

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 30<sup>th</sup> December 2019

**COMPLAINT No. CMP/190207/0002072**

**Dr. C RAMESH**

No. F-14, Fortune Icon Apartments,  
F- Block, Sahakar Nagar,  
Bengaluru Urban - 560092.

**.....Complainant**

AND

**SSVR CONSTRUCTIONS,**

Rameshwara Nilaya,  
Varnasi Village, T C Palya Post,  
Bengaluru Urban - 560036.

**.....Respondent**

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This complaint has been filed against the project SSVR Fairy Bells, Bengaluru belonging to SSVR Constructions promoter.

Following are the grievances of the complainant:-

- (i) That there was a partition deed between him and Smt. Bhavani of the promoter. As per the family partition deed a 30 feet road has to be left for the public access between the land belonging to the complainant and the promoter.
- (ii) That the survey department has affected the Phodi by colluding with the promoter.
- (iii) That though the village map shows the existence of a Rajkalve, the promoter has encroached the same while developing the project.
- (iv) That though the promoter was refused registration by the RERA he has managed to obtain a occupancy certificate.

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(v) To initiate action against the builder

Notices were issued and enquiry conducted.

Sri. R S Prasanna Kumar, Advocate has filed vakalat on behalf of the complainant and Sri. N R Nagaraja and A V Srinivasa Gowda Advocates have filed vakalat on behalf of the respondent.

The case was posted on different dates and finally arguments were heard on 06/11/2019. Sri. R S Prasanna Kumar Advocate on behalf of the complainant reiterated the averments made in the written complaint and has also argued that there is an injunction issued by the Civil Court in CS. No. 7377/2015 against the promoter not to put constructions. While seeking registration the promoter had not disclosed the fact of litigation. The advocate for the complainant submitted that in any case registration cannot be granted for the said project.

Sri. A V Srinivasa Gowda, Advocate appearing on behalf of the respondent has submitted that the Rajkalve is not encroached and the Occupancy certificate has been obtained and that all the apartments were sold and the complaint is not maintainable and hence has to be dismissed.

Heard both the counsels and perused the documents.

It is seen that there is a Civil Dispute pending between the complainant and the respondent in the Civil Courts. Relief can only be given by the Hon'ble Civil Courts in this regard.

The respondent had filed an application bearing PR/KN/170731/000732 seeking registration of the project under the

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provisions of Real Estate (Regulation and Development) Act, 2016. For non submission of certain documents the said application was rejected by the Interim Real Estate Regulatory Authority vide its order dated 18/11/2017. Complaints were filed by the present complainant before the Adjudicating Officer of this Authority which came to dismissed on 30/01/2018 and another complaint was dismissed on 13/02/2019 on the ground that the said project was not registered under the provisions of the said Real Estate (Regulation and Development) Act, 2016.

As could be seen from the file that the promoter has neither preferred an appeal against the order dated 18/11/2017 of refusal to register and nor has filed a fresh application with the Authority seeking registration. Application seeking the occupancy certificate by the promoter with the competent Authority was filed on 14/07/2017 and the Occupancy certificate has been issued on 19/09/2018. Hence the project SSVR Fairy Bells was an on-going project on the date i.e., on 01/05/2017 when Sec. 3 of the Real Estate (Regulation and Development) Act, 2016 came into force. Therefore the project has necessarily to be registered under the provisions of the Real Estate (Regulation and Development) Act, 2016.

In view of the above, the following order is passed.

**ORDER**

The complaint is partially allowed under Sec. 31 of the Real Estate (Regulation and Development) Act, 2016.

1. A separate proceedings shall be commenced against the promoter for non registration of the project. A show cause

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notice under Sec. 59(1) of the Real Estate (Regulation and Development) Act, 2016 shall be issued to the promoter directing him as to why penalty should not be levied against him.

2. The complaint with respect to the civil dispute and other issues is hereby rejected as non maintainable. The complainant is at liberty to approach proper forum for seeking the relief.

(Adoni Syed Saleem)

Member - 2

KRERA