BEFORE ADJUDICATING OFFICER, RERA BENGALURU, KARNATAKA

Complaint No. CMP/190928/0004342

Presided by Sri K Palakshappa
Adjudicating Officer

Date: 2nd JANUARY 2019

Complainant

Rakhav R

G1, Ashoka Residency

Suddaguntapalya, C.V.Ramannagar Bengaluru-560093

AND

Opponent

Fortuna Bluewings

Fortuna Constructions India Pvt. Ltd., #3156, 12th Main HAL 2nd Stage, Indiranagar

Bengaluru- 560038

"JUDGEMENT"

1. RAKHAV R, Complainant has filed complaint bearing complaint no.CMP/190928/0004342 under Section 31 of RERA Act against the project 'Fortuna Bluewings' developed by "Fortuna Constructions India Pvt. Ltd.," 'as the complainant is the consumer in the said project. The complaint is as follows:

I had booked Flat B-303 in Fortune Blue Wings by paying Rs.One lakh through cheque No.166042 dated 29.04.2019 drawn on Citibank. I went ahead with legal verification and found deviation in the project which is not satisfactory. I had cancelled the booking on 11.05.2019 via email and received the ack. email from the builder

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on 14.05.2019. Builder had informed via email that the refund would be processed within 3 months with no such terms exist in their term and conditions signed. But there was no progress on processing the refund. They neither responded to emails nor attended the phone calls after their 3 month notice. I had visited their office situated in Indiranagar, Bangalore 14 times till date. There was no progress on the refund other than keep postponing the refund date. I have incurred heavy expensed due to so many visits to their office. I request RERA to kinally help in ensuring my booking amount of Rs.One lakh is returned from the developer along with compensation.

Relief Sought from RERA: Kefund of booking amount and compensation.

- 2. In pursuance of the notice issued by this authority, the complainant was present in person. The developer failed to appear.
- 3. Hence, I have heard arguments of the complainant and the matter was posted for judgment on merits.
- 4. The points that arise for consideration is as to:
 - a. Whether the complainant is entitled for refund of Booking amount as prayed?
- 5. My answer is affirmative for the following

REASONS

6. The complainant has produced original receipt along with Xerox copy of the same wherein the developer had received Rs. One lakh from the complainant on 29.04.2019. But the complainant has cancelled the booking on 11.05.2019 for which the developer has sent an acknowledgement. It is the case of the complainant that the Builder has assured him that he will return the amount within three months, but till today, the amount has not been returned by the developer. I would say that, the complainant has paid amount in the month of April 2019, but cancelled in the month of May



- 2019. The developer has not contested the same and hence, I believe the case of the complainant.
- 7) Before passing the final order I would like to say that as per section 71(2) of RERA the complaint shall be disposed off by the Authority within 60 days from the date of receipt of the complaint. In this case the complaint was filed on 28/09/2019 and parties appeared on 22.10.2019. In view of the same the present complaint is being disposed off on today is with little delay. With this observation, I pass the following

ORDER

- a. The Complaint filed by the complainant bearing No. CMP/190928/0004342 is hereby allowed.
- b. The developer is hereby directed to return Rs.1,00,000/- within 30 days from today. If not, it will carry interest @ 2% above the MCLR of SBI commencing from 31st date till realization.
- c. The developer is hereby directed to pay Rs.5,000/-as cost of the petition.

Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 02/01/2020).

K. PALAKSHAPPA Adjudicating Officer AOJ WA