

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

# 1/14, 2nd Floor, Silver Jubilee Block, Unity Building Compound, CS. Compound,  
3rd Cross, Mission Road, Bengaluru-560077

PROCEEDINGS OF THE AUTHORITY

Dated 23<sup>rd</sup> of July 2021

Ref:	CMP/UR/191022 / 0004539
Complainant	<b>Sri. GIRISH.B.K. AND Smt. JYOTHI.K.N.</b> R/At 301 Brindavan Apartments, No.15, V Floor, Rajeshwari Nagar, Laggere, Bangalore-550058 .
Promoter / Project Name:	<b>Sri NAGENDRA SIMHA ,</b> No.68, III Main, Prashanth Nagar, Bengaluru-560079.  <b>"BRINDAVAN APARTMENTS"</b>

The complainant **Sri. GIRISH.B.K. AND Smt. JYOTHI.K.N.** Bangalore have filed a complaint under Section 18 of the RERA Act, claiming for providing of pending amenities. The matter was earlier heard by the Adjudicating Officer who has opined as under:

*" The Complainant has got the Sale Deed from the developer Nagendrasimha H N on 24/12/2016 with respect to property that is flat bearing no.F102 measuring 1000sq.ft. consisting of 2 bedrooms. This complaint is filed by the complainant for refund of the amount on the ground that the developer has not completed the development i.e. pending amenities, faulty construction building violation, incomplete project, O C & CC not obtained. 'A' Khata is pending.*

*In the course of trial it was brought to my notice that HDFC bank has issued notice u/r 8(6) of the Security Interest (Enforcement) Rules 2002 directing the complainant to discharge the loan amount. It is said by the complainant that the bank has taken the possession of his unit. Though the complainant has filed the complaint for refund of the amount but on 13/2/2020 he has filed an application with amended prayer of his relief.*

*The amended prayer reads as under:*

- To pass order and Decree for registration of the "Brindavan Apartment" under ambit of RERA Act.*
- To pass order and Decree for completion of project as per brochure specifications within time bound manner.*

6/9/8

Vishwanath

Relu

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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3rd Cross, Mission Road, Bengaluru-560027

- To pass order and Decree for to pay sum of Rs.5,17,608/- towards PRE EMI along with interest @lending rate plus 2% p.a as per RERA Act and PRE EMI installments as on date till the completion of the said project.
- To pass interim order directing the respondent to pay PRE, EMI to the HDFC Bank.
- To pass order and decree to pay an penalty and compensation of Rs.20 lakhs for selling defunct schedule property by misrepresentation of facts and by fraud, which is not being built as per sanctioned plan due to which the complaints are bound to suffer huge financial losses mental agony and hardships in the interest of justice and equity.
- To pass order and Decree for to pay a compensation of Rs.3.20/- lakhs towards for cost of registration fees and legal fees along with penal interest as per RERA Act.
- To pass order and decree to pay compensation of Rs. 5 lakhs for causing mental agony distress fraud unfair trade practice harassments etc.

The Adjudicating Officer has forwarded the file to the Authority for hearing.

Notices were issued to both the parties and the case was heard on 10/06/2020, 24/06/2020, 10/07/2020, 29/06/2021, 07/07/2021 and 16/07/2021.

During the proceedings it is revealed that the project has come up on plot area of 1,500 sq feet and the promoter obtained permission from the Planning Authority for construction of 8 flats. However, according to the complainant the promoter has constructed 13 flats. Keeping aside the date of completion of the construction of the flats, the project is outside the scope of the jurisdiction of RERA as under section 3(2)(a) there is no legal requirement of Registration of any project where the area of land proposed to be developed does not exceed 500 square meters or the number of apartments proposed to be developed in a project does not exceed eight inclusive of all phases. The issue whether due to illegal construction of five additional flats would necessitate consideration of

6/8/20

Vishnuvaran

4/8/21

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the authority is not necessary at this stage because the sale deed is on 24/12/2016 and this was before the RERA came into effect.


The complainant admitted that he has not done diligence about the construction being in accordance with the plan sanction. During the hearings the complainant informed that he had obtained loan from HDFC that he could not repay. The HDFC has taken possession of the flat. Due to deviation in plan occupancy certificate is not given and hence the flat has remain unsold. The complainant is unable to produce any document to prove that project comes within the jurisdiction of this Authority. Hence the following order.

**ORDER**

The complaint filed by the complainant bearing No. CMP /UR/191022/0004539 against the developer **Sri H.N. NAGENDRA SIMHA**, is dismissed as the Authority has no jurisdiction to try this matter.

  
(D. Vishnuvardhana Reddy)

Member-1  
K-RERA

  
(Neelamani N Raju)

Member-2  
K-RERA

  
(H.C. Kishore Chandra)

Chairman  
K-RERA

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