

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು
Karnataka Real Estate Regulatory Authority Bangalore
ನಂ:1/14, ನೆಲ ಷುಹಡಿ, 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 15th December 2020

Complaint No.	CMP/200220/0005481
Complainant	NITIN SINGH F-1105, Springfileds Apartments, Sarjapura Road, Bengaluru – 560 102 In person
Opponent	SHRIVISION HOMES Pvt Ltd Rep. By. Naveen Kumar J. (Authorised Signatory) No. 40/43, 8 th Main, 4 th Cross Sadashivanagar, Bengaluru – 560 080 Rep. by: Sri Joseph Anthony JSM LAW PARTNERS Advocates

J U D G M E N T

1. The complainant has filed this complaint no. CMP/200220/0005481 under Section 31 of RERA Act against the project “SHRIRAM CHIRPING WOODS” developed by ‘SHRIVISION HOMES PRIVATE LIMITED,’. His complaint reads as under :

Deva
15/12/2020

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ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560017

- We booked a flat at Shriram Chirping Woods in March 2015 by making a 20% down payment. We entered into an agreement where the construction agreement mentions the completion date as Dec 2017 with 6 months grace period. Its Feb 2020 now and there has been no progress on our tower. Moreover the builder is denying refund of the 20% down payment made in March 2015 with interest.

Relief Sought from RERA :

Refund with interest for the 20% down payment made in March 2015 and penalty for the delay in payment.

2. In pursuance of the notice issued by this authority the complainant has appeared in person where as the developer has appeared through his advocate.
3. Notice has been issued to the respondent to appear on 14.04.2020 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. On behalf of the developer Kumari Sanya Advocate has appeared and had submitted her arguments.
4. The points that arise for my consideration are:
 1. Whether the complainant is entitled for refund of the amount as prayed in the complaint?
 - b. If so, what is the order?

*Devi
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5. My answer is affirmatively for the following

REASONS

6. This complaint has been filed seeking for the relief for refund of the amount paid by him towards purchase of flat bearing No. 05.11.04
7. According to Complainant, the developer had started to receive the installment amount from March 2015 and agreed to complete the project on or before June 2018 including grace period. The terms of agreement proves the failure on the part of the developer to complete the project.
8. As against the case made out by the Complainant the developer has submitted that it is pertinent to submit that the Schedule Unit could not be completed due to certain factors which were beyond the control of the Respondent Developer. It is pertinent to submit that as per the Construction Agreement, the Respondent Developer is entitled to an extension of time to perform its obligations in the event of any reasons that are beyond the control of Respondent/Developer. It is further pertinent to submit that the Complainant herein has duly acknowledged and signed the said Agreement to Sale thereby evidencing that the Complaint had duly consented to the terms stipulated under the said Agreement.
9. Further the developer had submitted that as per clause 6.1 of the construction agreement the delay caused in getting the raw

Delay
15/12/2018

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು
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materials will not falls liability on the developer to pay delay compensation. Further it is said that the date given to the authority for completion of the project Dec. 2019 shall be taken into consideration. It is also submitted that as per section 72 of the act the Adjudicating Officer has to take the note of some important points while determining the delay compensation.

10. I would like to say that it is already settled position that the due date as agreed in the agreement of sale is the due date for completion of the project. Section 4(2) (1) (C) is the date given to the developer for completion of the project but it is not having any effect on the case of the complainant. The recent observation made by the Hon'ble Apex Court the due date as mentioned in the agreement sale would be the crucial date for computing the delay compensation.
11. I would say that the Complainant had not at all alleged any misappropriation of the fund of the buyers. Therefore by keeping the provisions of Section 72 of the Act I say that the the Complainant is entitled for the refund of the amount since the developer has failed to complete the project within the time mentioned in the agreement of the sale. In pioneer case the Apex Court has said that a buyer should not be made to wait indefinitely for completion of the project. It is referred that 2 years is maximum period to wait. When once the project has not been completed within the due time then a right is accrued to the complainant who cannot be defeated by taking some kind of defense.

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15/10/2020

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು
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12. The complainant has filed the documents showing the payment which has not been disproved by the other side. I have no 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.
13. 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 20.02.2020. The parties have been asked to appear on 14.04.2020, in the meanwhile on account of natural calamity COVID-19 locked down completely was declared from 24/03/2020 till 17/05/2010. After lifting the lock down the case has been called through Skype and heard the parties and as such this judgment is being passed with some delay. With this observation, I proceed to pass the following.

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು
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ಮಿಷನ್ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560027

ORDER

1. The Complaint filed by the complainant bearing No. CMP/200220/0005481 is hereby allowed.
2. The developer is hereby directed to return Rs. 20,67,590/-
3. The developer is here by directed pay simple interest @ 9% per annum on the respective amount paid by the complainant on the respective date till April 2017 and @ 2% above the MCLR of SBI on the said some commencing from May 2017 till the realization of entire amount.
4. The developer is also hereby directed to pay Rs.5,000/- as cost of the petition.
5. In case of non compliance of this order within 60 days the complainant may file memo of calculation requesting for enforcement of this order.
6. Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 15/12/2020).


(K. PALAKSHAPPA)
Adjudicating Officer

CMP-5481

13.08.2022

Before the Lok-Adalath

The execution proceedings in the above case taken up before the Lok-Adalat. The email dated: 23.07.2022 forwarded by the complainant in the case is hereby accepted and the said email shall be part and partial of the award. Hence, the execution proceedings in the above case stands disposed off as settled and closed in the Lok Adalat.


Judicial Conciliator.


Advocate Conciliator.



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತ ಸಂಖ್ಯೆ comp-5481

ಪುಟ ಸಂಖ್ಯೆ 9

ವಿಷಯ Nitin Singh
Shriram dumping woods

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

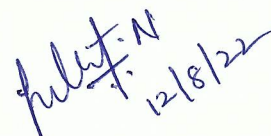
CMP- 5481

12.08.2022

As per the request of the complainant, the execution proceedings in the above case is taken-up for disposal in the National Lok Adalat to be held on 13.08.2022.

The complainant through email dated: 23.07.2022 has reported that respondent has complied the order passed in the above case and he has received the compensation amount. Therefore in view of the said email the execution proceedings in the above case have been closed as settled between the parties. The matter is referred to Lok-Adalat to be held on 13.08.2022 for award.


Judicial Conciliator.


Advocate Conciliator.

KARNATAKA STATE LEGAL SERVICES AUTHORITY
BEFORE THE LOK ADALAT
IN THE KARNATAKA REAL ESTATE REGULATORY AUTHORITY AT
BENGALURU

DATED: 13TH DAY OF AUGUST 2022

: CONCILIATORS PRESENT:

Sri. I. F. Bidari

..... Judicial Conciliator

AND

Smt. Preethi N

..... Advocate conciliator

COMPLAINT NO: CMP/200220/0005481

Between

Mr. Nitin Singh

..... Complainant/s

AND

M/s. Shrivision Towers Private Limited.,

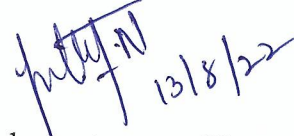
.....Respondent/s

Award

The dispute between the parties having been referred for determination to the Lok Adalat and the parties having settled the matter, as per email dated: 23.07.2022 forwarded by the complainant and same is taken on record during the pre Lok Adalat sitting on dated: 12.08.2022.

The execution proceedings in the above case taken up before the Lok-Adalat. The email dated: 23.07.2022 forwarded by the complainant in the case is hereby accepted and the execution proceedings in the above case have been closed as settled between the parties. The email shall be part and partial of the award.


Judicial conciliator


Advocate conciliator