

BEFORE ADJUDICATING OFFICER RERA

BENGALURU, KARNATAKA

Complaint No. CMP/180611/0000909

Presided by:- Sri K.PALAKSHAPPA

Adjudicating Officer.

Date: 27th NOVEMBER 2018

Complainant :RAGHAVENDRA S DIXIT,

**Do no 4569, HT Double Road,
2nd Stage, Vijayanagara,
Mysuru - 570017.**

AND

Opponent

:P.V.Ravindra Kumar

VASATHI AVANTE

M/s Vasathi Housing LTD.,

850/2, 2nd floor, D-Block,

Sahakar Nagar, Bengaluru - 560092.

J U D G E M E N T

1. Raghavendra S. Dixit, has filed this complaint under Section 31 of RERA Act against the project "Vasathi Avante" developed by M/s Vasathi Housing Limited., bearing Complaint no. CMP/180611/0000909. The facts of the Complaint are as follows:

RARE Ref # PR/KN/170808/001088, VASATHI HOUSING LTD, Project Name : VASATHI AVANTE Despite repeated follow up meetings, emails and phone calls with Mr. Ravi of Vasathi Avente on project schedule, Ravi or his associates is neither providing us possession - This is causing me a lot of financial turmoil as I have already

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paid a 95 % amount to the builder and also am paying interest to the SBI bank, - I am required to pay an EMI of each month. All this is causing me a lot of financial burden and mental agony. - Vasathi (Builder) has not started any work on setting up basic amenities.

Relief Sought from RERA : Immediate Possession and also Delay compensation

2. In pursuance of notice issued by this Authority to Complainant was present and Shri Devaraj his Advocate under takes to appear on behalf of the Developer. After several meetings and deliberations finally parties have submitted their arguments.

3. The Complainant has sought for possession and delay compensation. At the time of argument the Complainant has submitted that he is entitled for compensation from the date of agreement. The parties have agreed and entered into agreement for sale and construction agreement. During the course of argument the Complainant has drawn my attention on various grounds. The Developer has agreed to sell the flat bearing no. W1-B-1102 measuring 1076.10 Sft. of super built up area wherein includes 752.77 sft. of Carpet area. The Complainant has filed his written submission taking contention that the Developer is liable to give the following reliefs to him.

1. Register the flat W1-B-1102 for Rs. 59,60,442/- as complete sale consideration amount and hand over the possession of the same.
2. Pay Rs. 22,17,775/- (Rs 16,67,500/- +Rs. 5,50,275/-) unjustly enriched amount of as contended to in para no. 6 of the complaint with interest @18% p.a until realization.
3. Pay Rs. 3,60,000/- loss of rent as contained to in Para 7 of the complaint, with further payment of Rs. 18,000/- per month till completion of the project with OC.

4. Pay Rs. 66,500/- towards loss of interest on EMI as calculated in para no. 8 of the complaint.
5. Pay future interest of 18% upon Rs. 55,04,470/- that has been paid to the respondent.

4. As per the agreement the developer was expected to give the possession by the end of 2016, but the respondent submitted that there is an additional 6 months grace period. The same was opposed by saying that 6 months grace period should be given only in case of all the amenities are given.

5. Now the Developer has given the date of completion in RERA of his project as date: 31/12/2018 but as per the agreement it was to be completed by the end of September 2017. By that time this RERA Act has already come into force. Therefore the Authority has to decide the quantum of compensation per month as delay compensation. As per Section 18 (1) proviso the consumer who is not going to withdraw the project shall be paid by the promoter with interest including the compensation. During the course of calculating the delay compensation the Authority has to look into Section 72 of the RERA Act. The Developer has failed to complete the project on or before September 2017 but however the project is going on and will be completed as per the schedule given to the RERA. No allegation regarding the deviation of the amount to other project. As per sec.18 by the Act Delay Compensation has to be paid @interest prescribed. As per rule 16, it is said under.

Rate of interest payable by the promoter and the allottee:- The rate of interest payable by the promoter to the allottee or by the allottee to the promoter, as the case may be, shall be the State Bank of India highest marginal cost of lending rate plus two percent.

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6. The complainant has sought compensation under different heads with interest @18% , but as per section the rate of interest is already prescribed. Hence, the prayer of the complainant for award of interest @18% holds no water.
7. Coming to section 18 of RERA, the complainant who is not going away from the project is entitled for delay compensation with interest @10.25% P.A from September 2017 till possession is delivered.
8. 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 11/06/2018. As per SOP, 60 days shall be computed from the date of appearance of the parties. In this case the parties were present on 17/07/2018. Further parties tried to resolve the issue as per S.32(g) of the Act, but could not reach. After filing objections and hearing the parties, the case is reserved for orders. Hence, the case could not be disposed off within the time. With this observation I proceed to pass the order.

ORDER

a) The Complaint No. CMP/180611/0000909 is allowed.

b) The developer is directed to pay the interest by way of compensation as per S.18 of the Act, to the complainant @10.25% P.A from September 2017 till possession is delivered.

Intimate the parties regarding this order.

(Typed as per dictation Corrected, Verified and pronounced on 27/11/2018)

(K.PALAKSHAPPA)

Adjudicating Officer