

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 PALAKSHAPPA
Adjudicating Officer
Date: 4th JUNE 2020

Complaint No.	CMP/190809/0002706
Complainant	Mukkanna Phani Rajashekhar BUSROOTNO5 Andhra Pradesh
Opponent	Vijay Agarwal Registeroffice 88 1 st floor 17 th cross 14 th main sector4 hasr layout Bengaluru-560102 ABSENT

J U D G E M E N T

1. Mukkanna Phani Rajashekhar, the complainant has filed this complaint bearing No.CMP/190809/0002706 under Section 31 of RERA Act against the project "Vivansa Blessings " developed by The Vivansaaa Infratech, seeking for the relief of delay compensation and refund of his amount. The complaint is as follows:

VIVANSAA BLESSINGS SUPPOSED TO HAND OVER PROPERTY BY 31MARCH2019AS PER SALEDEED.ASPER RERA BUYER CAN ASK FULL REFUND WITH COMPENSATION FOR NOT HANDING OVERPROPERTY IN TIME.EVEN BUILDER NOT PAYING PRE EMIS IN TIME AND APROX 15 PRE EMIS RETURNED AND MY CREDIT RATING GOT SPOLIED.NEEDS COMPENSATION FROM BUILDER FOR SPOILING MY CREDIT RATING AND NOC FROM INDIA BULLS FINANCE.I have paid RS 37.75 lacks and needs full refund of totalmoney with interest &Compensation for spoiling my CIBIL&Creditrating.

Relief Sought from RERA :NEEDS COMPENSATION FROM VIVANSAAINFRATECH

Delivered
04/06/2020

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2. In pursuance of the summons issued by this authority. The complainant has appeared through his advocate Sri Vinaya Kumar Singh where as the respondent has appeared through his advocate Sri Akshay L.
3. After filing the objection on behalf of the developer I have Heard the arguments
4. The point that arise for my consideration is
 - a. Whether the complainant is entitled for the relief as sought in the complainant?
 - b. If, so what is the order?
5. My answer is affirmative for the following

REASONS

6. This complaint has been filed by the complainant seeking for the relief of refund of amount paid by him towards purchase of flat bearing No.106, wing A, first floor. The agreement of sale is produced which was executed where the developer has agreed to complete the project on or before October 2018 with 6 months grace period. It means the developer ought to have completed the project on or before April 2019 but the complainant wrongly said that it was March 2019. He sought for the refund of the amount on the ground that the developer has failed to complete the project with in due time. It is admitted by the developer himself since he has taken such type of contention in his objection statement. I would like to reproduce the same here for better appreciation.

- It is submitted that respondent is updating the work progress on every last day of every month. It is submitted that the work is being continuing in a fully fledged way and the respondent is trying to finish the project very fast. Some materials have already been arranged in the last 45 days and work is very much in progress. Due to Lok Sabha election only for few months, the respondents had to face some issues but now the

[Handwritten signature]
D. S. Srinivas

work is very much in progress and on a brink of completion. It is submitted that the compensation amount asked by the complainant is exorbitant and the committed work will be finished and provided to the complainant on time and hence the order for the compensation would never arise at first instance. And moreover we are concentrating on the work to get it done as soon as possible, and the respondent had paid the PRE-EMI till 2019.

- It is clear that the powers to adjudicate the complaints by the Hon'ble Adjudicating Officer are limited to imposing compensation and penalty only as laid down in Section 12, 14, 18 and 19 of the Real Estate Regul*

7. By going through the same it is clear that there was a transaction between the parties. The developer has not yet completed the project. It is not his case that he has obtained occupancy Certificate. When the developer has failed to complete the project with OC, then a right will accrue to the complainant to demand either refund or delay compensation. No good reason has been offered by the developer to dismiss the case of the complainant. According to the complainant, the developer has failed to complete the project as agreed in the agreement of sale. The complaint produced by the complainant where he has paid Rs. 4.75 lakhs towards purchase of flat personally and 31 lakh was released by the Bank. At the time of argument, the developer submitted that the bank loan is also there and EMI is being paid. The evidence given by the complainant has not been disproved. Hence, I allow this complaint. Before going to pass the final order it is very much needed to say that the same complainant had filed a complaint in CMP/180501/0000794 seeking the relief regarding EMI. After hearing the parties this authority has allowed the said complaint. By directing the developer to pay the EMI but the same was not complied by the developer. Therefore the complainant has filed enforcement memo for which the Secretary has sent recovery

*Peru
06/06/2019*

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warrant to the Deputy Commissioner for recovery of RS. 98,783/- therefore the said amount has to deducted. Hence, I allowed this complaint.

8. Before passing the final order I would say that as per S.71 (2) RERA, the complaint will have to be closed within 60 days from the date of filing. In this case the complaint was filed on 09/08/2019. The said 60 days be computed from the date of appearance of the parties. In the present case, the parties have appeared on 05/11/2019 and after filing the objections arguments were submitted. In the meanwhile on account of natural calamity COVID-19 the whole nation was put under lock down completely from 24/03/2020 till 17/05/2020 and as such this judgment could not be passed and as such it is with some delay.

Deputy Commissioner

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

ORDER

The complaint no.CMP/190809/0002706 is hereby allowed.

- a. The developer is hereby directed to pay Rs. 4,75,000/- to the complainant.
- b. The developer is hereby directed to pay simple interest @ 9% P.A on the respective amount paid on respective date till 30/04/2017 and @ 2% above the MCLR of SBI from 01/05/2017 till realisation of the entire amount.(MCLR be computed which is available as on today)
- c. The developer is hereby directed to discharge the loan with interest, EMI if any, EMI if due, EMI was paid by the complainant which was ought to be paid by developer paid with its interest, and any other statutory charges.
- d. Excluding Rs. 98,783/- which was in the form of EMI on which recovery warrant was sent.
- e. The developer is also directed to pay Rs.5,000/- as cost of this petition.
- f. Intimate the parties regarding this order.

(This Order is Typed, Verified, Corrected and pronounced on 04/06/2020)

K.PALAKSHAPPA
(Adjudicating officer)

