

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

**BEFORE ADJUDICATING OFFICER, RERA**

**BENGALURU, KARNATAKA**

**Presided by Sri K Palakshappa**

**Adjudicating Officer**

**Date: 22<sup>nd</sup> May 2020**

|               |                                                                                                                                                                                                           |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Complaint No. | CMP/UR/190712/0002881                                                                                                                                                                                     |
| Complainant   | Kushal<br># 3-506, Behind Laxmi temple,<br>Gazipur, Kalaburgi district -<br>585101<br>Rep. by Sri G.J. Sunkapur<br>Advocate                                                                               |
| Opponent      | Sri Prasanna N. Rajapurohit<br>and Sri B.K. Eshwara Reddy<br>Partner of M/S Sree Krishna<br>rachana developers,<br>J.P. Nagar, 7 <sup>th</sup> phase<br>Bengaluru-560078<br>Rep. by Sri L.Akshay Advocate |

**"J U D G E M E N T"**

1. Kushal, the Complainant has filed this complaint bearing no.CMP/UR/190712/0002881 under Section 31 of RERA Act against the project 'NARAYANSE GOLDEN ABODE' developed by "Mr. Prasanna N. Rajapurohit" with a prayer to refund the entire amount.

*Done*  
*22/05/2020*

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

**Karnataka Real Estate Regulatory Authority, Bengaluru**

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2. In pursuance of the summons issued by this authority, the complainant has appeared through his advocate Sri G.J. Sunkapur and on behalf of the respondent Sri L.Akshy advocate has appeared and filed his objection statement.
3. Heard the argument on both sides.
4. The points that arise for consideration is as to:

Whether the complainant is entitled for the relief as sought in the complaint?

5. My answer is affirmative in part for the following

#### **REASONS**

6. Repayment of Rs.3, 60,000/- was made by the developer to the complainant proves the transaction as alleged by the complainant. The complainant had paid Rs.4,05,000/- as advance amount in the month of March 2019, but he has demanded to return the amount since the developer has not shown perfect title to his land. In this regard the complainant has alleged in his complaint as under:

*I have booked a flat in NARAYANA'S E GOLDEN ABODE by paying 405000INR in total as booking amount in December Month. INR 1,00,000/-(Rupees One Lakh Only) via Cheque No.000070, dated 05/12/18 INR 100/-(Rupees One Hundred Only) via NEFT Ref No. 1812241159380300, dated 24/12/18 INR 3,04,900/-(Rupees Three Lakhs Four Thousand Nine Hundred Only) via NEFT Ref No. 1812241512603100, dated 24/12/18 ? For registration I have booked a flight for 1st Feb 2019 , on the day of travel marketing guy(Suneel) informed as of now registrations are stopped as property is moved under corporation from panachayat khata. ? I met the builder( Prasanna) in India.He asked to proceed with Tri-Partite agreement and release the fund from bank .Once everything is settled in corporation i will called for registration . ? Just before a week of loan disbursement i got to know the mentioned property is not ?A? khata & it is under litigation as the case going on in court since 28/05/2018 that?s the reason registrations were stopped. So i requested builder(Prasanna) for a email about the date of registration after the loan is disbursed. Builder(Prasanna) called me asking to send cancellation request for the flat. ? As the cancellation was initiated from builder i refused to send email but he was not willing to return my money until he gets email about cancellation from my end. ? I gave up and sent him the cancellation request. ? Till date I have paid for the below: Rs: 4000/- -> franking sale agreement document at registration office. Rs: 10,000/- ->for bank processing fee . ~ 100000 -> flight tickets. Kindly help me to get justice, and get my all losses recovered. The amount paid to builder:405000 INR The amount given as*

*Prasanna*  
22/05/19

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**Karnataka Real Estate Regulatory Authority, Bengaluru**

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refund:360000 INR Kindly help me to get remaining amount too which is Rs: 45,000/- ?

NOTE: I am an NRI, as of now I have mentioned my brother's contact number but I have mentioned my email address. Kindly get send me a email if any further information is required or share your contact number in email so that I contact you. Thanks in advance.

Relief Sought from RERA :Please help me to get full refund of advance paid.

7. By going through his complaint one thing is clear that the transaction is admitted but the developer has not given any reason as to why he had withheld the rest of the amount of the complainant. His objection statement is very much silent as to why he had not returned the whole amount. However on going through the allegation made in the complaint I would say that the present Rs. 45,000/-is including the expenses of franking charges, Rs. 10,000/-towards banking process fee and Rs. 10,000/-towards flight tickets. The documents filed by the complainant prove his case. Therefore the developer shall refund the amount.
8. The developer has returned Rs.3,60,000/- to the complainant which is said by himself. Therefore, I would say that, the complainant is entitled for refund of Rs. 45,000/- from the date of the payment to the developer till the return.
9. As per S.71 (2) RERA, the complaint has to be closed within 60 days from the date of filing. In this case the complaint was filed on 12/07/2019. 60 days be computed from the date of appearance of the parties. In the present case, the parties were present on 06/11/2019. In the meanwhile on account of natural calamity COVID 19 whole nation was locked down completely from 15/03/2020 till 16/05/2020 and as such this judgment could not be passed and as such it is with some delay.

*Devi*  
22/05/2020

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10. With this observation, I proceed to pass the following.

**ORDER**

- The Complaint filed by the complainant bearing No.CMP/UR/190712/0002881 is hereby allowed in part.
- The developer is hereby directed to return Rs.45,000/- within 30 days from today.
- In case of failure to return the amount the developer is hereby directed to pay simple interest @ 2% above the MCLR of SBI on the said sum from 31<sup>st</sup> day till realization.
- The developer is hereby directed to pay cost of Rs.5,000/- to the complainant.
- Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 22/05/2020).

  
K. PALANSHAPPA  
Adjudicating Officer