

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 11th December 2019

COMPLAINT No. CMP/180119/0000412

VISHWANATH GOWDA

.....Complainant

ND Passion Apartment,
ND Passion Apartment office,
Harlur Road, Koodlur,
Bengaluru - 560068.

AND

ND DEVELOPERS PRIVATE LIMITED,

.....Respondent

No. 398, 7th Cross,
Mico Layout, BTM 2nd Stage,
Bengaluru - 560076.

The complaint has been filed against the project "ND Passion". The complainant has alleged that the project is not registered under the provisions of the Real Estate (Regulation and Development) Act, 2016, that the promoter has not received completion certificate, project is not completed in all respects, certified / original approved plans, JDA has not been given to the complainant. It is also alleged that the final consent certificate from KSPCB, BESCOM, and fire safety has not been obtained, the amount collected towards maintenance to be returned.

Notices were issued and enquiry conducted.

The promoter vide his letter dated 18/09/2019 has submitted that the project by name "ND Passion Elite" has been registered with the RERA under Registration No. PRM/KA/RERA/1251/310/PR/180313/000661, hence has requested to drop the same from the list of "Project under Investigation".

11/12/19

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The promoter has also submitted that there is no project by name "ND Passion Pent House", and has requested to remove the same from the list of "Project under Investigation".

The respondent promoter vide his letter dated 18/06/2018 and 18/09/2019 has stated that the land with respect to "ND Passion" was converted from agriculture to non agriculture purposes on 15/07/2003, joint development agreement was registered on 09/05/2006 and The plan approval was obtained on 28/02/2013. A total number of 290 apartments were constructed and before July 2016, 251 apartments were sold. He has also filed list giving the details of the sale deed registered, indicating the sale of 251 apartments (out of 290 apartments) before the commencement of the Act. Hence he has requested for the grant of exemption from registration and also to delete the said project "ND Passion" from "Projects under Investigation".

The promoter respondent vide his letter dated 31/05/2018 has enclosed copies of clearances given by BSNL, KSPCB and BWSSB. He has filed an application with the BBMP seeking occupancy certificate on 07/07/2017. The developer also has furnished an agreement dated 21/01/2019 entered with the apartment owners.

It is seen from the records that though 60% of the apartments in "ND Passion" project are sold before 01/05/2017 i.e., when Sec. 3 of the Real Estate (Regulation and Development) Act, 2016 came into force, the project was nonetheless an on-going project on the date of commencement of the Act, as could be seen from the following pending items of work.

- a) Fire Safety activities,
- b) STP

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- c) Works relating to the club house, namely Windows, Main Gates, Floorings, Fire safety, BESCOM.
- d) Pending civil works in C, B and A Blocks (Ground Floor, Sit outs and related paintings).

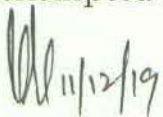
These works in the project "ND Passion" are promised to be completed before April 2019 as per the agreement entered into between the promoter and the owners of the apartments.

Sec. 3 (1) of the Real Estate (Regulation and Development) Act, 2016 reads as

"No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner, any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act;

Provided that projects that are on going on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of 3 months from the date of commencement of this Act."

Certain projects are exempted from registration under the provisions of the Act and the Rules. Under Rule 4(1)(iii) of the Real Estate (Regulation and Development) Rules, 2017, projects "where all development works have been completed as per the Act and certified by the competent agencies and sale / lease deeds of sixty percents of the apartments / houses / plots have been registered and executed are exempted from registration.

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The claim of the promoter to grant exemption on the ground of having sold more than sixty percent of the apartments before the enforcement of the Act (01/05/2017) cannot be accepted for the simple reason that all the development works simultaneously were not completed within the due date.

Considering the above facts, following order is passed.

ORDER

1. The promoter is hereby directed to file an application seeking registration of the project **"ND Passion"** under Sec. 4 of the Real Estate (Regulation and Development) Act, 2016.

The promoter is hereby directed to handover all the documents required to be given under the provisions of the Act to the apartment owners.

2. Since the project **"ND Passion Elite"** has been registered with the RERA under Registration No. **PRM/KA/RERA/1251/310/PR/180313/000661**, it is hereby directed to remove the same from the list of "Project under Investigation".

3. Since there is no project by name **"ND Passion Pent House"**, it is hereby directed to remove the same from the list of "Project under Investigation".

(Adoni Syed Saleem)

Member - 2

KRERA