



ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ

ಕಡತದ ಸಂಖ್ಯೆ CMP 2921

ಪುಟ ಸಂಖ್ಯೆ 4

ವಿಷಯ Regarding Execution of order

ಕಂಡಿಕೆ
ಸಂಖ್ಯೆ

ಟಿಪ್ಪಣಿ ಮತ್ತು ಆದೇಶಗಳು

Complaint under Section 31 of RERA Act has been initiated by the complainant Charu Chawla who is the consumer under the project "Nitesh Cape Cod Phase 2" which is developed by "Nitesh Urban Development Pvt.Ltd.," This complaint was filed by the complainant claiming refund of money with interest. After hearing the parties, order was passed on 19/09/2019 by directing Developer to pay Rs. 22,78,612/- to the Complainant. The developer is hereby directed to pay the interest @ 9% p.a. on the respective amount paid on the respective date prior to 01/05/2017 and @ 2% p.a. above the SBI marginal rate of interest on home loan commencing from 01/05/2017 till realisation. The Complainant is directed to execute the Cancellation of Agreement of Sale after the entire amount is paid by the developer. Further the developer shall pay Rs. 5000/- as cost

The complainant has given a representation on 25/11/2019 to this authority to take action against the developer for recovery of the said amount since the developer failed to comply with the order.

On the basis of the representation, notice was issued to the developer to appear before the Adjudicating Officer on 28/1/2020,. Both the parties were present but the developer failed to return the amount Therefore, the matter was posted for orders.

As per Rule 25 of the Karnataka Real Estate (Regulation and Development) Rules, 2017 the recovery of the amount due is to be considered as arrears of land revenue. In support of the same the authority is



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taking the shelter under Section 40 of the RERA Act which reads as follows;

Sec 40(1): "if a promoter or an allottee of a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the adjudicating officer or the regulatory authority or the appellate authority, as the case may be, under this Act or the rules and regulations made there under, it shall be recoverable from such promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue"

When Sec. 40 read with Rule 25, the Deputy Commissioner is empowered to execute the order dated 19/09/2019 considering this amount as arrears of land revenue and has to be recovered from the developer. Hence the following order:-

ORDER

By acting under Section 40 of the RERA Act, read with Rule 25, the amount payable of Rs 34,16,729/-which treated as arrears of land revenue from the developer "Nitesh Urban Development Pvt. Ltd," and the same has to be recovered by sending the file to Deputy Commissioner for recovery as arrears of land revenue. The same amount shall be deposited in the office bearing Account. (For attachment of property address is attached with this order).

Adjudicating Officer