

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 5<sup>th</sup> of June 2020

**COMPLAINT No. CMP/180312/0000565**

**NAVEEN PRABHU .M**

**....Complainant**

No. 127, 7<sup>th</sup> Main Road, 4<sup>th</sup> Cross,  
Nobo Nagar, Off Bannerghatta Road,  
Bengaluru – 560076.

**VERSUS**

**C M RAJU**

**....Respondent**

President,  
BSNL Employee's Welfare House  
Building Cooperative Society Limited,  
No. 19 (New No. 32), 1<sup>st</sup> Floor, 10<sup>th</sup> Cross,  
Sampige Road, Malleswaram,  
Bengaluru – 560 003.

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This is an online complaint filed by Shri Naveen Prabhu .M against the respondent's project namely 'BSNL Aero Park Residency' at Devanahalli seeking relief of allotment of site in the said project.

Facts of the case:

The Complainant in his online complaint has narrated as below:

*"Complaint against BSNL Employee Welfare House Bldg coop. society for delay above 7 yrs in approval and allotment of sites for applicants in their project? BSNL AeroPark residency at Devanahalli. I have applied for Purchase of site from BSNL Employees welfare House bldg.*

*Lishmuvandhu*

*[Signature]*

*[Signature]*

# ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

## Karnataka Real Estate Regulatory Authority,

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coop. society vide Registration no: 32229/2006-07/ dt. 7.2.2007 in the year 2011, which is now more than 7 yrs. I have also paid 50% of the site cost amounting to Rs.413400.00 and till now there is no intimation regarding the commencement or allotment of the sites. I have written to them reminders for which there is no response and they have mentioned in the website that the project will be completed by 2015-16 and it is delayed because there is no chairman in Biappa or because of Govt., which is beyond our view and they have not intimated the members for any meeting or AGMs. Please kindly take up the matter as lots of applicants are eagerly waiting. All other BSNL societies have completed their projects and handed over the sites in time frame. All have invested their hard earned money and paying huge interest for the borrowed amount. We request Rera to look into the matter and help us in acquiring the site at the earliest. Naveen Prabhu applicant & Membership No. D 659 Dt. 4.7.2011".

Notices were issued on 26/03/2018 to the President, BSNL Employee's Welfare House Building Cooperative Society (BSNL EWHBCSL) to comply with Section 3 of RERA Act or to give explanation as to why the above said project was not registered under RERA. The promoter vide his reply letter dated 31/03/2018 has stated that the society is not selling the sites to general public. The allots the sites to those who are the members of the society and who have registered themselves for allotment of sites and therefore provisions of the Act are not applicable to their society. The society neither is developing any sites nor has advertised for sale of the same under the provisions of the RERA Act. Further, the promoter has referred that the society has questioned the applicability of the RERA Act in W.P. No. 34343/2017 and the same is pending with Hon'ble High Court thereby has requested the Authority not to precipitate the matter. Again notices were issued to the promoter on 24/11/2018

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and on 5/12/2018 for which the promoter through his advocate has submitted an affidavit dated 12/12/2018 giving the same reasons.

The liability to answer to the claim of the complainant cannot be discarded as per section 19 (4) of RERA Act. In this case the complainant has requested the Authority for the prayer of allotment of the sites at the earliest. The complainant has requested the authority through the online complaint praying for allotment of the site at the earliest. Hence, the matter was posted for hearing before the Authority on 07/01/2020, 04/02/2020 and on 11/02/2020.

During the hearings before the Authority, the complainant (represented by his wife) and the respondent along with his Advocate were present. The Advocate for respondent submitted objections to the petition vide dated 14/01/2020 and it is stated that:

- a.) The said BSNL EWHBCSL functions under the provisions of the Karnataka Co-operative Societies Act 1959 which works on no profit no loss principle and the sites formed in the layouts are allotted to the Members on cost basis.
- b.) There are totally 3000 members and associate members registered with this respondent society and around 800 have registered with the 'BSNL Aero Park Residency' Devanahalli project.
- c.) The respondent society has entered into a MoU dated 18/08/2010 with one Srinivas Raju - Lokumesh Developers for developing land measuring 14 acres for the project 'BSNL Aero Park Residency' Devanahalli and have further paid a sum of Rs.23,45,75,000/- towards the same from the money collected from various members as well as Associated members.

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- d.) The Complainant is an Associate Member of the respondent Housing Welfare Society and that the complainant has applied for allotment of site and his seniority No. is 659.
- e.) The Complainant has paid a sum of Rs.4,13,200/- by way of two installments.
- f.) There are court litigation filed in C.S. 376/2015, O.S.17/2018 and RA No. 153/2016 is pending with regard to land.
- g.) The respondent society is ready to allot site in favour of the petitioner along with other similarly placed applicants. But, however for the present since, the land has not been developed nor handed over to the society; the society is not in a position to allot a site.
- h.) Pleads before the Authority to reject the petition filed by the complainant and drop the proceedings.

As per the definition of a "promoter" under the RERA Act Section 1 (zk) (iv) & (v) states that:

*" (iv) an apex State level co-operative housing finance society and a primary cooperative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or*

*(v) any other person who acts himself as a builder, colonizer, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or..."*

During the hearing before the Authority on 11/02/2020, the advocate for the respondents stated that the land in question is under litigation and alternate sites are also made available to the

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Karnataka Real Estate Regulatory Authority,

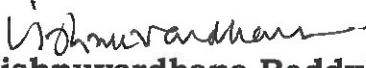
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allottee or else the money will be refunded. When the same question was posed to the allottee, the complainant (represented by his wife) sought for refund.

In view of the above, following order is passed.

**ORDER**

1. The Complaint No.CMP/120312/0000565 is allowed under Section 31 of the Real Estate (Regulation and Development) Act, 2016.
2. The BSNL Employee Welfare House Building Cooperative Society is hereby directed to pay Rs.4,13,200/- along with simple interest at rate of 2% per annum above the MCLR of State Bank of India (MCLR as prevailing as on today). For the purpose of computation of interest, the amounts paid by the Allottee on various dates shall be treated as principal amounts and the interest payable shall be computed from the dates of payments to date of actual receipt of the refund.
3. Material available on record and the facts that have emerged during the hearing proceedings clearly indicate that there is a prima facie case of not registering the project as an ongoing project u/s.3 of the Act, as required and therefore penalty proceedings u/s.59(1) of the Act are hereby initiated. Further the promoter of the project is hereby directed to register the project within 30 days from the date of receipt of this order and also furnish an explanation within 30 days with regard to the violation of Section 3 of the Act.

  
(D. Vishnuvardhana Reddy)  
Member-1  
KRERA

  
(Adoni Syed Saleem)  
Member-2  
KRERA

  
(M.R. Kamble)  
Chairman  
KRERA

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**CMP-565**

**13.08.2022**

**Before the Lok-Adalath**

The execution proceedings in the above case taken up before the Lok-Adalat. The email dated:22.07.2022 forwarded by the complainant in the case is hereby accepted and the said email shall be part and partial of the award. Hence, the execution proceedings in the above case stands disposed off as settled and closed in the Lok Adalat.

  
Judicial Conciliator.

  
Advocate Conciliator.



# ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ CMP-565

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ವಿಷಯ Mr. Naveen Prabhu. M

BSNH Welfare HSG Society

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565  
CMP- 4606

12.08.2022

As per the request of the complainant, the execution proceedings in the above case is taken-up for disposal in the National Lok Adalat to be held on 13.08.2022.

The complainant through email dated:22.07.2022 has reported that respondent/developer has complied the order passed in the above case. Therefore in view of the said email the execution proceedings in the above case have been closed as settled between the parties. The matter is referred to Lok-Adalat to be held on 13.08.2022 for award.

  
Judicial Conciliator.

  
Advocate Conciliator.



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

**DATED: 13<sup>TH</sup> DAY OF AUGUST 2022**

**: CONCILIATORS PRESENT:**

Sri. I. F. Bidari

..... Judicial Conciliator

AND

Smt. Preethi N

..... Advocate conciliator

**COMPLAINT NO: CMP/180312/0000565**

**Between**

Mr. Naveen Prabhu M

..... Complainant/s

AND

BSNL Welfare HSG. Society.,

.....Respondent/s

**Award**

The dispute between the parties having been referred for determination to the Lok Adalat and the parties having settled the matter, as per email dated: 22.07.2022 forwarded by the complainant and same is taken on record during the pre Lok Adalat sitting on dated: 12.08.2022.

The execution proceedings in the above case taken up before the Lok-Adalat. The email dated: 22.07.2022 forwarded by the complainant in the case is hereby accepted and the execution proceedings in the above case have been closed as settled between the parties. The email shall be part and partial of the award.

  
Judicial conciliator

  
Advocate conciliator