

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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**

**Dated 13<sup>th</sup> of November 2019**

**COMPLAINT No. CMP/190314/0002374 & 0003174**

**1. VIDHYADHAR DURGEKAR**

No. B5, 1103, Ramky One North,  
Doddaballapur Road,  
Yelahanka - 560064.

**2. S MALLIKARJUNA**

**3. P VIDHYASAGAR**

**4. KIRAN T.S**

**5. SANTHOSH KUMAR**

**6. JAYATI CHAKRABORTY**

**7. DINESH G**

**8. BEERENDRA K. R RAI**

**9. SARVAMITH YADAV**

**10. ADITHYA GUNJAL**

**....Complainants**

**VERSUS**

**M/S RAMKY STATES & FARMS LIMITED,**

**....Respondent**

Address: No. 25-30,  
Ramky House, 2<sup>nd</sup> Cross,  
Raghavendra Nagar, Kalyan Nagar Post,  
Bengaluru - 560027.

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Both the complaints have been filed by Vidhyadhar Durgekar against Ramky one North Phase – 3 Project, situated in Sy. No. 49/1, 48/2A, 49/2A, 49/2B of Avalahalli Village, Doddaballapur Main Road, Yelahanka Hobli, Bengaluru North Taluk, Bengaluru.

Mr. E Suhail Ahmed, Mr. Hintendra V Hiremath and Mrs. Jasleen Kaur, Advocates have filed Vakalat on behalf of the respondent.

Notices were issued to both the sides and proceedings conducted. The complaint in brief is as under:

- (i) Ramky One North is a real estate project, having A, B, C, D and E Blocks. Most of the apartments have been sold. A copy of the occupancy certificate has been given, but NOC/ Consent/ License from pollution control board has not been given.
- (ii) The STP is not operating scientifically and the untreated water along with fecal matter is coming up in the commode of the apartments whenever the water is flushed, Giving a foul smell. The residents are falling sick as a result of the same. The grievances of the allottees are not redressed. Since the built up area has exceeded from the approved area as could be seen from the consent for establishment in 2010. The consent for operation was refused by the Karnataka State Pollution Control Board. Though the STP was sanctioned for 400 KLD and after an increase in the Built up area, the promoter without expanding the STP has falsely stated that the capacity of the STP has been increased to 525 KLD.

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- (iii) The project has 754 apartments and many are yet to be registered. The respondent has refused to survey the land for confirmation of the total area, common area, undivided share, parking area and also the area left for greenery.
- (iv) The promoter has increased the maintenance charges without justification and especially when the STP is malfunctioning.
- (v) The genuineness of E-Khata is doubtful.
- (vi) That the respondent may be directed to maintain the project till it is completed.

The respondent in its statement of objection has stated as under:-

- (1) Originally it was proposed to construct 192 apartments. Hence the required application was submitted to the Authorities for the establishment of STP. The consent of KSPCB was obtained on 21/06/2010 to establish a STP with 450 KLD capacity. Thereafter the promoter acquired additional land and it was proposed to develop 5 blocks having 754 apartments. Anticipating more inflow, the promoter installed a setup of STP having 525 KLD of discharge even though the consent was obtained for 450 KLD. An application dated 04/06/2018 was filed with State Level Environment Impact Assessment Authority, Karnataka for environmental clearance. A request to the KSPCB for the consent for establishment of STP having a capacity of 525 KLD was rejected with a direction to first obtained environmental clearance from State Level Environment Impact Assessment Authority, Karnataka. The promoter is pursuing with both the Authorities for early

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- permission. The shortcoming pointed out by the Authorities in the functioning of the STP has been rectified.
- (2) For the disposal of the excess treated sewage water an agreement has been made with M/s EA ENVIRO SOLUTIONS.
  - (3) The entire project land is being transferred to the association of Apartment Owners, hence there is no need for the survey to be conducted.
  - (4) With respect to Khata, the complainant is at liberty to approach the concerned Authorities.
  - (5) The respondent is maintaining the project as per the terms and conditions of the Agreement.

This Authority ordered for an inspection by the technical wing. The Assistant Executive Engineer attached to this Authority has inspected the project site on 03/09/2019 and has filed a detailed report. The salient observation made by the Assistant Executive Engineer of this Authority is as under:-

"It is of the opinion that the promoter has failed to maintain and properly run STP plant and failed to treat the sewerage water completely without proper functioning of the plant. The sewerage water is being recycled to the commode line without proper treatment and directs sewerage water is let into the open field through pipelines and transportation through private vehicles, which leads to pollution of natural water body contamination of underground water which is criminal offense. The builder developer is not abided by the Act, rules and Regulations for operation of STP from KSPCB, BWSSB and BDA from time to time".

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The respondent has filed one more statement dated 31/10/2019, stating that the Sewage Treatment Plant in the project was of required 525 KLD and the proceedings are pending before the state Level Environment impact assessment Authority for issuance of Environmental Clearance. The respondent has also enclosed a copy of the proceedings of 175<sup>th</sup> SEIAA meeting held on 27/09/2019.

The proceedings has discussed, the provision for STP for a total built up area of 1,09,904.19sqmts and the proposal to construct Sewage Treatment Plant of a capacity of 525 KLD. Finally the 175<sup>th</sup> SEIAA had decided as under:

- (i) Filing a complaint before Jurisdiction Court of Law for the alleged violation under Section 19 of the Environment (protection) Act, 1986.
- (ii) Issue of Environmental Clearance with an additional conditions that the project Authorities should ensure effective operation of STP and the treated water meets the urban standard....

The complainant in his reply (to letter dated 31/10/2019 of the respondent) dated 04/11/2019 has stated that "the respondents claim made by the builder on page No. 7 that there is no inadequacy as per capacity of STP is concerned is a false statement which has been substantiated by CPCB inspection report of 2<sup>nd</sup> July 2019 and KSPCB's order of hearing of 4<sup>th</sup> June 2019".

Heard both the sides, perused the written submissions of the complainant and also the promoter.

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From the records it is seen that the promoter has registered two projects with the Real Estate Regulatory Authority.

Ramky One North Phase - 3 project has been registered under certificate No. PRM/KA/RERA/1251/1309/PR/171118/001475. As per the documents filed at the time of registration, this project was to be situated in Sy. No. 49/1, 48/2A, 49/2A and 49/2B of Avalahalli Village, Yelahanka Hobli, Bengaluru North. The approved plan shows towers A, B1, B2, B3, C1, C2 and C3 totally comprising of 684 apartments. The date of commencement of the project is shown as 24/08/2017 to 30/09/2018.

Another project namely Ramky One North Phase - 4 has been registered under certificate No. PRM/KA/RERA/1251/309/PR/171031/00149. The documents disclosed that this project was situated at Sy. No. 59/1 of Avalahalli Village, Yelahanka Hobli, Bengaluru North. The approved plan shows Tower D and E comprising of 80 apartments, the date of commencement of the project is shown as 23/08/2017 and the completion date as 30/09/2018.

In both the projects, the promoter has not filed any application for extension of the project, as has been rightly pointed out by the complainant.

With respect to the second issue of a non functional and lower capacity STP which has been installed in the project premises, it appears, it has occurred due to subsequent addition of the project area.

The regional office (South Zone) Bengaluru, Ministry of Environment, Forest and Climate change vide its letter dated

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27/07/2018 has stated that, "it is noted that you had obtained CFE on 21/06/2010 for built up area of 86,813sqmts and subsequently obtained EC on 09/12/2011 for the built up area of 63,328.2sqmts. Again in 2013 you got another CFE for 18,845.5smqts built up area. However you have constructed the buildings with higher built up area of 1,09,904.19sqmts without obtaining the amendment to the EC, which is violation. It is noted that you had already applied to SEIAA, Karnataka for EC for the built up area of 1,09,904.19sqmts and it is under consideration. You are therefore directed to comply with the directions of SEIAA, Karnataka in the matter of violation...."

A show cause notice was also issued by the KSPCB on 09/01/2018 and on 02/04/2018.

The Central Pollution Control Board had also conducted inspection on the STP and also observed that the STP is inadequate to treat the actual load to receive as on date to meet standard discharge norms.

The Bangalore Development Authority has also issued a notice dated 09/06/2018, directing the respondent to let the STP rectified.

However from the records it is clear that the competent Authority namely the Karnataka State Pollution Control Board is seized of the issue of having a functional STP of 525 KLD in the said project.

Contrary to the claim of the complainant, the promoter has uploaded the Khata and Approved plans showing the survey numbers at the time of seeking registration of the projects

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Section 11(4) (a) of the Real Estate (Regulation and Development) Act, 2016 reads the promoter "be responsible for all obligations, responsibilities and functions under the provisions of this Act or the Rules and regulations made there under or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be till the conveyance of all the apartments, plots or buildings as the case may be to the allottees, or the common areas to the association of allottees or the competent authority as the case may be:

Provided that the responsibility of the promoter, with respect to the structural defect or any other defect to such period as if referred to in sub section (3) of Section 14 shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be to the allottees are executed".

Under the Act, the promoter is also liable to pay all out goings until he transfers the physical possession of the real estate project to the allottees or the association of allottees, as the case may be.

In view of the above, following order is passed.

**ORDER**

The complaints bearing No. **CMP/190314/0002374 & 0003174** are hereby allowed under Sec. 31 of the Real Estate (Regulation and Development) Act, 2016.

The respondent is hereby directed under Sec 37 of the Real Estate (Regulation and Development) Act, 2016,

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- (i) To immediately file application seeking extension of both the projects namely Ramky One North Phase - 3 and Ramky One North Phase - 4.
- (ii) To immediately take corrective steps necessary for the installation and functioning of the STP of requisite capacity under the Supervision and guidance of the competent authority namely, the Karnataka State Pollution Control Board.
- (iii) To facilitate the complainants and others similarly placed purchasers to obtain the Khata from the competent Authorities.
- (iv) To adhere to the payment of all outgoings until he transfer the physical possession of the project as contemplated under Section 11 (g) of the Real Estate (Regulation and Development) Act, 2016.

Promoter is further directed to file compliance to the above while seeking extension of the project.

*(D. Vishnuvardhana Reddy)* 13/11/2019

Member - 1  
KRERA

*(Adoni Syed Saleem)* 13/11/19  
Member - 2  
KRERA

*(M.R. Kamble)* 13/11/2019  
Chairman  
KRERA