

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 19th DECEMBER 2020

Complaint No.	CMP/UR/171104/0000186
Complainant	Ambarish Nanda and Pooja Goel C/o G.P.Nanda, Shantinagar Odisha - 753001 In person
Opponent	Suresh M No.24, 1 st Floor, Yeshodha Nagara, Opposite to Jakkur Aerodrum, Jakkur Post, Bengaluru -560064 Absent

JUDGMENT

- 1.This Complaint is filed by complainants against the developer seeking for the relief of refund of the booking amount of Rs.2 Lakhs paid in the year 2015 towards Plot No.243 and 244.
- 2.After registering the complaint notice has been issued to the parties, the complainant has appeared in person but the respondent failed to appear.
- 3.Since the complaint was filed against the unregistered project the Secretary has initiated the proceedings against the developer for violation of Section 3 of the Act. In the month of November 2019 this complaint was transmitted to this authority and notice has

Palakshappa
19/12/2020

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

CMP - 186

been issued to the parties. The developer fail to appear and in his absence I have heard the case and posted the matter for judgment on merits.

4. This case was to be called on 03/04/2020 but on that day it was not called on account of 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 was present but the developer has not appeared.

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. The Complainant has sought for refund of the amount paid by him. According to him he has paid Rs 2 Lakh as booking amount. The reasons for filing this Complaint is seeking refund of the amount which is clearly mentioned in his complaint which reads as under:

*This complaint is regarding two properties bought with
Eshanya Projects Pvt Ltd., for Eshanya Green Valley*

Devi
19/12/2020

Project Booking of Plot Number 243 and 244 was made on 07/12/2015 and advance payment of Rs.2,00,000/- was made with a cheque number 253612 drawn on HDFC Bank. It was agreed to complete the sale transaction within a period of 6 months from the date of receipt (07/12/2015) and a two months of grace period on mutual understanding. As per this agreement the sale transaction should have completed by 07/08/2016 including 2 months grace period however it is still not completed until now. On 12/03/2017 we sent an email to Suresh M asking to cancel our booking and refund the money with interest as per RERA. We received a confirmation email from Suresh M on 15/03/2017 promising to refund our money. We also sent a letter via Registered Post to Eshanya Office and followed it by number of phone calls and messages where Suresh promised to refund our money. We have not received our money back until now i.e 04/11/2017 and Suresh has also stopped responding to our calls or messages.

8. The above allegations have not been denied by the other side and in his absence it is proved that the allegations made by the complainant are true.
9. The case of the complainant has been proved by him with the assistance of agreement of sale. The evidence placed by him is not disproved by any mode and as such I believe the case of the complaint. The allegations made in the complaint are sufficient to allow this complaint.
10. 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

[Handwritten signature]
13/09/2017

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

CMP - 186

filed on 04/11/2017. Originally the case was handled by the Secretary and afterwards it was transmitted to Adjudicating Officer in the month of November 2019. After issuance of notice the complainant alone has appeared. When the case was posted to 03/04/2020 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/UR/171104/0000186 is allowed.
- b. The developer shall return Rs. 2,00,000/- to the complainant.
- c. The developer is hereby directed to pay simple interest @ 9% P.A. on the respective amount paid on respective date till 30/04/2017. Further the developer is directed to pay simple interest @ 2% above the MCLR of SBI commencing from May 2017 till realization.
- d. The developer is also liable to pay cost of Rs.5,000/- to the complainant.
- e. The complainant may file memo of calculation as per this order after 60 days in case the developer has failed to comply with the same to enforce the order. Intimate the parties regarding this order.
- f. Intimate the parties.

(This order is Typed, Verified, Corrected and pronounced on 19/12/2020)

K.PALAKSHAPPA

Adjudicating officer