/22</u> Judicial Conciliator. <u>Advocate Conciliator.</u></p> </div> </div>

BETWEEN:

Mrs. Charu Chawla
Mr. Vishruth Madhav
Apt.no.G501, Mantri Espana
Kariyammana Agrahara
Bangalore -

....Complainant

AND:

NUDPL Ventures Private Limited
(formerly known NUDPL Enterprises
Private Limited and Nitesh Urban Development Private Ltd.)
No. 110, Level 1, Andrews Building,
M.G Road, Bengaluru - 560 001

....Opposite Party

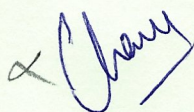
JOINT MEMO

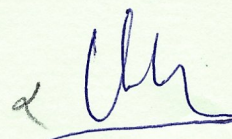
The Complainant herein has filed the above mentioned Complaint before this Hon'ble Court seeking refund of booking amount /advance amount.

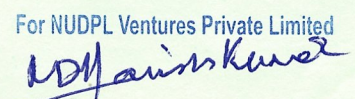
Subsequently, both Complainant and Opposite Party discussed between themselves with the spirit of arriving at an amicable resolution. After discussing all the issues and disputes, both parties have arrived at an amicable settlement.

Both parties, have now, vide Memorandum of Settlement dated 28th January 2021 & Agreement of Cancellation dated 30th January 2021 resolved and settled all the disputes and issues, and signed the Memorandum of Settlement & Agreement of Cancellation.

As per the terms of the above mentioned MOS & Agreement of Cancellation, no claims, differences and/or disputes are pending between the Parties and no further claims or disputes will be raised by either party in connection with the issues arising in the present Complaint.





For NUDPL Ventures Private Limited


The Respondent herein has paid a sum of Rs.2,278,612/- (Rupees Twenty Two Lakhs Seventy Eight Thousand Six hundred and Twelve only) towards full and final settlement with regard to refund of booking amount paid by the Purchaser/ s for the apartment No. H-0401.

The refund amount is paid as mentioned below:

- **DD No.519993** dated 27th January 2021, drawn on ICICI Bank, M G Road, Bangalore for **Rs.2,278,612/- (Rupees Twenty Two Lakhs Seventy Eight Thousand Six Hundred and Twelve only)**

The copies of the DDs are enclosed herewith for your ready reference.

In view of the abovementioned Memorandum of Settlement dated 28th January 2021 & Agreement of Cancellation dated 30th January 2021 arrived at between the parties, the Complainants request this Hon'ble RERA to record the above mentioned Memorandum of Settlement dated 28th January 2021 & Agreement of Cancellation dated 30th January 2021 and dispose of the Complaint as withdrawn.

✓ Chauhan
✓ Chauhan

COMPLAINANTS

For NUDPL Ventures Private Limited

MD Anish Kumar

Authorised Signatory

OPPOSITE PARTY

PLACE: Bangalore

Dated: 03.03.2022

Cmp.2921

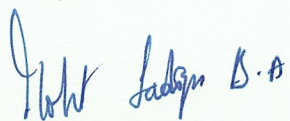
12.03.2022

Before the Lok-Adalath

The case taken up before the Lok-Adalat. The joint memo dated : 03/03/2022 filed by both the parties is hereby accepted. Hence, the matter settled before the Lok-Adalat as per joint memo.

The case stands disposed off as closed accordingly.


Judicial Conciliator.


Advocate Conciliator.

BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA

Presided by Sri K.PALAKSHAPPA

Adjudicating Officer

Complaint No. CMP/190506/0002921

Dated: 19th September 2019

Complainant : Charu Chawla,
Sobha Iris apt 4076, Devarabisanahalli,
Next to Sakra Hospital,
Bengaluru-560103.
Rep. by Hithesh kumar Jain Advocate.

AND

Opponent : Nitesh Estates-Kanchana Mohan,
7th Floor, Nitesh Time Square,
No. 8, M.G. Road,
Bengaluru-560001.
Rep. by Sri. Prasad.

J U D G M E N T

1. This Complaint is filed by the Complainant against the Developer seeking for the relief of refund of the amount with interest. The Complaint reads as under:

This is with regard to Nitesh Cape Cod project, we are holding the booking for apartment number H401 since August 2014. As per the construction agreement the project completion date was stated 31Dec 2015 with the grace period of 6 months. Since, the deadline has passed way beyond the grace period, I request the Nitesh's management for the full refund of amount paid along with interest till date.

Relief Sought from RERA : Refund of the booking amount with interest

[Handwritten signature]
19/09/19

2. After registration of the case notice has been issued to the Respondent. The Complainant has appeared through her Counsel. The Developer has appeared through his representative Sri. Prasad and filed the objections.

3. Heard the arguments.

4. The point that arisen for my consideration was:
Is the complainant entitled for refund of the amount?

My answer is affirmative for the following;

REASONS

5. Admittedly the Complainant has entered into an Agreement with the Developer on 11/09/2014 where it was agreed to complete the project on or before 30/06/2016 including grace period but till today the project is not completed. The developer has Received Rs. 22,78,612/- from the Complainant. As per Section 18 the developer is liable either to refund the amount or to pay Delay Compensation in case he has failed to complete the project. The delay is not sustainable and there is no progress in the project. However the developer has contended that:

4) *It is submitted that as per the agreement, the Complainant is not entitled to terminate the Agreement or claim refunds of amounts due to delay arising out of force majeure circumstances. As stated above, the delay caused was due to above referred bonafide reasons and due to litigations over the schedule property and hence the Complainant is not entitled to claim refund of any amounts. (clause 6.2 of the construction agreement) The copies of the Agreement of Sale and construction agreement are produced herewith and marked as Document Nos. 1 and 2.*

2
19/09/19

5) It is further submitted that in case of cancellation of agreement by the Complainant as per agreement, the respondent is entitled to forfeit/with hold 18% of the amount received towards administrative charges and the balance shall be refunded within 180 days or upon resale of the apartment, whichever is later. Since the Complainant has sought for cancellation and refund of the amount the same will be considered as per the agreement and upon resale of the Apartment the balance amount will be refunded to the Complainant. (Clause No.1 of Agreement of sell and clause No.5 of the Construction Agreement).

6. I would like to say that the defense taken by the developer is not correct. He cannot exercise his right of forfeiture when he himself is a defaulter. Therefore the objection statement has no force at all. Further it was submitted at the time of argument that the amount will be returned after the unit is sold to some other person. This is also not the proper submission. The inordinate delay in non completion of the project entitles the Complainant to get the refund with interest as applicable.
7. 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 06/05/2019. In this case the Complainant has appeared on 13/06/2019. And as such there is some delay in completing the complaint. Hence I proceed to pass the following;

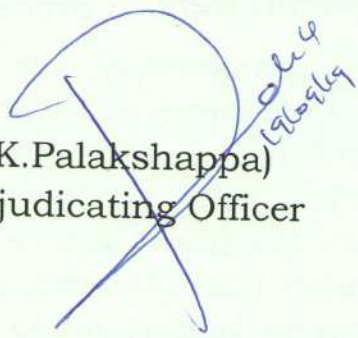

19/09/19

ORDER

The Complaint No. CMP/190506/0002921 is allowed.

- a. The Developer is directed to pay Rs. 22,78,612/- to the Complainant.
- b. The developer is hereby directed to pay the interest @ 9% p.a. on the respective amount paid on the respective date prior to 01/05/2017 and @ 2% p.a. above the SBI marginal rate of interest on home loan commencing from 01/05/2017 till realisation.
- c. The Complainant is directed to execute the Cancellation of Agreement of Sale after the entire amount is paid by the developer.
- d. Further the developer shall pay Rs. 5000/- as cost.
- e. Intimate the parties regarding this order.

(Typed as per dictation Corrected, Verified and pronounced on 19/09/2019)


(K. Palakshappa)
Adjudicating Officer