

BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA

Presided by Sri K.PALAKSHAPPA

Adjudicating Officer

Complaint No. CMP/190802/0003775

Dated: 29th November 2019

Complainant : Mrs. Mamatha Gangula &
Mr. Gangadhara Reddy C. N
No.125 , 1ST Floor , Prakruthi Nilaya
Thubarahalli
Bengaluru-560066.
Rep. by: Sri AVR Associates Advocate

AND

Opponent : ARV infrastructures
No.728, V.T. Kanakaraja building
26th cross, Gunjur main road,
OPP . Varthur Government Hospital
Bengaluru - 560087

J U D G E M E N T

1. Mamatha Gangula & Gangadhara Reddy C N, have jointly filed this complaint under Section 31 of RERA Act against the project "Temple Tree" developed by ARV Infrastructures Pvt. Ltd., bearing Complaint no. CMP/190802/0003775. The facts of the complaint is as follows:

The Complainants approached the Builder who were offering flats on sale in their residential apartment project named TEMPLE TREE, to purchase a flat. The builder assured the Complainants that they will provide all the facilities mentioned in the Brochure. Being convinced by the builder and after discussions the Complainants agreed to purchase a 2 Bedrooms Flat bearing No.A-202, on the Second Floor, with 1171 Sq.Ft of Super Built up Area along with 1 Covered Car Parking space in the Basement Floor and 443 Sq.Ft of

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29/11/19

(UDS) undivided right, title and share in the land. In firm commitment of the Complainants? desire to purchase a flat, they paid an advance of Rs.2,00,000/- by cheque No. 344751 dated 22-4-14 drawn on Deutsche Bank, Bangalore, and submitted the builder's booking form duly filled. Subsequently, the Complainants entered into an Agreement of Sale dated 19-5-2014 with the builder for purchase of 443 Sq.Ft., of UDS in the land for a total sale consideration of Rs.11,71,000/-. They also entered into a Construction Agreement dated 19-5-14 for the 2 bedrooms apartment bearing No.A-202 with super built up area of 1171 Sq.Ft., along with 1*covered car parking space in the basement being constructed at a total cost of Rs.38,06,680/- which includes cost of construction, deposits to BWSSB & BESCOM and One covered car parking space. The total sale consideration payable under the aforesaid Agreements is Rs.49,77,680/-; the Complainants have paid a total sum of Rs.51,92,666/- by Cheque and online transfer to the account of builder. Thus, the Complainants have paid an excess sum of Rs.2,14,986/-.

Relief Sought from RERA: Possession, provide amenities, delay compensation

2. In pursuance of the summons issued by this authority the complainants have appeared through their counsel but the developer was not at all present throughout the trial. The opportunity given to him was not used by him. In his absence I have heard the arguments.
3. The point that arise for my consideration is as to
 - a. Whether the complainant proves that he is entitled for the relief as prayed in the complainant?
4. My answer is affirmative for the following

REASONS

5. The complainant has filed this complaint seeking delay compensation in respect of flat bearing No.A-202, measuring 1171sq.ft. The total sale consideration was Rs. 49,77,680/- out of it he has paid Rs. 51,92,666/- which is an excess of Rs. 2,14,986/-

6. The complainants have entered into agreement with the developer on 19/5/2014 and according to complainants the developer had to complete the project on or before February 2016 with grace period 3 months. Maximum deadline was May 2016 but till today the project has not been completed. Therefore this complaint has been filed.
7. The developer has failed to appear and contest the case. The evidence produced by the complainants is sufficient to believe the case. As per Section 18 of the Act the developer who fails to complete the project within time has to pay the delay compensation who wants to continue with the project. Accordingly this complaint has to be allowed.
8. As per S.7(2), RERA, the complaint shall be closed within 60 days from the date of filing. In this case the Complaint was presented on 2/08/2019. 60 days has to be computed from the appearance of the parties but here the developer never appeared and hence question of delay does not arise. With this observation I proceed to pass the order.

ORDER

The complaint No. CMP/190802/0003775 is allowed

- The developer is hereby directed to pay delay compensation on the amount paid to the developer with interest @ 9% p.a. commencing from June 2016 till 30/04/2017 and @ 2%p.a. above the MCLR of SBI on FROM 1/05/2017 till the possession is delivered after obtaining the Occupancy Certificate..
- Cost of the petition Rs 5,000/-
- Intimate the parties regarding the order.

Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 29/11/2019).

(K. Palakshappa)
Adjudicating Officer