

9

BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA

Complaint No. CMP/190123/0001934

Date: 23rd APRIL 2019

Complainant : NIKHILESH MEHTA
Infinera India Pvt Ltd.,
Level 4, Prestige Solitaire,
No.6, brunton Road,
Bengaluru- 560025.

AND

Opponent : GOLDEN PANORAMA
GOLDEN GATE PROPERTIES LTD
Golden Gate Properties Ltd., Golden house,
#820, 80 feet road, Bengaluru - 560095.

J U D G E M E N T

Mr. NIKHILESH MEHTA has filed this complaint under Section 31 of RERA Act against the project "GOLDEN PANORAMA" developed by GOLDEN GATE PROPERTIES LTD., bearing Complaint no. CMP/190123/0001934. The facts of the complaint are as follows:

Booked the Apartment in Tower 2 on 10th Floor in Golden Panorama on 16th Nov 2016 under buy back scheme from the "Golden Gate Builder". As per the contract, the builder was supposed to pay pre-EMI each month and buy back the apartment after 18 months. The 18 Months have completed in April 2018. Got acknowledgment on 21st Feb 2018 from Builder for my Mail for going with the exit option under buy back scheme (Mail attached) In June 2018, Builder asked extension time till December to close the loan due to Market problem in Real State. The Builder

1

Done
23/04/19

agreed to pay the Pre-EMI till December (11th June Mail attached)

Relief Sought from RERA : Builder to pay pre-emis and buy back the apartment

2. In pursuance of the notice issued by the authority, the parties have appeared on 22/02/2019 when the case was called. The complainant was present in person. One Manjunath representing the developer was present and also filed a Memo.

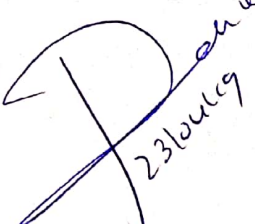
Heard the arguments.

The complainant is seeking for the regulation of his EMI. According to complainant the developer is due as follows: Rs. 11453/- on 03/12/2016, Rs. 39448/- on 04/01/2017, Rs. 38334/- on 04/02/2017, Rs. 38334/- on 02/03/2017, Rs. 38334/- on 04/04/2017, Rs. 38334/- on 08/06/2017, Rs. 77623/- on 12/07/2017, Rs. 39448/- on 19/02/2018, Rs. 39448/- on 11/04/2018, Rs. 39448/- on 28/06/2018. The Builder has stopped responding to phone and mails

3. Under this background the developer has filed a memo which reads as under :

"we are focusing on the project completion and start handing over the flats to the individual customers as early as possible, in this juncture refund money to the customer shall affect the project progress and we are not able to handover the project/flats to the customers. Hence we are requesting the customers to retain the unit.

We will pay the pre-emi dues effective from June 2019, monthly one or two EMI's we shall clear and the customer insist on the refund, we will refund to customer with simple interest by selling the units to the prospect customer or after completion of the project only"

2 
23/04/19

4. For which the complainant submitted that the developer has to pay the EMI and under Buy-back Scheme with 2X amount.
5. By reading the above contention taken by the parties it is clear that the developer has violated the terms of the agreement. He invited the consumer to buy the flat under different schemes. The customers who have invested the money towards purchase of the flat shall not be put to hardship on account of violation of terms of scheme. The developer again seeking time to regularise the EMI with effect from June 2019. It is not his plea that he will complete the clearance of dues on or before June 2019. According to developer he is trying to close the EMI dues by tendering one month EMI with the regular EMI. If it is so, he will clear all the EMI dues at least two years after from June 2019. Again it is the burden on the complainant.
6. The developer also says that, he will repay the amount with the simple interest only after selling the unit in case of consumer insist on the refund of the amount. I would say that the stand taken by the developer has no basis and has no legal foundation also. It is he who retained the dues without making proper payments. Now he cannot put the pressure on the complainant to take back the amount as per his wish. The mail sent by the complainant has not been addressed by the developer. After he filed this complaint he is seeking unnecessary excuses for his non-payment. Therefore the memo filed by the developer dated 1/3/2019 has no any legal sanctity. With this observation I have to give proper justification to the claim of the complainant. Hence, I proceed to pass the following

ORDER

1. The complaint filed by the complainant in CMP No. CMP/190123/0001934 is hereby allowed by directing the developer to reimburse all the Pre-EMI dues on or before June 30, 2019 and to pay the EMI regularly from the month of July 2019 till the completion of the project.
2. If not amount paid by the complainant shall be returned to the complainant in accordance to the Section 18 of the Act.
3. The developer is also directed to pay Rs. 5,000/- as cost of this petition.

Intimate the parties regarding this order.
(Typed as per dictation Corrected, Verified and pronounced on 23/04/2019)


(K.PALAKSHAPPA)
Adjudicating Officer