

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
PRESIDED BY SRI K. PALAKSHAPPA
DATED 15th December 2020

Complaint No.	CMP/190131/0002027
Complainant	Satish Jayakumar TF02, Swarna Meridian Homes, 29 th main Road, BTM Layout, 2 nd Stage, Bengaluru- 560076. In Person
Opponent	M.B. Rudramuni NCI Builders & Developers, NO. 90, 2 nd floor, 6 th main, Vijaya Bank Layout, Bilekhahalli post, Bengaluru- 560076. Absent

JUDGEMENT

1. This Complaint is filed by the Complainant seeking for refund of Rs. 1 lakh which was given as booking amount to the developer. The reason for asking the refund has been explained by in his complaint which reads as under.

Respected Sir, I am Satish Jayakumar recently relocated from Chennai to Bangalore. I have booked a ready to occupy flat in MBR LABELLE located near Vijaya Bank Layout, Bilekhahalli. I was told that the property has all the certificates including OC certificate. As no GST is payable on completed building, we met the builder Mr.M.B. Rudramuni through his employee to finalise the price. He asked us to give Rs.100000/- to get the xerox copies of the flat for verification. We paid Rs.10000 in cash and Rs.90000 via cheque and got the papers. Our lawyer said there were no OC, CC and Village Map etc, given by the builder. When we requested from the lawyer office to send the documents

*Done
15/12/2020*

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through Whatsapp, the builder asked me to meet him at his office immediately as he had another appointment. He gave only Village map to me and said he has applied for the OC but yet to receive it. He asked us to pay the GST instead he will make wood work worth Rs.600000/- for the flat. He finalised the property for Rs.7100000/-. When we asked about the GST % , he said it will be known at the time of registration only. He made two documents for Rs.71,00000/- and for Rs.49,50000/-. When we asked why he said one for the bank loan and Rs.49,50000/- for Registration purpose. I had no idea about the property purchase and was in a urgency to get a flat to accommodate family before I join my job. As the builder was friendly and we also liked the house, I agreed to his terms and conditions. I paid Rs.400000/- pdc cheque to enter into a sale agreement. Next day, he took me to the Registrar Office and registered two sale agreements at my cost. My wife felt that wood work done in another flat in MBR LABELLE was not good and hence I requested MR.Rudramuni to reduce the flat price by Rs.600000/- instead of doing wood work. He said no and was very rude to us showing a piece of paper in which he got our signature for finalised value stating he will not spend even one rupee on this flat. We were shocked seeing his attitude post sale agreement. He said GST payable on 12% on Rs.7100000/-. We were under a confusion to believe him or not. He only prepared two documents and after registering both the documents, he said only Rs.7100000/-. We felt that he is not genuine and changing his statement quite often. We decided to not to buy the flat and intimated the same to the builder via phone and whatsapp and mail. We told him to not to deposit the cheque of Rs.400000/- as we have cancelled the agreement. He cancelled the agreement but deposited the cheque also. In spite of our request, he had deposited and the cheque was dishonoured by the bank based on my request. He has not returned my Rs.100000/- paid against booking amount and annoying since April 2018.

Relief Sought from RERA : Please help to get my booking amount with interest

Devi
15/12/2020

2. After registering the complaint notice has been issued to the parties, the complainant has appeared in person where as the respondent has failed appear.
3. This case was to be called on 20/03/2020 but on that day it was not called on account Covid-19 and it was ordered to stop the hearing in open court. Further from 24/03/2020 till 17/05/2020 lock down was declared and as such hearing was not done. Further as per office note, the personal hearing was deferred and as such the parties have been called for hearing through Skype. Complainant has appeared when he was called through Skype. But the developer has not appeared.
4. In view of the same I posted the matter for judgment.
5. The point that arise for my consideration is
 - a. Whether the complainant proves that he is entitled for refund of his amount?
 - b. If so, what is the order?
6. My answer is affirmatively for the following

REASONS

7. It is the case of complainant that he had paid Rs. 1,00,000/- to the buyer as booking amount but now he has filed his complaint seeking refund of the same for the reasons described in the complaint. Those allegations denied by the other side since he remained absent. I have already said that this is an unregistered project. The complainant had paid advance amount but the same was not returned when the developer has failed the complete the project. The developer has failed to appear in this complaint to give his explanation as to the allegations made by the complainant. The agreement produced by the complainant proves the case of the complainant since he has not disproved the same.

Done
15/12/2020

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8. 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 31.01.2019. Originally the case was handled by the Secretary and afterwards it was transmitted to Adjudicating Officer in the month of January 2020. After issuance of notice the wife of the complainant has appeared on 07.02.2020. The developer never appear. The case was posted to 20/03/2020 physical hearing of the cases has been stopped in view of Covid-19 and from 24/03/2020 lock down was declared till 17/05/2020. Hence the complaint is being disposed of with some delay. With this observation I proceed to pass following order.

ORDER

- a. The complaint no. CMP/190131/0002027 is allowed.
- b. The developer shall return Rs. 1,00,000/- to the complainant.
- c. The developer is hereby directed to pay simple interest @ 2% above the MCLR of SBI commencing from the payment till realization.
- d. The developer is also liable to pay cost of Rs.5,000/- to the complainant.
- e. In case of non compliance of this order within 60 days the complainant may file memo of calculation requesting for enforcement of this order.
- f. Intimate the parties regarding this order.

(This Order is Typed, Verified, Corrected and pronounced on 15/12/2020)

K. PALAKSHAPPA
Adjudicating officer