



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ Comp. No: 4690

ಪುಟ ಸಂಖ್ಯೆ 15

ವಿಷಯ

Samarth Hegde
Mantri Serenity 5

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

CMP- 4690

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

28.10.2022

As per the request of the Smt. K. Divya Sharma who is a wife of the complainant and Authorised person of the complainant and also on request of Sri. S.R Advocate for the respondent the execution proceeding in this case is taken-up for settlement, in the Lok Adalat.

Sri. S.R Advocate for the respondent and Smt. K. Divya Sharma who is a wife of the complainant are present, in the Lok-Adalat held today and they filed the joint memo during the Lok Adalat settling the matter in connection with execution proceedings. The claim of the complainant in this complaint is fully satisfied as stated in said Joint memo and complainant has no further claim in this case against the respondent whatsoever. The settlement entered between the parties is voluntary and legal one. The settlement is accepted and consequently the execution proceedings in the above case have been closed as settled between the parties in as per the above joint memo. Consequently the revenue recovery certificate issued against the respondent (developer) is hereby recalled. Issue intimation about the recall of the revenue recovery certificate to the concerned DC. Conciliators to pass award.

28/10/22
Judicial Conciliator.

K. Divya Sharma
(K. DIVYA SHARMA)

28/10/22
Advocate Conciliator.

Adv for Resp
28/10/2022

55

BEFORE THE ADJUDICATING OFFICER, RERA, BENGALURU
CMP/191111/0004690

BETWEEN

Samarth Hegde

... COMPLAINANT

AND

Mantori Castles Pvt Ltd.
Presently known as Castle Vista Pvt. Ltd.

... RESPONDENT

JOINT MEMO

It is submitted that, in the above case the dispute between the complainant and the Respondent promoter has been settled out of court, hence the complainant prays that the Hon'ble Authority may be pleased to close the above Execution proceeding in view of the settlement arrived between the parties as settled in the interest of justice and equity. The RRC issued against Respondent may be recalled. in view of settlement.

S. Srinivas
Advocate for Respondent

Divya Sharma
COMPLAINANT
through her Authorized
Signatory K. DIVYA SHARMA

Place: Bengaluru

Date: 28/10/2022

Divya Sharma
K. DIVYA SHARMA

CMP - 4690

28.10.2022

Before the Lok-Adalath

The case in connection with execution proceedings in the above case taken up before the Lok-Adalat. The joint memo reporting settlement is filed during the Lok Adalat in the case is hereby accepted and the said joint memo shall be part and parcel of the award. Hence, the execution proceedings in the above case settled before the Lok-Adalat as per joint memo.

The execution proceedings in the above case stands disposed off as closed accordingly.


28/10/22
Judicial Conciliator.


28/10/22
Advocate Conciliator.

56.

KARNATAKA STATE LEGAL SERVICES AUTHORITY

BEFORE THE LOK ADALAT

**IN THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY AT
BENGALURU**

DATED: 28TH OCTOBER 2022

: CONCILIATORS PRESENT:

Sri. I. F. Bidari

..... Judicial Conciliator

AND

Smt. Preethi N

..... Advocate conciliator

COMPLAINT NO: CMP/191111/0004690

Between

Sri. Samarth Hegde

..... Complainant

(Rep. By: K. Divya Authorised person of complainant)

AND

M/s. Mantri Castles Pvt. Ltd.,
Presently known as Castle Vista Pvt. Ltd
(By: Sri. S.R. Advocate)

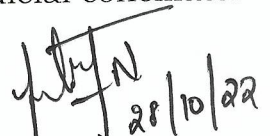
.....Respondent

Award

The dispute between the parties having been referred for determination to the Lok Adalat and the parties having compromised/settled the matter, as per joint memo reporting settlement dated: 28.10.2022 filed during the Lok Adalat, same is accepted. The settlement entered between the parties is voluntary and legal one.

The execution proceedings in the above case stands disposed off as per joint memo and joint memo is ordered to be treated as part and parcel of the award.


Judicial conciliator


Advocate conciliator

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 28th MAY 2020

Complaint No.	CMP/191111/0004690
Complainant	Samartha Heggade 2,2 nd Main Road, Vivekananda nagar, BSK 3 rd Stage, Kathrihuppe Bengaluru-560085
Opponent	Mantri Castles Pvt.Ltd., Mantri House,#41, Vittal Mallya Road, Bengaluru-560042

JUDGMENT

1. Samartha Heggade, the complainant has filed this complaint no.CMP/191111/0004690 under Section 31 of RERA Act against the project "Mantri Serenity 5" developed by 'Mantri Castles Pvt., Ltd.,' seeking for the relief of delay compensation in respect of flat bearing No. N-501. Their complaint reads as under:

The builder has assured possession of my flat N501 in December 2017 but now it is delaying for unknown reason without mentioning the date as I have paid 68.77 lakh in which 52 lakh loan and paying EMI every month

Relief Sought from RERA :Compensation from builder as per act

2. After registering the case, notice has been issued to the parties. The complainant has appeared in person and the respondent has appeared through his advocate Sri Sunil P Prasad but failed to contest the same. During the course of trial the complainant has filed a memo requesting the change of his prayer one for refund of

Devi
28/05/2020

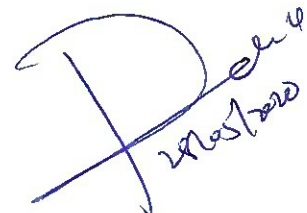
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ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027

his entire amount from the relief of delay compensation. I would say that even though sufficient opportunities have been given the developer has failed to contest the case of the complainant as well as his subsequent memo. The developer has failed to contest the memo means I have to take the same as he has no any serious objection to the claim of the complainant.

3. I have heard arguments complainant and the matter was posted for judgment on merits.
4. The points that arise for my consideration are:
 - a. Whether the complainant is entitled for Refund of the amount as sought in the complaint?
 - b. If so, What is the order?
5. My answer is affirmative for the following

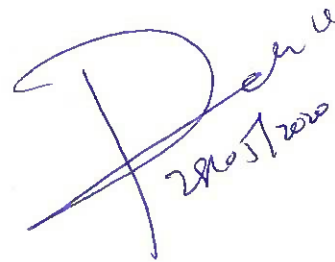
REASONS

6. The complainant has entered into agreement of sale with the developer on 26/05/201 where the developer has agreed to complete the project on or before the end of December 2017 including the grace period. As the developer failed to complete the project the complainant has approached this authority for the appropriate relief. As I have already said that the complainant originally he had sought for delay compensation later he has filed a memo seeking refund of the amount. The said memo was served on the advocate of the respondent for which he never filed any kind of objections including the claim made in the complaint.



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7. The wife of the complainant has appeared with authority on has behalf and produced the documents for having paid the amount to the developer. The Xerox copy of the receipts issued by the respondent proves the payment. The complainant has paid a total sum of Rs. 69,64,585/- to the developer out of it Rs. 16, 77,445/- was the self contribution and rest was through the bank loan. This evidence is not denied by the other side. Though the representative of the developer has appeared but despite of sufficient opportunity he neither settled the dispute nor filed the objection statement. The agreement was of the year 2015 and we are in the year 2020 but fruit is yet to be given means there is a clear violation of S.18 of the Act. Hence, the complainant is certainly entitled for the relief of refund of his amount. The first payment was made in the year April 2015 and as per agreement December 2017 was the deadline to complete the project but till today is project is not completed means there is no any good reason to dismiss the claim of the complainant.
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 was filed on 11/11/2019. In this case the complainant was appeared on 10/01/2020. After hearing arguments of the complainant, the matter came up for judgment. In the meanwhile on account of natural calamity COVID 19 whole nation was put under lock down completely from 24/03/2020 till 17/05/2010 and as such this judgment could not be passed and as such it is with some delay.


28/05/2020

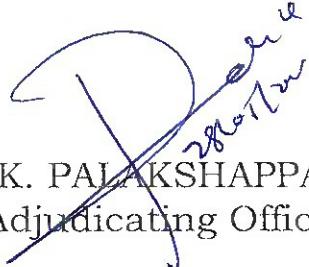
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9. With this observation, I proceed to pass the following.

ORDER

- a. The Complaint filed by the complainants bearing No. CMP/191111/0004690 is hereby allowed.
- b. The developer is hereby directed to refund a sum of Rs. 16,77,445/- together with simple interest @ %P.A. on the respective amount paid on respective date till 30/04/2017 and @ 2% above the MCLR of SBI commencing from 01/05/2017 till the realisation of entire amount. (the rate of MCLR shall be calculated prevailing as on today)
- c. The developer is also directed to discharge the bank loan along with its interest, EMI paid by the complainant on behalf of the developer, EMI if any due and also any other statutory charges.
- d. The developer is also hereby directed to pay Rs.5,000/- as cost of the petition.
- e. The complainant shall execute the cancellation of agreement of sale after realization of entire amount.
- f. Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 28/05/2020).


(K. PALAKSHAPPA)
Adjudicating Officer