

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು
Karnataka Real Estate Regulatory Authority, Bengaluru
ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

ಉಪಸ್ಥಿತರು: ಕೆ. ಪಾಲಾಕ್ಷಪ್ಪ, ನ್ಯಾಯ ನಿರ್ಣಯಾಧಿಕಾರಿಗಳು
ದಿನಾಂಕ: 02 ನೇ ಮಾರ್ಚ್ 2020

ಫಿರ್ಯಾದು ಸಂಖ್ಯೆ:	CMP/1907/26/0003605
ಫಿರ್ಯಾದುದಾರರು :	MR. RAMANUJAM. R & MRS. JAYASHREE. S R/o Flat No. 502, 9th Floor, Pride Regalia, Opp. Kabab Masti, Hulimayyu, Bannerghatta road, Bangaluru – 560076. Rep. by: Smt. Sharada. H.V, Advocate.
ಎದುರಿದಾರರು :	MANTRI SERENITY- 4 Mantri Castles Pvt. Ltd Mantri House, # 41, Vittal Mallya Road Bangalore-560001. Rep by: Sri. Sunil P Prasad, Advocate.

“ತೀರ್ಪು”

1. ಫಿರ್ಯಾದುದಾರರಾದ **Mr. RAMANUJAM. R & Mrs. JAYASHREE. S** ಇವರು ಎದುರಿ ಡೆವಲಪರ್ ವಿರುದ್ಧ ಜಂಟಿಯಾಗಿ ಈ ಫಿರ್ಯಾದನ್ನು ರೇರಾ ಕಾಯ್ದೆ ಕಲಂ 31 ರಂತೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಎದುರಿ ಡೆವಲಪರ್ ಅಭಿವೃದ್ಧಿಪಡಿಸುತ್ತಿರುವ **MANTRI SERENITY- 4** ಇದರಲ್ಲಿ ಗ್ರಾಹಕರಾಗಿರುತ್ತಾರೆ. ಅವರ ಫಿರ್ಯಾದು ಹೀಗೆ ಇರುತ್ತದೆ.

The applicant herein has booked an apartment bearing no. flat R-2203, having super-built-up-area measuring about 1710 sq ft, in the project named as ?Mantri Serenity?, which is situated at, Doddakallasandra Village, uttarahalli Hobli, off kanakapura road, Bangalore south Taluk, Bangalore dist. Bangalore. (ii) The complainants have booked the apartment and entered into Agreement for Sale and Agreement for construction dated 30.03.2013 (iii) with the respondent in respect of the afore mentioned flat and has agreed to purchase the same for total sale consideration amount of Rs.10,446,095/- (Rupees One Crore Four Lakhs forty six thousand and Ninty five only) . The applicants have paid 95% amount of sale consideration amount. after booking, in the initial stage an amount of Rs.10,45,501/- (Rupees Ten Lakhs forty five thousand five hundred and one

Delivered
02/03/2020

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Karnataka Real Estate Regulatory Authority, Bengaluru

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only) and on payment of the further amount of Rs.19,00,000/- (Rupees Nineteen lakhs only) of the said sum the complainants and respondent have entered into an Agreement for sale of undivided share of land and construction agreement. The applicant has further paid an amount of Rs.70,00,000/- (Rupees seventy lakhs only) by way of cheque towards the sale consideration amount of the apartment. The Copy of sale and construction agreements are produced as Document no. 2&3 respectively. The copy of the said receipts are produced herewith as Document no.4. (iv) An agreement for sale of undivided share of land and Agreement for construction of the aforesaid apartment was executed between the complainants and the respondent on 30.03.2013. That as per the said agreements executed between the complainants and respondent the complainants were promised that the possession of the apartment will be handed over by 31st December 2015 as per the schedule Annexure B1. further under the terms of said agreements the respondent has promised to give PRE EMI to the complainants till 36 months from the date of commencement of construction of the said blocks. the copy of said PRE EMI conditions attached with agreement are also produced for the kind perusal of this Hon'ble authority. (v) The complainants have agreed to pay other charges for providing the water, sanitary and electricity connection Rs. 2,56,500/- (Rupees two lakhs fifty six thousand and five hundred only) towards Maintenance deposit of Rs.3,84,750/- (Rupees three lakhs eight four thousand and seven hundred and fifty only), towards the club membership charges of Rs.2,25,000/- (Rupees two lakhs twenty five thousand only), towards generator charges 1,12,500/- (Rupees one lakh twelve thousand and five hundred only), towards pipe gas connection charges Rs.20,000/- (Rupees twenty thousand only) for 1 covered car parking, Rs. 3,00,000/- (Rupees Three lakhs only) towards the taxes and other charges, towards taxes, (excluding the registration and stamp duty charges) and the total value paid was Rs. 99,45,501/- (Rupees Ninety nine Lakhs forty five thousand and five hundred and one only). The copy of cost break up of the apartment is produced as Document no. 5. Apart from the payment being made by the applicants, respondent even after receiving payments has failed to keep the promise of delivery of possession of the flat as per the terms of agreement. (vi) As such under the said terms of agreement the complainants were promised to handover the possession of the apartment by the end of December 2015. The applicant herein as per the terms of agreement so entered the applicants has paid 95% of the amount, but the respondent has not even bothered to oblige the terms of agreement and the applicant is awaiting for possession of the handover of the

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02/03/2016

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apartment till today without even getting the penalty, in case of delay in handover of the possession of the flat. The applicant has not got the possession of the flat even inspite of payment of 95% of the consideration amount and is suffering mental agony and monetary loss because of the delay in handing over the possession of the flat.

Relief Sought from RERA : delay compensation as per RERA Provisions

2. ಈ ಫಿರ್ಯಾದನ್ನು ನೋಂದಾಯಿಸಿಕೊಂಡು ಎದುರಿಗೆ ನೋಟೀಸ್ ನೀಡಲಾಯಿತು. ಕೇಸನ್ನು ಕರೆಸಿದಾಗ ಫಿರ್ಯಾದುದಾರರ ಪರ ಶ್ರೀಮತಿ ಶಾರದಾ ವಕೀಲರು ವಕಾಲತ್ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ ಮತ್ತು ತಮ್ಮ ವತಿಯಿಂದ ಇರಬಹುದಾದ ದಾಖಲೆಗಳನ್ನು ಕೊಟ್ಟಿರುತ್ತಾರೆ. ಡೆವಲಪರ್ ವತಿಯಿಂದ ಶ್ರೀ. ಸುನಿಲ್ ಪಿ. ಪ್ರಸಾದ್ ವಕೀಲರು ಹಾಜರಾಗಿ ವಕಾಲತ್ ಸಲ್ಲಿಸಿ ದಾಖಲೆಗಳನ್ನು ಒದ್ಬರು ಪಡಿಸಿರುತ್ತಾರೆ.
3. ವಾದವನ್ನು ಕೇಳಲಾಯಿತು.
4. ಈಗ ನನ್ನ ಮುಂದೆ ನಿರ್ಣಯಕ್ಕೆ ಬಂದಿರುವ ಸಂಗತಿಯೆಂದರೆ,
 - a. ಫಿರ್ಯಾದುದಾರರು ತಮ್ಮ ಫಿರ್ಯಾದಿನಲ್ಲಿ ಕೇಳಿದಂತೆ *Delay Compensation* ಪಡೆಯಲು ಅರ್ಹರೇ?
 - b. ಈ ಅಂಶಕ್ಕೆ ನನ್ನ ಉತ್ತರ ಸಕಾರಾತ್ಮಕವಾಗಿ ಈ ಕೆಳಕಂಡ ಕಾರಣಗಳಿಗಾಗಿ,

ಕಾರಣಗಳು

5. ಡೆವಲಪರ್ ಸಲ್ಲಿಸಿರುವ ಅಂಶಗಳನ್ನು ಗಮನಿಸಿಕೊಂಡಾಗ *Mantri Serenity-4* ಎನ್ನುವ ಪ್ರಾಜೆಕ್ಟ್‌ನಲ್ಲಿ ಫಿರ್ಯಾದುದಾರರು ಈ ಸಂಬಂಧ ತಮ್ಮ ಪರವಾಗಿ ವಾದವನ್ನು ಮಂಡಿಸುತ್ತಾ ದಿನಾಂಕ: 30.03.2013ರಂದು ಒಪ್ಪಂದ ಪತ್ರ ಮಾಡಿಕೊಂಡಿದ್ದು ತಮ್ಮಿಂದ ರೂ. 10,45,501/- ಗಳನ್ನು ಮುಂಗಡವಾಗಿ ಪಡೆದುಕೊಂಡಿರುವುದಾಗಿ ಹೇಳಿರುತ್ತಾರೆ. ತಮಗೆ ಡಿಸೆಂಬರ್ 2015ರ ಒಳಗೆ ಪ್ರಾಜೆಕ್ಟ್ ಅನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಿ ಸ್ವಾಧೀನ ಕೊಡಬೇಕಾಗಿತ್ತು ಎಂದು ಹೇಳುತ್ತಾರೆ. ಅಲ್ಲದೆ ತಾನು ಡೆವಲಪರ್‌ಗೆ ಶೇಕಡಾ 95% ಅಂದರೆ, ರೂ. 99,45,501/- ಗಳನ್ನು ಕೊಟ್ಟಿದ್ದೇನೆ ಅಂತ ಹೇಳುತ್ತಾರೆ.

Peru
02/04/2013

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6. ಫಿರ್ಯಾದುದಾರರು ಈ ಫಿರ್ಯಾದನ್ನು ಸಲ್ಲಿಸಿ ತನಗೆ ಒಪ್ಪಿಕೊಂಡ ದಿನದೊಳಗಾಗಿ ಪ್ರಾಜೆಕ್ಟ್ ಅನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸದ ಕಾರಣ Delay Compensation ಕೊಡಿಸಬೇಕೆಂದು ಕೇಳುತ್ತಾರೆ. ಈ ಸಂಬಂಧ ಫಿರ್ಯಾದುದಾರರ ಪರ ತಮ್ಮ ವಾದವನ್ನು ಮಂಡಿಸುವಾಗ 95% ಹಣವನ್ನು ಕೊಟ್ಟಿರುವುದಾಗಿ ಹೇಳುತ್ತಾರೆ. ಡಿಸೆಂಬರ್ 2015ಕ್ಕೆ ಪ್ರಾಜೆಕ್ಟ್ ಅನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಬೇಕಿತ್ತು. ಆದರೆ ಇದುವರೆವಿಗೂ ಮುಕ್ತಾಯಗೊಳಿಸಿಲ್ಲ ಎಂದು ವಾದಿಸುತ್ತಾರೆ. ಇದಕ್ಕೆ ಉತ್ತರವಾಗಿ ಡೆವಲಪರ್ ಇವರು ತಮ್ಮದೇ ಆದ ನಿಲುವನ್ನು ತೆಗೆದುಕೊಂಡಿದ್ದಾರೆ. ಡೆವಲಪರ್ ಇವರು ಸಲ್ಲಿಸಿರುವ ತಕರಾರಿನಲ್ಲಿ ಒಪ್ಪಂದ ಪತ್ರ ಆಗಿರುವುದನ್ನು ಮತ್ತು ದಿನಾಂಕ: 31/12/2015ಕ್ಕೆ ಪ್ರಾಜೆಕ್ಟ್ ಅನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಬೇಕಿತ್ತು ಎನ್ನುವುದನ್ನು ಒಪ್ಪಿಕೊಂಡಿರುತ್ತಾರೆ. ಆದರೆ ಆ ರೀತಿ ವಿಳಂಬ ಆಗಲು ಕಾರಣಗಳಿವೆ ಎಂದು ಕೆಲವು ಕಾರಣಗಳನ್ನು ನೀಡಿದ್ದಾರೆ. ಅದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಡೆವಲಪರ್ ಈ ರೀತಿ ಹೇಳುತ್ತಾರೆ.

It is submitted that, cause 6.4 of the said Agreement stipulate force measure conditions, variation on account of delay on the part of the authorities, labour strike, non-availability of the steel, sand, cement and such other vital building materials, rules, notification of the Government and other public or competent authority or any dispute or matter relating to the property pending final determination by the court etc. It is pertinent to mention here that in such event/s the respondent shall not be held responsible for the delay in completing the project and the complainants shall not be entitled to claim any damages/losses against the respondent under these circumstances on the ground of delay deficiency.

7. ಅಲ್ಲದೆ ಬೆಂಗಳೂರಿನಲ್ಲಿ ಆದ ಹೆಚ್ಚುವರಿ ಮಳೆ, ಮರಳು ಸರಬರಾಜು ಮಾಡುವ ಮಾಲೀಕರು ಮತ್ತು ಕಾರ್ಮಿಕರ ಮಾಡಿದ ಮುಷ್ಕರದಿಂದಾಗಿ ಹಾಗೂ ಮಾನ್ಯ ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯ ಕಾರ್ಮಿಕರ ಕೆಲಸದ ಅವಧಿಯ ಬಗ್ಗೆ ನಿಬಂಧನೆ ಹೇರಿದ್ದರ ಕಾರಣ, ಅನಾಣ್ಯೇಕರಣ ಮತ್ತು ಇತರೆ ಕಾರಣಗಳು ಡೆವಲಪರ್ ಇವರ ಕೈ ಮೀರಿದ ಕಾರಣಗಳಿಂದಾಗಿ ಪ್ರಾಜೆಕ್ಟ್ ಮುಕ್ತಾಯಗೊಳ್ಳಲು ವಿಳಂಬವಾಗಿರುತ್ತದೆ ಎಂದು ಹೇಳುತ್ತಾರೆ. ಮೇಲಿನ ಕಾರಣಗಳನ್ನು ಅವರು Force Majeure ಎಂದು ಹೇಳಿಕೊಳ್ಳುತ್ತಾರೆ. ಅಲ್ಲದೆ ಅವರು ತಮ್ಮ ತಕರಾರಿನ ಪ್ಯಾರಾ ನಂ. 17, 18 & 19ರಲ್ಲಿ ಹೀಗೆ ಹೇಳಿಕೊಳ್ಳುತ್ತಾರೆ.

P. S. S. S.

It is submitted that the change of law, slowdown of work due to labour issue, economic slowdown and recession in Real Estate Sector, administrative conflicts etc. Are legitimate reason beyond the control of a person, and under the circumstances, the builder/Respondent cannot be held liable for damage for the delay in handing over possession.

It is well settled principle of law that where reference is made to "force majeure" the intension is to save the performing party from the consequences of anything over which he has no control.

*It is submitted that, due to the aforementioned force majeure situations/events, the respondent had to reassess the timeline for completion of the project, and had to extend the date of handing over of possession of **Scheduled Apartment** to complainants and the same was to be delivered as on July, 2019. This was duly communicated to complainants vide email and same is undisputed by complainants and the complainants have not objected for extending the time period of handing over possession of the **Subject Apartment**.*

8. ಅಲ್ಲಿವೆ ಆ ವೇಳೆಗಾಗಲೇ ರೇರಾ ಕಾಯ್ದೆ ಬಂದಿದ್ದರಿಂದ ತಾನು ಹೊಸದಾಗಿ ದಿನಾಂಕವನ್ನು ನಮೂದಿಸುವ ಅಧಿಕಾರವನ್ನು ಹೊಂದಿರುತ್ತೇನೆ ಎಂದು ಹೇಳುತ್ತಾರೆ. ಆದ್ದರಿಂದ ಈಗ ತಾನು ರೇರಾದಲ್ಲಿ ಕೊಟ್ಟಿರುವ ದಿನಾಂಕದಿಂದ ಲೆಕ್ಕಹಾಕಿದರೆ ತನ್ನ ಪ್ರಾಜೆಕ್ಟ್ ವಿಳಂಬವಾಗಿಲ್ಲ ಎನ್ನುವುದು ಅವರ ವಾದದ ಅರ್ಥ. ಜುಲೈ 2019ಕ್ಕೆ ಪ್ರಾಜೆಕ್ಟ್ ಅನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಲಾಗುವುದು ಎಂದು ಫಿರ್ಯಾದುದಾರರಿಗೆ ತಿಳಿಸಿದ್ದೆವು ಎಂದು ಹೇಳುತ್ತಾರೆ. ಆದರೆ ಅವರ ವಾದವನ್ನು ನಾನು ಒಪ್ಪುವುದಿಲ್ಲ. ಅದಕ್ಕೆ ಕಾರಣ ಒಪ್ಪಂದ ಪತ್ರ ಆಗುವಾಗ ಯಾವ ದಿನಾಂಕದಲ್ಲಿ ಪ್ರಾಜೆಕ್ಟ್ ಅನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸುತ್ತೇನೆ ಎಂದು ಒಪ್ಪಂದ ಪತ್ರದಲ್ಲಿ ಹೇಳಿರುತ್ತಾರೆಯೋ ಅದನ್ನು ಒಪ್ಪಿಕೊಂಡು ಫಿರ್ಯಾದುದಾರರು ಒಪ್ಪಂದ ಪತ್ರಕ್ಕೆ ಸಹಿ ಮಾಡಿರುತ್ತಾರೆ. ಆದರೆ ರೇರಾದಲ್ಲಿ ಮುಕ್ತಾಯದ ದಿನಾಂಕವನ್ನು ಕೊಡುವಾಗ ಫಿರ್ಯಾದುದಾರರು ಒಪ್ಪಿಗೆ ಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಈಗಾಗಲೇ ಮುಂಬೈ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು *Neel Kamal Case* ನಲ್ಲಿ ಒಪ್ಪಂದ ಪತ್ರದ ದಿನಾಂಕವೇ ಪರಿಗಣಿಸ್ಪಡುವ ದಿನಾಂಕ ಎಂದು ಹೇಳಿದ್ದಾರೆ.

Deenu
02/03/2020

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

Karnataka Real Estate Regulatory Authority, Bengaluru

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

9. ಹೀಗಿದ್ದರೂ ಕೂಡಾ ಡೆವಲಪರ್ ಪರ ಲಿಖಿತ ವಾದ ಮಂಡನೆ ಸಲ್ಲಿಸಿದ್ದು ಈ ಪ್ರಾಜೆಕ್ಟ್‌ಗೆ ಸಂಬಂಧ ಪಟ್ಟಂತೆ *Litigation* ಇದ್ದುದರಿಂದ ತಾನು ಪ್ರಾಜೆಕ್ಟ್ ಅನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಲು ಸಾಧ್ಯವಾಗಲಿಲ್ಲ ಎಂದು ಹೇಳುತ್ತಾರೆ.

It is submitted that, the delay in the executing the project in the present case is caused due to number of forced majeure factors, which are as follows:-

The State under Karnataka Industrial Area Development Board, had issued a preliminary notification dated 09/01/2013 proposing to acquired the land measuring 4252.88 Sq. Mtrs. Comprising in Sy. No. 56, 60 situated at Dodakalasandra Village, Uttarahalli Hobli, off, Kanakapura road, Bengaluru South Taluk, belonging to the respondent, for the benefit of Bengaluru Metro Rail Corporation Limited, thereafter, final notification dated 16/06/2015 was issued. The same was challenged by the respondent before the Hon'ble high Court and ultimately, the said issues come to be resolved on 13/10/2015. In view of the pendency of the said proceedings, the respondent could not execute the project during such time. Immediately, upon resolution of the dispute with regard to the acquisition proceedings, the respondent could commence the project. It took almost two years to arrive at a resolution with respect to the said acquisition proceedings, as such they said period of two years required to be executed for completion of the project. Therefore, the delay has caused not due to the default on the part of the respondent but for the bonafide reasons stated above and the same was beyond the control of the respondent.

10. ಇನ್ನೂ ಒಂದು ರೀತಿಯ ವಾದವೆಂದರೆ ಭೂ ಮಾಲೀಕರು ಮತ್ತು ಡೆವಲಪರ್ ನಡುವಣ ವಿವಾದವೂ ಕೂಡಾ ಸೇರಿರುತ್ತದೆ. ಡೆವಲಪರ್ ಮತ್ತು ಭೂ ಮಾಲೀಕರ ನಡುವೆ ಇರುವ ವಿವಾದವು ಅವರ ಆಂತರಿಕ ವಿವಾದವಾಗಿರುತ್ತದೆ. ಆ ಕಾರಣದಿಂದ ಫಿರ್ಯಾದುದಾರರಿಗೆ ತೊಂದರೆ ಕೊಡುವುದು ಸರಿಯಲ್ಲ. ಇನ್ನು ಪ್ರಾಜೆಕ್ಟ್ ಅನ್ನು ದಿನಾಂಕ: 31/12/2015ರ ಒಳಗೆ ಮುಕ್ತಾಯಗೊಳಿಸಬೇಕಾಗಿತ್ತು. ಈ *Acquisition* ಸಂಬಂಧಪಟ್ಟಂತೆ ಅವರ ವಿವಾದವು ದಿನಾಂಕ: 13/10/2015ರಲ್ಲಿಯೇ ಮುಕ್ತಾಯಗೊಂಡಿರುತ್ತದೆ. ಈ ದಿನಕ್ಕೆ ಸರಿಯಾಗಿ 4 ವರ್ಷ ಮುಗಿದಿರುತ್ತದೆ. ಈ ದಿನಕ್ಕೂ ಪ್ರಾಜೆಕ್ಟ್ ಮುಕ್ತಾಯಗೊಂಡಿಲ್ಲವೆಂದರೆ ಅಥವಾ

Done
02/03/2016

ಮುಕ್ತಾಯಗೊಳ್ಳುವ ಹಂತದಲ್ಲಿಲ್ಲ ಎಂದರೆ ಅದು ನಿಜಕ್ಕೂ ಡೆವಲಪರ್ ಇವರು ಗ್ರಾಹಕರ ಹಿತರಕ್ಷಣೆಯನ್ನು ಗಮನದಲ್ಲಿಟ್ಟುಕೊಂಡಿದ್ದಾರೆ ಎಂದು ಹೇಳಲು ಬರುವುದಿಲ್ಲ. ಇದಲ್ಲದೆ ಡೆವಲಪರ್ ತಮ್ಮ ತಕರಾರಿನಲ್ಲಿ

Due to arbitral dispute between the contracture and the respondent, the delay has been caused to complete the project and delivery of possession. It is pertained to note that, the respondent invited a tender for carrying out civil works for the multi-storied residential complex being developed by the respondent. Upon evaluating the document submitted by the applicants, the M/s E.E. Billimoria & CO. Ltd. ('BEB'), was considered as a successful applicant applicants and was awarded with the tender for the construction of a residential apartment in the phased manner. Phase I consists of 352 apartments comprising one towers, Phase II consists of 1140 apartments comprising two towers and Phase III consists of 660 apartments comprising three towers. Pursuant to which, an agreement come to be executed between the respondent and the contractor. As per the agreement between the parties herein, the work pertaining to project at Phase 1 was to be completed within 823 calendar days, including the mobilization period. Phase I envisaged construction of one tower with four wings viz. Wings A to D. The four wings to be constructed by BEB were to consist of 2 basements, ground floor, 22 upper floors and terrace. Each wings consists of 88 apartments Phase II and Phase III are concerned, the commencement date was to be fixed as per mutually agreement between the Engineer and Respondent. BEB fails to fully mobilize its men and materials at the project site, which has resulted in huge loss to the respondent in terms of interest, material inventories, etc. Further, the BEB also failed to discharged the obligation as per the agreed terms and conditions of the agreement between the parties therein and it had unilaterally terminated the contract, as such dispute arose between the parties. Initially BEB had filed Arbitration application no. 134/2014 before the additional Judge, City Civil Court under Section 9 of the arbitration and consolation act, 1996, seeking for protection for a sum of Rs. 32,95,10,532.60/- on the ground that the amounts are payable to BEB by the respondent. Consequently the dispute was referred to arbitration consisting of 3 arbitrators. Finally the award come to be passed by the

[Handwritten signature]
02/03/2020

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು
Karnataka Real Estate Regulatory Authority, Bengaluru

ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

Arbitrator/s. Aggrieved by the award passed by the arbitral tribunal, the respondent has challenged the same in A.S.No. 235/20_80, before the City Civil Judge, Bengaluru and the same is pending for consideration. In view of the default committed by the BEB and having no other alternatives, the respondent has estimated the cost of the balance works left out by the BEB and it was retendered and awarded to M/s Akshay Enterprises by issuing a fresh work order dated 20.08.2014. In order to expedite completion of works, the respondent de-scoped a portion of work awarded to M/s Akshay Enterprises and deployed another agency to execute the work at the same rate that was agreed to be paid to M/s. Akshay Enterprises. The respondent focused on completion of Phase I as it had committed to handover the possession of the apartment to its customers. The respondent had been diligent in all respect and has made its best endeavours to complete the project within the time committed to its customers, however due to the unforeseen circumstances stated above, the same could not be achieved within the committed time frame. The dispute between the contracture and the respondent has resulted in delay in completing the project and the same is beyond the control of the respondent.

Due to heavy and continuous rainfall and flooding in the project site during monsoon season, the construction work could not be carried out for three to four months in the years, 2017 and 2018, as such the same are also required to be excluded.

Due to curb on illegal sand mining mafia, there was strike by the sand suppliers in the past and hence, there was no availability of good quality of sand. Sand being an important ingredient in construction of a building, the respondent could not continue with the construction of the building, which resulted in delay in executing the project work;

The Hon'ble High Court of Karnataka had imposed restrictions on the working hours of construction by the builder. Subsequently the pace at which construction work should have proceeded declined further adding to delay in handing over possession of the apartments.

The neighbouring locality residents viz., the residence of Singapore Garden have been frequently complaining and stopping the construction work at the project site for one or the other reasons and thereafter have made false allegations to the BBMP (Bruhat Bengaluru Mahanagara Palike) alleging that there is dust and noise pollution occurring due to construction and were later also successful in obtaining a notice to stay the construction work/activities, which was after great difficulty stayed in the Hon'ble High Court of Karnataka and the matter is still pending before Hon'ble High Court.

Due to demonetisation of currency declared by the central government, in the year, 2016 there was major financial crises and there were no sufficient currencies with the banks for more than 6 months. The respondent was also affected financially and faced various issues to continue with the construction work in a smooth manner. Since it is a huge project, more than 1000 labours were engaged for the work. However the payment of their daily wages could not be processed since no hard cash could be withdrawn by the respondent, as a result many labour return to their native.

The completion of project is also affected due to non-payment of instalments on time by the many purchasers in the project.

11. ಈ ಎಲ್ಲಾ ಕಾರಣಗಳಿಂದ ಡೆವಲಪರ್ ಇವರು ತಮ್ಮದೇ ಕಾರಣಗಳಿಂದ ತಮ್ಮನ್ನು ಈ ಹೊರೆಯಿಂದ ತಪ್ಪಿಸಿಕೊಳ್ಳುವ ಪ್ರಯತ್ನ ಮಾಡಿದ್ದಾರೆ. ಆದರೆ ಈಗಾಗಲೇ ಸಿದ್ಧವಾಗಿರುವ ಅಂಶವೆಂದರೆ ಒಪ್ಪಂದ ಪತ್ರದಲ್ಲಿ ನೀಡಿರುವ ದಿನಾಂಕದೊಳಗೆ ಪ್ರಾಜೆಕ್ಟ್ ಅನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಲು ಸಾಧ್ಯವಿಲ್ಲದಿದ್ದಾಗ ಡೆವಲಪರ್ ಇವರು Delay Compensation ಕೊಡಬೇಕಾಗುತ್ತದೆ. ಈ ಪ್ರಕರಣದಲ್ಲಿ ಡೆವಲಪರ್ ಇವರು ಜನವರಿ 2016ರಿಂದ Occupancy certificate ಪಡೆದುಕೊಂಡು ಸ್ವಾಧೀನ ಕೊಡುವವರೆಗೆ ಡೆವಲಪರ್ ಇವರು ಫಿರ್ಯಾದುದಾರರಿಗೆ Delay Compensation ಕೊಡಬೇಕಾಗುತ್ತದೆ.
12. ಡೆವಲಪರ್ ಕೊಟ್ಟಿರುವ ಕಾರಣಗಳು ಅವರ ಪ್ರಾಜೆಕ್ಟ್‌ನ ವಿಳಂಬಕ್ಕೆ ಕಾರಣಗಳೇ ಹೊರತು ಫಿರ್ಯಾದುದಾರರಿಗೆ ಬರಬೇಕಾದ ಪರಿಹಾರದ ಅಂಶಕ್ಕೆ ಅಡ್ಡಿಯಾಗಿರುವುದಿಲ್ಲ. ಏಕೆಂದರೆ ಒಪ್ಪಂದ ಪತ್ರದ ದಿನಾಂಕದ ಒಳಗೆ ಪ್ರಾಜೆಕ್ಟ್ ಅನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಲು ವಿಫಲರಾದ ಕೂಡಲೇ ಫಿರ್ಯಾದುದಾರರು ಪರಿಹಾರ ಪಡೆಯಲು ಅರ್ಹರಾಗಿರುತ್ತಾರೆ.

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು
Karnataka Real Estate Regulatory Authority, Bengaluru
ನಂ: 1/14, ನೆಲಮಹಡಿ, ಸಿಲ್ವರ್ ಜ್ಯೂಬಿಲಿ ಬ್ಲಾಕ್, ಯುನಿಟಿ ಬಿಲ್ಡಿಂಗ್ ಹಿಂಭಾಗ, ಸಿ.ಎಸ್.ಐ.ಕಾಂಪೌಂಡ್,
3ನೇ ಕ್ರಾಸ್, ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027.

13. ಅಂತಿಮ ಆದೇಶ ಬರೆಯುವ ಮೊದಲು ಒಂದು ಮಾತು. ರೇರಾ ಕಾಯ್ದೆ ಕಲಂ 71(2) ಪ್ರಕಾರ ಫಿರ್ಯಾದುಗಳನ್ನು 60 ದಿನಗಳ ಒಳಗೆ ಇತ್ಯರ್ಥ ಪಡಿಸಬೇಕು. ಒಂದು ವೇಳೆ ಇತ್ಯರ್ಥ ಪಡಿಸಲು ಸಾಧ್ಯವಾಗದಿದ್ದರೆ ಅನಕ್ಕೆ ಪ್ರಾಧಿಕಾರವು ಕಾರಣಗಳನ್ನು ನೀಡಬೇಕಾಗುತ್ತದೆ. ಈ ಫಿರ್ಯಾದನ್ನು ದಿನಾಂಕ: 16/07/2019 ರಲ್ಲಿ ಸಲ್ಲಿಸಲಾಗಿದೆ. ಈ ಪ್ರಕರಣದಲ್ಲಿ ಪಕ್ಷಕಾರರು ದಿನಾಂಕ: 28/08/2019 ರಂದು ಹಾಜರಾಗಿದ್ದಾರೆ. ನಂತರ ತಕರಾರು ಸಲ್ಲಿಸಿ ವಾದ ಮಂಡಿಸಲು ಸಾಕಷ್ಟು ಸಮಯ ತೆಗೆದುಕೊಂಡಿದ್ದಾರೆ. ಹಾಗಾಗಿ ಈ ಪ್ರಕರಣವನ್ನು ಕಾಲಮಿತಿಯಲ್ಲಿ ಇತ್ಯರ್ಥ ಪಡಿಸಲಾಗಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶ:

ಆದೇಶ

ಮೇಲೆ ಚರ್ಚಿಸಿದ ಕಾರಣಗಳಿಗಾಗಿ ಫಿರ್ಯಾದು ಸಂಖ್ಯೆ: **CMP/190716/0003605** ಅನ್ನು ಮಂಜೂರು ಮಾಡಲಾಗಿದೆ.

1. ಜನವರಿ 2016 ರಿಂದ ದಿನಾಂಕ: 30/04/2017ರ ವರೆಗೆ ಫಿರ್ಯಾದುದಾರರಿಗೆ ಡೆವಲಪರ್ ಇವರು ಆ ವೇಳೆಗಾಗಲೇ ನೀಡಿದ ಹಣದ ಮೇಲೆ ಶೇಕಡಾ 9%ರಂತೆ ಬಡ್ಡಿಯ ರೂಪದಲ್ಲಿ *Delay Compensation* ಕೊಡಲು ಆದೇಶಿಸಿದೆ. ಹಾಗೆಯೇ ದಿನಾಂಕ: 01/05/2017ರಿಂದ ಡೆವಲಪರ್ ಇವರು ಈ ಪ್ರಾಜೆಕ್ಟ್ಗೆ ಸಂಬಂಧಿಸಿದಂತೆ *Occupancy Certificate* ಪಡೆದುಕೊಂಡು ಕಾನೂನು ಬದ್ಧವಾಗಿ ಸ್ವಾಧೀನ ಕೊಡುವವರೆಗೆ ಫಿರ್ಯಾದುದಾರರು ಡೆವಲಪರ್‌ಗೆ ಕೊಟ್ಟಿದ್ದ ಹಣದ ಮೇಲೆ *State Bank of India* ಅವರು ಗೃಹ ಸಾಲಕ್ಕೆ ನಿಗದಿ ಪಡಿಸಿರುವ ಬಡ್ಡಿಯಂತೆ ಶೇಕಡಾ 2% ರಷ್ಟು ಹೆಚ್ಚುವರಿ ಬಡ್ಡಿಯನ್ನು ಕೊಡುವಂತೆ ಆದೇಶಿಸಿದೆ.
2. ವ್ಯಾಜ್ಯದ ಖರ್ಚು ಅಂತ ಡೆವಲಪರ್ ಇವರು ರೂ. 5,000/-ಗಳನ್ನು ಕೊಡುವುದು.

ಫಿರ್ಯಾದುದಾರರಿಗೆ ಮತ್ತು ಎದುರಿದಾರರಿಗೆ ಈ ಆದೇಶದ ಬಗ್ಗೆ ಮಾಹಿತಿಕೊಡುವುದು [ಈ ತೀರ್ಪನ್ನು ಬೆರಳಚ್ಚುಗಾರರಿಗೆ ನೇರವಾಗಿ ಬೆರಳಚ್ಚು ಮಾಡುವ ಮೂಲಕ ದಿನಾಂಕ: 02.03.2020 ರಂದು ಪ್ರಕಟಿಸಲಾಗಿದೆ].

(ಕೆ. ಪಾಲಾಕ್ಷಪ್ಪ)
Adjudicating Officer



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Comp. No : 3605

ಪುಟ ಸಂಖ್ಯೆ

ವಿಷಯ Mr. Ramanujam R & Mrs. Jayashree S

Mantri Serenity 4

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

CMP- 3605

12.07.2022

As per the request of the Authorised signatory for the respondent and the complainants, execution proceedings, in connection with above case is taken-up for settlement, in the National Lok Adalat to be held on 13.08.2022.

The Authorised signatory for the respondent Sri. Ravi Shankar B.S and complainants are present, in the pre-Lok-Adalat sitting held on 12.07.2022. The matter is settled in terms of memo reporting settlement dated: 11.07.2022 filed during the pre Lok Adalat Sitting. The claim of the complainants in this complaint is fully satisfied in terms of said memo reporting settlement and complainants have no further claim in this case against the respondent whatsoever. The settlement entered between the parties is voluntary and legal one. The settlement is accepted and consequently the execution proceedings in the above case have been closed as settled between the parties in terms of above settlement memo. For consideration of settlement memo and award, matter is referred to Lok-Adalat to be held on 13.08.2022.

[Signature]
Jayashree
1

[Signature]
Judicial Conciliator.

[Signature]
Advocate Conciliator.

Complaint No. CMP/190716/0003605

BETWEEN:

Ramanujam R & Mrs. Jayashree.S

COMPLAINANTS

AND:

**Mantri Castles Private Limited
(presently known as Castles Vista Pvt. Ltd.)**


RESPONDENT

MEMO REPORTING SETTLEMENT

- 1) It is submitted that we have filed the above complaint against the Respondent seeking for possession and delay compensation.
- 2) It is submitted that Hon'ble Adjudicating Officer passed an Order on 02-03-2020 in the above complaint directing the Respondent to complete the construction and handover possession to the Complainants.
- 3) The Respondent has completed the construction of the apartment and has applied to the authority for issue of Occupancy Certificate, which is awaited.
- 4) Since the apartment of the Complainants is ready for taking handover for fit outs/interiors, both the Parties have mutually discussed and have amicably arrived at the settlement that the complainants are ready to close the Order dated 02-03-2020 as settled.
- 5) It is submitted that all the disputes and claims whatsoever against the Respondent developer does not survive for consideration and the order passed by your Hon'ble authority in CMP/190716/0003605 does not survive for enforcement/recovery.
- 6) In view of the amicable settlement arrived with the Respondent, Complainants have no claims whatsoever against the Respondent and the claims do not survive for consideration and there is no further claims whatsoever against the Respondent whatsoever and the order dated 02-03-2020 passed by your Hon'ble authority in CMP/190716/0003605 is fully satisfied and there is nothing left to enforce the recovery proceedings in terms of the order dated 02-03-2020.

For CASTLES VISTA PRIVATE LIMITED

WHEREFORE, it is most respectfully prayed that this Hon'ble Authority may be pleased to take the memo on record and close the complaint as amicably settled with the Respondent in the interest of Justice and Equity.


(Ramanujam R)


(Jayashree.S)
Complainants

Place: Bengaluru

Dated: 11/07/2022

For CASTLES VISTA (PRIVATE LIMITED)


Authorised Signatory

(Respondent)

NOT AN OFFICIAL COPY

CMP-3605

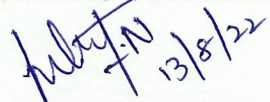
13.08.2022

Before the Lok-Adalath

The case in connection with execution proceedings in the above case taken up before the Lok-Adalat. The memo reporting settlement dated: 11.07.2022 filed in the case is hereby accepted and the said settlement memo shall be part and partial of the award. Hence, the matter settled before the Lok-Adalat as per joint memo.

The execution proceedings in the above case stands disposed off as closed accordingly.


Judicial Conciliator.


Advocate Conciliator.

KARNATAKA STATE LEGAL SERVICES AUTHORITY
BEFORE THE LOK ADALAT
IN THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY AT
BENGALURU

DATED: 13TH DAY OF AUGUST 2022

: CONCILIATORS PRESENT:

Sri. I. F. Bidari

..... Judicial Conciliator

AND

Smt. Preethi N

..... Advocate conciliator

COMPLAINT NO: CMP/190716/0003605

Between

- 1) Mr. Ramanujam. R
- 2) Mrs. Jayashree. S
(In Person)

..... Complainant/s

AND

M/s. Mantri Castles Pvt. Ltd.,

.....Respondent/s


(By: Sri. Ravi Shankar B.S, Authorized Person of the Respondent)

Award

The dispute between the parties having been referred for determination to the Lok Adalat and the parties having compromised/settled the matter, in terms of memo reporting settlement dated: 11.07.2022 filed during the pre Lok Adalat sitting on dated: 12.07.2022, same is accepted. The settlement entered between the parties is voluntary and legal one.

The complaint stands disposed off in terms of the memo reporting settlement and memo reporting settlement is ordered to be treated as part and partial of the award.


Judicial conciliator


Advocate conciliator