

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು
Karnataka 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 25th SEPTEMBER 2020

Complaint No.	CMP/200229/0005413
Complainant	Karthik Devaraj 002, Unique Shipla, 2A Main, 17 th Cross, Vignan Nagar, Bengaluru-560075 In person
Opponent	Aswani Properties No 50/7, 2nd Floor, 16th Main, 39th Cross, Jayanagar 4 T Block Bengaluru Urban - 560041 Absent

JUDGMENT

1. The complainant has filed this complaint no. CMP/200229/0005413 under Section 31 of RERA Act against the project "Aswani Aaesha A Wing " developed by 'Aswani Properties,' seeking for the relief for delay compensation on the ground that the developer has failed to complete the project.
2. In pursuance of the notice issued by this authority the complainant has appeared where as the developer has failed to appear.

~~Done~~

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3. Notice has been issued to the respondent to appear on 03/04/2020 but in the meanwhile the Government has declared lock down from 24/03/2020 till 17/05/2020. Further in order to maintain the social distance the personal hearing was stopped and the parties have been called through Skype. Accordingly when the case was called through Skype the complainant has appeared and submitted his arguments but the developer did not.
4. I have heard the arguments of the counsel of the complainant and posted the matter for judgment on its merits.
5. The points that arise for my consideration are:
 - a. Whether the complainant is entitled for delay compensation as prayed in the complaint?
 - b. If so, what is the order?
6. My answer is affirmatively for the following

REASONS

7. This complaint has been filed seeking for the relief of delay compensation on the following allegations.

- I purchased a flat in A wing, Block 1 - 306 with covered car parking from Aswani Aaesha located at Electronic City Phase -2. The flat was bought on 14th March 2017. As per the agreement, flat should have been delivered on or before (24) Twenty-Four Months from date of execution of the Agreement subject to an additional grace period of (06) Six Months. Hence, I should have got my flat with all the amenities by 14th September 2019. Due to these delay in delivering my flat inspite of having addition 6 months of grace period, I am facing a financial loss. I am paying pre EMI monthly and hence it is getting difficult day by day on paying these EMI due to delay. Also, revise Flat selling price with GST @1% as it is still under

Devi
29/04/2020

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*construction project. In a nutshell, * Flat is not completed and delivered on time * Overall amenities are not completed * No concrete information from builder on completion of my flat and the entire project * All legal documents (OC, CC etc.,) completion timeline? * Deadline of above all or refund full amount with interest.*

Relief Sought from RERA : Flat completion & compensation for the flat delay

8. The above allegations have not been denied by the other side. The complainant has produced the agreement for construction sale dated 14/03/2017 where the developer has agreed to complete the project on or before 14th September 2019. The terms of agreement proves the failure on the part of the developer to complete the project.
9. As per the clause the maximum period for the completion of the project was September 2019 but till today it is not possible to complete the project and hence the complainant has filed this complaint for the appropriate relief. Here after the lapse of the due date the developer has not taken any steps either to complete the project or to compensate the complainant.
10. When once the project has not been completed within the due time then a right is accrued to the complainant which cannot be defeated by taking some kind of defense.
11. The complainant has filed the documents showing the payment which has not been denied by the other side. I have not any good reasons to dismiss the complaint on any other ground and hence, as per S.18 of the Act, the complaint has to be allowed.

Done
25/09/2020

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು

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12. 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 was filed on 29/02/2020. The parties have been to ask to appear on 24/04/2020, in the meanwhile on account of natural calamity COVID 19 whole nation was locked down completely from 24/03/2020 till 17/05/2010. After lifting the lock down the case has been called through Skype and the developer has failed to appear and hence judgment is being passed on merits of the case and as such this judgment is being passed with some delay. With this observation, I proceed to pass the following.

ORDER

- a. The Complaint filed by the complainant bearing No. CMP/200229/0005413 is hereby allowed.
- b. The developer is hereby directed to pay delay compensation in the form of simple interest on the total amount paid by the complainant as on September 2019 @ 2% above the MCLR of SBI till the completion of the project by obtaining the Occupancy Certificate.
- c. The developer is also hereby directed to pay Rs.5,000/- as cost of the petition.
- d. Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 25/09/2020).


(K. PALAKSHAPPA)
Adjudicating Officer