

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.

BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA
Presided by Sri K Palakshappa
Adjudicating Officer
Date: 20th JANUARY 2020

Complaint No.	CMP/190808/0003534
Complainant	GURU R #218, 4 th 'A' Main, 4 th Block 4 th Stage, Basaveshwaranagar Bengaluru- 560079
Opponent	AKASH A.SUVARNA Skygold Elegance Skygold Properties Pvt. Ltd., 42/A, 2 nd Block, 3 rd Stage Basaveshwaranagar Bengaluru- 560079 Represented by Sri Akshay Advocate

"J U D G E M E N T"

1. GURU.R, Complainant has filed complaint bearing complaint no.CMP/190808/0003534 under Section 31 of RERA Act against the project 'Skygold Elegance' developed by "Skygold Properties India Pvt. Ltd.," 'as the complainant is the consumer in the said project. The complaint is as follows:

D. S. S. S.
20/01/2020

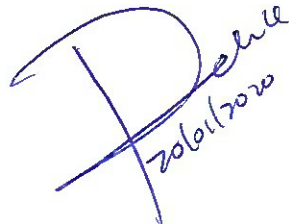
ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು
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Hello Sir, I bought an apartment in the below mentioned project in July 2014. I had selected the apartment as A-203(Second floor). The Sale Agreement for the same was made as mentioned below and the soft copy of the same is attached as "SaleAgreementIn_Aug2014_A203.pdf" Project : "SKYGOLD Elegance"; Location: 85/6-1, Chokkanahalli Village, Yelahanka2 Hobli, Yelahanka Taluk, Bangalore Apartment Purchase Sale Agreement: Date : 6 - Aug - 2014 Apartment number : A203 Estimated Completion Date : September 2015 As per the agreement; point 20 : Builder had agreed to compensate @ rate of 8% per Annum on the amount till then Paid Later in Aug 2015; I decided to change the apartment from A-203 to A-102 for more square feet's. Hence Updated the Sale agreement with the details mentioned below. Soft copy of the same is attached as "UpdatedSaleAgreementIn_Aug2015_A102.pdf" Apartment Purchase Sale Agreement Updated/Modified : Date : 18-Aug-2015 Modified Apartment number : A102 Updated Completion Date : April 2016 As per the agreement; point 20 : Builder had agreed to compensate @ rate of 8% per Annum on the amount till then Paid As mentioned in the sale agreement; Builder had agreed to pay compensation if there was any delay beyond April 2016. As on this date 8-Aug-2019 ; the apartment is yet to get BESCOM and OC and is at verge of completion but there has been delay by 3years 3 months! Amount paid till date is 42,00,062 Rs. The summary of the dates when payment were made is mentioned in following attachments AmountPaidTillDateAndDue.pdf Receipts for Amount Paid to Builder Due to the delay; the amount I have lost is 7,93,633 Rs Amount Lost due to delay: House Rent paid from April 2016 - August 2019 : 6,26,000 Rs Income tax paid additionally due to delay in project btw April 2016 -August 2019 : 1,67,631 Rs Amount Paid to builder till April 2016 29,37,115 Rs Amount Paid to builder by May 2017 39,16,589 Rs Amount Paid to builder by July 2017 42,00,062 Rs Interest for 29,37,115 @ rate of 8% for the period of April 2016 - April 2017 = 2,34,969 Rs Interest for 39,16,589 @ rate of 8% for the period of May 2017 - July 2017 = 52,221 Rs Interest for 42,00,062 @ rate of 8% for the period of Aug 2017 - Aug 2019 = 6,72,000 Rs Total Compensation Amount to be received from builder : 9,59,200 Rs. In May 2017; builder gave me the compensation amount of 2,00,000 Rs. Rest amount of 7,59,200 Rs should be given. Builder is denying to pay this amount. He challenged like 'do whatever you want, go to any court or RERA; you will not get this amount'. Deeply worried with the money lost; we have approached you for resolution. Kindly review and get us the compensation amount.

Relief Sought from RERA :

Please get us the compensation amount from Builder


20/08/2020

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Karnataka Real Estate Regulatory Authority, Bengaluru
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2. In pursuance of the notice issued by this authority, the parties were present. The developer filed objections to the allegations made by the complainant, hence, I have heard arguments of the complainant and the matter was posted for judgment on merits.

3. The points that arise for consideration is as to:

Whether the complainant is entitled for compensation as prayed?

delay

4. My answer is affirmative for the following

REASONS

5. This complaint has been filed by the complainant for delay compensation where the complainant has entered into first agreement with the developer on 06.08.2014, in which the developer has agreed to complete the project by the end of 2015. However, on 18.08.2015 second agreement was executed and according to this agreement, the developer was expected to complete the project before July 2016. Therefore, the complainant has sought for delay compensation. Against the said argument it was submitted on behalf of the developer that he has received occupancy certificate on 10.09.2019. But the complainant is still due to extent of Rs.7 lakh and odd. He had not paid the said amount in spite of demand made by the developer.

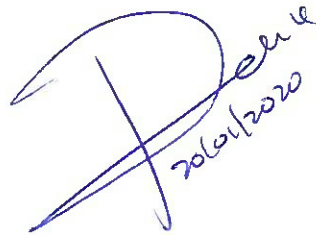
Done
20.09.2020

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6. It is the case of the developer that he has paid Rs.2 lakh towards delay compensation and therefore, question of giving delay compensation again does not arise. Further it is said by the developer that the complainant is due a sum of Rs.7,25,318/-. As the developer has received occupancy certificate now it is the duty of the complainant to make payment and get the sale deed. I find some force in the submission made by the developer because as per Sec.19(10) of the Act, it is duty of the developer to deliver the possession within two months from the date of occupancy certificate, at the same time it is the obligation on the part of the complainant to take the sale deed by making payment which is due to the developer.
7. Since the developer contended in his objection statement that he has paid Rs.2 lakh towards delay compensation, means it is an admitted fact that there is delay. As per Sec.18 of the Act, the delay compensation has to be paid @ 2% above MCLR of SBI. If the delay compensation of Rs.2 lakh paid by the developer is lessor then he bound to pay the remaining amount. At the same time, the complainant also has to take sale deed by tendering the amount payable to the developer. With this observation, i would say that, the same has to be processed by both sides.



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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. In this case the complain was presented on 08.08.2019. However, 60 days to be computed from the date of appearance of the parties. In this case the parties were present on 24.09.2019. However after hearing the parties the case reserved for judgement and therefore, there is some delay. Hence, I proceed to pass the following

ORDER

- a. The Complaint filed by the complainant bearing No.CMP/190808/0003534 is hereby allowed in part.
- b. The developer is hereby directed to pay @9%p.a. on the total amount paid as on August 2016 till 30.04.2017
- c. The developer is hereby directed to pay @ 2% above the MCLR of SBI on the total amount paid by the complainant from 01.05.2017 till 10.09.2019.
- d. The complainant is hereby directed to tender amount payable to the developer and the developer is hereby directed to execute sale deed within 60 days from this date.
- e. The developer is hereby directed to pay Rs.5,000/- as cost of the petition.

Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 20/01/2020).


K. PALAKSHAPPA
(Adjudicating Officer)

