

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

BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA
Presided by Sri K.FALAKSHAPPA
Adjudicating Officer
Date: 5th JUNE 2020

Complaint No.	CMP/191201/0004824
Complainant	Kavitha Karamalaputi G4, Sterling Majestic Apartments, Telangana-500025, Hyderabad. In person
Opponent	Aryan Hometec Pvt. Ltd., 609, 15 th Cross, JP Nagar, 6 th Phase, Bengaluru - 560078 Absent

J U D G E M E N T

1. Kavitha Karamalauti, the complainant has filed this complaint bearing no.CMP/191201/0004824 under Section 31 of RERA Act against the project "Aryan Golden Arena-F" developed by Aryan Hometec Pvt. Ltd., as the she is the consumer in the said project. The facts of the complaint is as follows:

*WE have paid an amount of Rs.1,66,819/- and for balance amount gone for loan with India Bulls. The financier has released an amount of Rs.17,87,108/- to the builder. Till date ie., 28/11/2019 the builder has not even constructed basement of F block.
Relief sought from RERA: we want to cancel booking.
Let the builder pay Rs.1,66,819/- along with interest*

P. Peru
06/06/2020

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*penalty along EMIs paid till date by us & repay the
amount to financier i.e., India Bulls loan outstanding.*

2. In pursuance of the notice issued by the authority, the complainant has appeared through his wife by giving authorisation letter but the respondent has not at all appeared.
3. Heard the arguments of the complainant.
4. The point that arise for my consideration is
 - a) Whether the complainant is entitled for the relief as sought in the complaint?
 - b) If so, what is the order?
5. My answer to the above point is affirmative for the following

REASONS

6. This complaint is filed by the complainant seeking relief of refund of amount paid by him. According to the complainant he has entered into agreement with the developer in respect of purchase of flats bearing No.F-605 in block-F on the 6th floor on 07/11/2017. According to the complainant, the developer was expected to complete the project and hand over the possession . But according to construction agreement 27 months from the date of agreement which comes to 7th of February 2020 including the grace period if any. In view of the same the present complaint filed on 01/12/2019 is premature one. In this regard he submits that he has paid Rs.1,66,819/- as self contribution and rest is through bank loan. By this way he sought for refund of amount as mentioned above along with bank loan. According to complainant the construction is

Delivered
06/06/2020

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not yet commenced. Therefore, he wanted to cancel booking and seek for refund of the amount.

7. The developer though served with the notice failed to appear, therefore, I have taken up the contention of the complainant for consideration. The complainant has produced the necessary documents to show the payment made by him to the developer. This oral and documentary evidence has not been denied by the other side. Therefore, I have no good reasons to dismiss the complaint. The developer has failed to give any kind of explanation as to the delay and also as to this complaint. However since the complainant has filed this complaint earlier to the completion of period which was assured by the developer I hold that instead of dismissing the complaint I would say that the complainant has filed this complaint on the ground that the developer has not at all commenced the work itself even after collecting the amount. Hence, in order to balance the case of the parties I allow this complaint in part by awarding interest from the date of judgment.
8. 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. This complaint is filed on 01/12/2019. In this case the complainant has appeared on 07/01/2020 and heard the complainant. In the meanwhile on account of natural calamity COVID 19 whole nation was locked down completely from 16/03/2020 till 16/05/2020 and as such this judgment could not be passed and as such it is with some delay.

Done
06/06/2020

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

ORDER

- a. The Complaint filed by the complainant bearing No. CMP/191201/0004824 is hereby allowed.
- b. The developer is hereby directed to return Rs. 1,66,819/- together with simple interest @ 2% above the MCLR of SBI on the amount paid from today till realization of the entire amount. (MCLR be calculated @ prevailing as on today)
- c. The developer is hereby directed to discharge bank loan with its interest EMIs if due, EMI if paid by the complainant on behalf of the developer and any other statutory charges.
- d. The developer is also hereby directed to pay Rs.5,000/- as cost of the petition.
- e. The complainant is hereby directed to execute cancellation of agreement of sale after realization of the entire amount.
- f. Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 06/06/2020).


(K.PALAKSHAPPA)
Adjudicating Officer