

BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA

Presided by Sri K.PALAKSHAPPA

Adjudicating Officer

Complaint No. CMP/190418/0002639

Dated:21st August 2019

Complainant : Sukhlatha Chavan,
PL201, Purva Atria Platina,
Poojary Layout, RMV 2nd Stage,
Bengaluru-560094
Rep. by Mahendra Advocate.

AND

Opponent :M/s. Sovereign Infr. Developers Ltd,
#16, 2nd and 3rd floor,
New BEL road,
Jaladarshini Layout ,
Bangalore-560054
Represented by Sri. Harishkumar M.
Advocate

J U D G M E N T

1. Sukhlatha Chavan has filed this complaint under Section 31 of RERA Act against the project "SOVEREIGN UNNATHI" developed by Sovereign Infrastructure & Developers Ltd., bearing Complaint No.CMP/190418/0002639. The facts of the complaint is as follows:

Me and my late husband had agreed to purchase two flats and signed agreement for two flats C8-14-1 and

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C8-14-2 on December 15th 2011, we made subsequent payments according to demand letters sent by the builder. The builder kept on raising demand letters for construction expenses and various other reasons even though there is no escalation clause in the agreement, as per demand letter dated 26-08-2013 the builder demanded a escalation amount of Rs. 851000/- per flat which we refused to pay and as per the builders demand letter we chose to cancel the agreement and requested for refund of the money with 9% interest since date of agreement and subsequent payments which was agreed by the builder to be paid within six months and even today no amount of money has been paid by the builder to us. After multiple rounds of communication with Mr. Deepak, we have not been able to get our refund with compensation from the builder.

Relief Sought from RERA : Immediate refund with additional compensation.

2. In pursuance of the summons issued by this authority the complainant was present and the developer has not at all appeared
3. Heard the arguments of the Complainant.
4. The point that arisen for my consideration was:
Is the complainant entitled for refund of his amount?

My answer is affirmative for the following

REASONS

5. In this case the Complainant is seeking refund of amount paid to the developer. The developer has failed to appear in response to the summons issued by this Authority.
6. The Complainant has produced the letter addressed by the Developer dated 31/08/2013 wherein some terms and

Deepak
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conditions have been imposed. The Complainant has paid the amount for which he has produced the bank statement. The same is not opposed by the other side since the Developer remained absent. The evidence given by the complainant has not been disputed means the amount paid by the Complainant should be repaid. The complainant has paid Rs.13,46,407/- towards Apartment No. C8-14-1 and the same amount also has been paid to another Apartment bearing No.C8-14-2. In this regard the Complainant has produced the copy of the Agreement of Sale. The same is proved the claim of the Complainant. The Developer has collected the amount since 2011 itself and till today the project is not completed means there is no meaning in going with the project. Further the main reason to go away from the project is escalation of price without any basis. It is alleged that the Developer has demanded Rs. 8,51,000/- to each apartment. Therefore the Complainant had cancelled the Agreement and demanded for refund. The Developer who was expected to complete the project failed to complete it. Hence, the Complainant has no option and accordingly he has demanded for refund. Now the same is not opposed means the Complaint deserves to be allowed. Further the terms mentioned in the letter are material;

Further we would like to call upon you, to exercise any one of the following options:

- (a) To pay a differential amount of Rs. 8,51,000/- within 3 weeks from the date of receipt of this letter. In case you opt for paying this entire amount as lump sum amount, we shall be able to give you a special concession of 10% and we would ask you to pay Rs. 7,69,500/- only.
- (b) If you are interested to pay installments then our company offers you option to pay in 3 installments as below:
- Rs. 425500/- to be paid within 3 weeks from date of receipt of this letter
 - Rs. 212750/- to be paid within 7 weeks from date of receipt of this letter

[Signature]
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- Rs. 212750/- to be paid within 11 weeks from date of receipt of this letter

(C) if you are not interested in paying this and are not willing to pay the differential price for the Apartment- you can choose this option and surrender back our apartment to us. We shall refund you the entire amount (your contribution), paid to us till now, fully along with simple interest of 9.0% per annum and calculated up to the date of making the payment to you; after selling your apartment to a new customer, however not later than six months from date of surrendering of the Apartment.

In case you have availed any housing loan for buying your apartment, we shall return back your contribution towards the purchase of Apartment with 9.0% simple interest to you and the loan component directly to the financing bank with all their costs. We shall also reimburse you the expenses incurred by you to avail this loan, against submission of copies of the relevant documentary evidence.

We would like to impress you that in spite of great hardship, we have worked out the above options (a) to (c) keeping in view of mutual interest and benefit. In case we do not receive any written reply/confirmation regarding your option, within stipulated time, we will presume your silence as consent for cancellation of allotment and will refund the money due to you as per our books of record in the manner stated above.

7. Under the above conditions it is clear that the complainant has filed his complaint for the appropriate relief and his complaint deserves to be allowed.
8. Before passing the final order I would like to say that 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. In this case the Developer was not at all present

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hence the question of delay does not arise. Hence I proceed to pass the following order;

ORDER

The Complaint No. CMP/190418/6002639 is allowed.

The developer is hereby directed to pay Rs. 40,42,814/- (For 2 Flats) to the Complainant. The Developer is also hereby directed to pay interest @ 9% p.a. on the respective payment made on the respective date till 30/04/2017 and also interest @ 10.75% p.a. from 01/05/2017 till the full amount is repaid.

The Developer is also hereby directed to pay Rs. 5,000/- towards the cost of the petition.

The Complainant is hereby directed to execute the cancellation of Agreement of Sale in favor of the Developer after the entire amount is realized.

(Typed as per dictation Corrected, Verified and pronounced on 21st August 2019)

(K.Palakshappa)
Adjudicating Officer