

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.

CMP - 5690

BEFORE ADJUDICATING OFFICER
PRESIDED BY SRI K. PALAKSHAPPA
DATED 18th December 2020

Complaint No.	CMP/200312/0005690
Complainant	S. Bahadur C/423, 10 th Cross, Dheeran Nagar, Thirucharapalli, Tamilnadu - 620009 In Person
Opponent	Sands Infratech Developers India Private No. 5, Sands Plaza, 1 st Floor, Vignanagar Main Road, New Thippasandra, Bengaluru - 560037

J U D G E M E N T

1. This Complaint is filed by the Complainant against the Developer seeking for the relief of refund of his amount paid to the developer towards purchase of flat. The facts of the complaint is as follows:

Flat No.403 at sands gateway was booked on 2012 and it was agreed by builder to handover flat by 30/06/2014. Refer attachments for agreement and mail communication. But still the project is under progress and not moving. It has incurred me severe loss. As mentioned in my mails to builder. Because of my worsening job condition I may not be able to pay my loan

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amount to bank. Also the builder is very reluctant to address my concern even after several meeting/emails with him. He always made false promise.

Relief sought from RERA:

This project has caused me direct loss of 10 Lakhs. Hence I need immediate relief from loss made by this project.

2. After registration of the case notice has been issued to the Respondent for which the developer has sent a mail offering some proposal to the complainant but did not take participation in the proceedings.
3. This case was filed in the month of March 2020. Notice has been issued to the developer to file objections but he did not file it. On account of Covid-19 the case was not called in between 24/03/2020 to 17/05/2020 and hence, the case has been called through Skype and heard the complainant.
4. The point that arisen for my consideration was:
 - a. Is the complainant entitled for refund of the amount?
5. My answer is affirmatively for the following;

REASONS

6. It is the case of the complainant that he has entered into agreement with the respondent on 27/06/2013 in respect of

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unit bearing No.403. It is submitted that, the agreement entered into between the Respondents and the complainant stipulates that, the respondent was required to hand over the possession of the subject Apartment on or before 30.06.2014. It is his case that the developer has not performed in completing the project. He has filed this complaint seeking refund of the amount on the ground that Flat No.- 403 at sands gateway was booked in the year 2012 and it was agreed by builder to hand over the same by 30/06/2014, but still the project is under progress and not moving.

7. The developer has failed to appear and failed to answer to the allegations made by him. However he has sent a mail on 10/08/2020 saying that

This is to inform you that, only Amenities and LIFT works are pending in our Sands Gateway Project. We will complete the project on or before 25/11/2020 without any further delay. Meanwhile we paid rent to Bahadur S and we are ready to pay the rent till the period of completion. All details we are communicating to customers.

8. The payment made by the complaint is proved from his documents.

Sr. No	Tran Date	CHQ No.	PARTICULARS	Repayment to bank
1	10/8/2012	537518	Paid to builder during booking	
2	11/9/2012	537519	Paid to builder during agreement	

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3	6/5/2013		Paid to builder	
4	6/7/2013		Paid to builder	
5	8/7/2013		Paid to builder	
6	8/24/2013		Loan disbursement	
7	10/28/2013		Loan disbursement	
8	4/9/2014		Loan disbursement	
9	10-03-2014	-	PHR036100797898 : PEMI_10.03.1	7153.00
10	10-04-2014	-	PHR036100797898 : EMI_10.04.14	8007.00
11	10-05-2014	-	PHR036100797898 : PEMI_10.05.1	10279.00
12	10-06-2014	-	PHR036100797898 : EMI_10.06.14	10621.00
13	10-07-2014	-	PHR036100797898:PEMI_10.07.14	10279.00
14	11-08-2014	-	PHR036100797898:PEMI_10.08.14	10621.00
15	8/28/2014		Loan disbursement	
16	10-09-2014	-	PHR036100797898:PEMI_10.09.14	11483.00
17	10/10/2014		Loan disbursement	
18	10-10-2014	-	PHR036100797898PEMI: 10.10.14	12268.00
19	10-11-2014	-	PHR036100797898:_PEMI10.11.14	14623.00
20	10-12-2014	-	PHR036100797898:_PEMI10.12.14	14121.00
21	12/16/2014		Loan disbursement	
22	10-01-2015	-	PHR036100797898:_PEMI10.01.15	16233.00
23	10-02-2015	-	PHR036100797898:_PEMI10.02.15	16627.00
24	10-03-2015	-	PHR036100797898:_PEMI10.03.15	15018.00
25	3/13/2015		Loan disbursement	
26	10-04-2015	-	PHR036100797898:_PEMI10.04.15	19254.00
27	11-05-2015	-	PHR036100797898:_PEMI10.05.15	18575.00
28	10-06-2015	-	PHR036100797898:_EMI10.06.15	30267.00
29	10-07-2015	-	PHR036100797898:_EMI10.07.15	30267.00
30	10-08-2015	-	PHR036100797898:EMI_10.08.15	30267.00
31	10-09-2015	-	PHR036100797898:EMI_10.09.15	30267.00
32	10/10/2015		Loan disbursement	
33	12-10-2015	-	PHR036100797898:EMI_10.10.15	30267.00
34	10-11-2015	-	PHR036100797898_EMI:10.11.15	30267.00
35	10-12-2015	-	PHR036100797898_EMI_10.12.15	30267.00
36	11-01-2016	-	PHR036100797898 :EMI_10.01.16	30267.00
37	10-02-2016	-	PHR036100797898_EMI_10.02.16	30267.00
38	10-03-2016	-	PHR036100797898_EMI_10.03.16	30267.00
39	11-04-2016	-	PHR036100797898_EMI_10.04.16	30267.00
40	10-05-2016	-	PHR036100797898_EMI_10.05.16	30267.00
41	10-06-2016	-	PHR036100797898:EMI_10.06.16	30267.00
42	11-07-2016	-	PHR036100797898:EMI_10.07.16	30267.00
43	10-08-2016	-	PHR036100797898:EMI_10.08.16	30267.00

Handwritten signature and date: 18/08/2020

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44	12-09-2016	-	PHR036100797898:EMI_10.09.2016	30267.00
45	10-10-2016	-	PHR036100797898:EMI_101016	30267.00
46	10-11-2016	-	PHR036100797898:EMI_101116	30267.00
47	12-12-2016	-	PHR036100797898:EMI_101216	30267.00
48	10-01-2017	-	PHR036100797898:EMI_100117	30267.00
49	10-02-2017	-	PHR036100797898:EMI_10022017	30267.00
50	10-03-2017	-	PHR036100797898:EMI_10.03.17	30267.00
51	10-04-2017	-	PHR036100797898:EMI_100417	30267.00
52	10-05-2017	-	PHR036100797898:EMI_10-05-2017	30267.00
53	12-06-2017	-	PHR036100797898:EMI_12-06-2017	30267.00
54	10-07-2017	-	PHR036100797898:EMI_10-07-2017	30267.00
55	10-08-2017	-	PHR036100797898:EMI_10-08-2017	30267.00
56	11-09-2017	-	PHR036100797898:EMI_11-09-2017	30267.00
57	10-10-2017	-	PHR036100797898:EMI_10-10-2017	30267.00
58	10-11-2017	-	PHR036100797898:EMI_10-11-2017	30267.00
59	11-12-2017	-	PHR036100797898:EMI_11-12-2017	30267.00
60	10-01-2018	-	PHR036100797898:EMI_10-01-2018	30267.00
61	12-02-2018	-	PHR036100797898:EMI_12-02-2018	30267.00
62	12-03-2018	-	PHR036100797898:EMI_12-03-2018	30267.00
63	10-04-2018	-	PHR036100797898:EMI_10-04-2018	30267.00
64	10-05-2018	-	PHR036100797898:EMI_10-05-2018	30267.00
65	11-06-2018	-	PHR036100797898:EMI_10-06-2018	30267.00
66	10-07-2018	-	PHR036100797898:EMI_10-07-2018	30267.00
67	10-08-2018	-	PHR036100797898:EMI_10-08-2018	30267.00
68	10-09-2018	-	PHR036100797898:EMI_10-09-2018	30267.00
69	10-10-2018	-	PHR036100797898:EMI_10-10-2018	30267.00
70	12-11-2018	-	PHR036100797898:EMI_10-11-2018	30267.00
71	10-12-2018	-	PHR036100797898:EMI_10-12-2018	30267.00
72	10-01-2019	-	PHR036100797898:EMI_10-01-2019	30267.00
73	11-02-2019	-	PHR036100797898:EMI_10-02-2019	30267.00
74	11-03-2019	-	PHR036100797898:EMI_10-03-2019	30267.00
75	10-04-2019	-	PHR036100797898:EMI_10-04-2019	30267.00
76	10-05-2019	-	PHR036100797898:EMI_10-05-2019	30267.00
77	10-06-2019	-	PHR036100797898:EMI_10-06-2019	30267.00
78	10-07-2019	-	PHR036100797898:EMI_10-07-2019	30267.00
79	13-08-2019	-	PHR036100797898:EMI_10-08-2019	30267.00
80	11-09-2019	-	PHR036100797898:EMI_10-09-2019	30267.00
81	10-10-2019	-	PHR036100797898:EMI_10-10-2019	30267.00
82	11-11-2019	-	PHR036100797898:EMI_10-11-2019	30267.00
83	10-12-2019	-	PHR036100797898:EMI_10-12-2019	30267.00
84	10-01-2020	-	PHR036100797898:EMI_10-01-2020	30267.00

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85	2/10/2020	-	PHR036100797898_EMI_10-02-2020	30267.00
86	3/10/2020	-	PHR036100797898_EMI_10-03-2020	30267.00
87	4/10/2020	-	PHR036100797898_EMI_10-04-2020	30267.00
88	5/11/2020	-	PHR036100797898_EMI_11-05-2020	30267.00
89	6/10/2020	-	PHR036100797898_EMI_10-06-2020	30267.00
90	7/10/2020	-	PHR036100797898_EMI_11-05-2020	30267.00
88				2,071,716

Summary	
Total amount paid by self to builder till 11-July-2020	
Total amount paid by Bank to builder till 11-July-2020	
Total amount by Self and Bank to builder	
Total amount paid by self to bank till 11-July-2020	
Total Principle paid by self to bank till 11-July-2020	
Total Interest paid by self to bank till 11-July-2020	
Balance principle to be paid by Self to bank	

9. The above statement gives the evidence of the case of the complainant. The other documents produced by the complainant prove the payment made to the developer. All these evidence has not been denied by the other side since he remained absent.

10. This mail supports the case of the complainant since the developer has admitted that the project had not yet completed as on the date of filing of this complaint. The developer was expected to complete the project in the year

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2014 but as per his mail it was not completed. Therefore he is bound to refund the amount or to give compensation based upon the wishes of the complainant. In this case the complainant has not opted one offer made by the developer. As per Section 18 it is the wish of the buyer either to seek delay compensation or to demand for refund of the amount. In the present case he opted for refund for which the developer cannot deny since he has not completed the project within due time.


11. Further another important aspect is that the case of the complainant is proved from the documentary evidence which is not disproved by any mode. With this observation and for reasons discussed as above I allow this complaint.
12. 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 12.03.2020. An account of Covid-19 the case was not called from 16/03/2020, further state has declared the lock down from 24/03/20 to 17/05/20. Further as per SOP open court hearing was stopped and case has been called through skype. The parties have been called for hearing through Skype on 09.11.2020. Again on 17.11.2020 the case was called through Skype and heard the argument of the complainant. Hence the complaint is being disposed of with some delay. With this observation I proceed to pass following order.

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18/11/2020

ORDER

1. The complaint no. CMP/200312/0005690 is allowed.
2. The developer is hereby directed refund a sum of Rs. 5,50,000/-to the complainant.
3. The developer shall pay interest @ of 9% per annum on the respective amount paid on the respective date till 30.04.2017 and @ 2% above the MCLR of SBI commencing from 01.05.2017 till the realization.
4. The developer shall discharge the bank loan, interest, EMI if paid by the complainant on behalf of the developer and any other statutory charges.
5. The developer is also hereby directed to pay Rs.5,000/- as cost of the petition.
6. The complainant may file memo of calculation in case the award is not honoured by the developer within 60 days from today.
7. Intimate the parties regarding this order.

(This Order is Typed, Verified, Corrected and pronounced on 18/12/2020)


K.PALAKSHAPPA
Adjudicating officer