

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,
1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

PROCEEDINGS OF THE AUTHORITY

Dated 20th of November 2019

COMPLAINT No. CMP/180824/0001173

SUDEEP KUMAR

....Complainant

No. 53/2, 1st Main,
Samruddhi Layout,
Subramanyapura Post,
Bengaluru Urban - 560061.

VERSUS

TEJA PODALI,

....Respondent

Sunrise Avenue,
Balaji Builders and Developers,
2nd Main, 2nd Cross,
Padmanabhanagar 2nd Stage,
Banashankari,
Bengaluru Urban - 560070.

This complaint is filed against the project "Sunrise Avenue" situated in Sy. No. 54/1, Yeliyur Village, Devanahalli Taluk, Bengaluru Rural District being developed by Mr. Teja Podali.

The complaint in brief is that the complainant entered into a sale agreement on 20/02/2015 with respect to plot No. 12 in the Sunrise Avenue Project. It's a plotted development Project. The promoter promised to register a sale deed within 06/07/2015. Another agreement of sale was registered on 20/03/2015 by Mr. Teja Podali and C Mutthappa. Since no

20/11/19

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

sale deed was executed, the complainant vide his letter dated 09/01/2018 requested for the refund of the money paid. The complainant further states that so far he has paid is Rs. 6,31,700/- (Rupees six lakhs thirty one thousand and seven hundred only). The complainant has requested this Authority to direct the promoter to refund the amount paid by him so far along with interest.

The complainant has filed a copy of the Agreement of sale dated 23/04/2015 wherein the sale consideration of the plot is shown as Rs. 4,00,000/- (Rupees four lakhs only). It is also shown that the complainant has paid an advance of Rs. 2,85,000/- (Rupees two lakhs eighty five thousand only). It is further stated in the sale agreement that the sale deed would be executed after obtaining the survey sketch and also after receipt of Rs. 1,15,000/- (Rupees one lakh fifteen thousand only) as the balance of payment.

The complainant has also produced a copy of the legal notice dated 09/01/2018 issued by his advocate to the promoter asking for refund of Rs. 6,31,700/- (Rupees six lakhs thirty one thousand and seven hundred only), along with interest.

Notices were issued by the Authority to both the sides and proceedings conducted. The case was heard on 20/08/2019, 04/09/2019 and on 23/09/2019. In all these hearings the complainant was present and the respondent remained absent and hence was treated as exparte.

It is seen from the records that the said project is an unregistered project.

Section 3(1) of the Act read with the necessary notifications stipulates that all on-going projects as on the date of commencement of the Act, i.e., with effect from 31/07/2017 have to be registered.

Handwritten signature
20/11/19

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

Section 4(1) of the Act reads as "every promoter shall make an application to the Authority or registration of the project is such form, manner, within such time and accompanied by such fee as may be specified by the regulation made by the Authority.

Section 60 of the Act reads "if any promoter provides false information or contravenes the provisions of Section 4, he shall be liable to pay a penalty which may extend up to 5% of the estimated cost of the Real Estate Project, as determined by the Authority.

Section 18 (1) of the Real Estate (Regulation and Development) Act, 2016 reads as under:-

"If the promoter fails to complete or is unable to give possession of an apartment, plot or building,— (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act: Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed".

Hence in this case there is a failure on the part of the promoter to execute a registered sale deed and deliver possession. There is a failure of not registering the project under Section 4 of the Real Estate (Regulation and Development) Act, 2016.

W 20/11/19

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

For the failure on the part of the promoter in not executing the sale deed and in not delivering the possession, the complainant has now claimed refund of the amount paid along with interest. The respondent was neither present nor filed any statement of objections. Therefore the following order.

ORDER

The complaint bearing No. **CMP/180824/0001173** is hereby allowed under Sec. 31 read with Sec. 18 of the Real Estate (Regulation and Development) Act, 2016.

The respondent is hereby directed under Section 18 of the Real Estate (Regulation and Development) Act, 2016, to:-

Refund Rs. 6,31,700/- (Rupees Six Lakhs thirty one thousand seven hundred only) to the complainant along with interest at the rate of 10.75% from the date of last payment till the date of realization.

It is hereby ordered to initiate separate proceedings against the promoter for non registration of the project.


(Adoni Syed Saleem)
Member-1
KRERA