



PROCEEDINGS OF THE AUTHORITY

DATED 12th MARCH 2020

Ref. No.	CMP/171016/0000150
Complainant	MRINAL KUMAR 001, Scion Habitat, 1 st Main Road Doctors Layout, Kasturinagar Bengaluru-560043 (Rep. by: Sri Rishabha Raj Thakur, Advocate)
Opponent	KSR Properties Pvt. Ltd., 23, Sankey Apartment, Square Sankey Cross Road, Sadashivanagar Bengaluru -560003 (Rep. by: Sri R.Muralidara, Advocate)

"J U D G E M E N T"

1. MRINAL KUMAR, Complainant has filed complaint bearing complaint no.CMP/171016/0000150 under Section 31 of RERA Act against developer by name "KSR Properties Pvt. Ltd.,"as the complainant is the consumer in the said project. The complaint is as follows:

I, Mrinal Kumar booked an apartment (CB0608) on 10th Nov, 2011 and executed the agreement attached here-with on 1st Apr, 2013. As per Agreement to Build (AOB), the flat had to be handed over in 23 months i.e. Feb, 2015, with a grace period of 6 months which ended in Aug, 2015. The unexplained delay and repeated failure to meet the deadlines has caused me severe mental harassment, pain and suffering, apart from huge financial loss. While paying the installment payment post Aug, 2015 (23 months + 6 months), I am deducting the amount as per the AOB which amounts to a small value of 8202/- only (1367 SQFT x Rs 6 / SQFT = INR 8202/-) because of the unilateral agreement favouring the builder, however this is far from meeting my financial hardships suffered due to the

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non delivery of my apartment. I request you to refer AOB Pt. 7 which states that, if the Builder delays the project, they are liable to pay Rs. 6 Per / SQFT only, whereas, as per Point AOB 3.1, Consequence of delay to pay by the buyer is fixed at 15%, which is far more in comparison to Rs 6 / SQFT which the builder is liable to compensate. Hence, it is evident that the builder since inception had malafide intention and wanted to make profit out of such unilateral terms and conditions, and mis-appropriated payment received from us by way of trust. I had agreed to purchase my apartment at a higher price of INR 3424 / SQFT+++ (in the year 2011), in comparison to the market rate, only on the basis of the Prospectus (attached here-with) which mentioned amenities as under, but I recently learnt from the builder that the amenities have been unilaterally reduced to save cost, and still they wish to charge us Rs. 150,000/- for the Club house. Prospectus / Brochure - attached for your kind reference. Details of provisions and amenities as per the attached prospectus / brochure which was basis of the sale. Inside the club house A) Banquet Hall, B) Aerobic Centre, C) Squash Court, D) Gym, E) Meditation Hall, F) Library, G) Table Tennis, H) Billiards, I) Snookers, J) Pool Table, K) Spa, L) Jacuzzi, M) Steam Room, N) Sauna, O) Change Rooms, P) Creche, Q) Departmental Store, R) Unisex Saloon Amenities A) Swimming Pool, B) Amphitheater, C) Enchanting Walkaway, D) Half Basketball Court, E) Gazzibo, F) Centralized Gas System, G) Wifi System, H) 24/7 Security System, I) Jogging Track, J) Skating Ring, K) Mystical Fountain, L) Guest Suite, M) Water cascade Needless to say that the builder is enjoying every luxury of life at our cost, and has forced us to lead miserable life, where on one hand we are burdened with the huge EMI for the loan, and on the other hand, have to pay the rent for the existing house. The builder does not give any satisfactory answer for what has been done to the money collected from us in past several years, where most of us have paid 85% of the project's cost already and few have even paid entire 100% of the apartment's cost. The builder keeps citing reasons like Labour shortage, Festivals, Strike, Election, Slump, Demonitization and GST implementation for further delay and thus keeps pushing the deadlines time and again. We as buyers are being given hope always that in next 6 months, we will have the keys of our apartment and then we hear a new reason for extension for another

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6 months. The builder is enjoying our money at marginal cost of Rs. 6 / SQFT and has almost deserted the site due to lack of any deterrence. We were surprised that the builder has not registered the project KSR Cordelia under RERA and cleverly sent an application to BBMP for OC & CC in March, 2017 without completion of basic requisites (even to the date of filing this complaint) and have been stating to us that as they have sent an application to the BBMP, hence this project is out of purview of RERA and they have discussed it with RERA officials. Time and again, we have discussed with the builder for timely completion, increasing compensation, keeping their words on amenities as per the prospectus, meeting the quality workmanship but the builder has failed to meet all of these and have now interpreted the law in their own way for being out of purview of RERA. Thus in the light of above facts, I request to the Hon'ble RERA officials to pass below Interim order: a) To ask KSR Properties Pvt. Ltd. to immediately register the project - KSR Cordelia under RERA. b) To instruct KSR Properties Pvt. Ltd. to meet the latest deadline of 31st Oct, 2017 for completing all apartments / flats for interior purpose. c) To instruct KSR Properties Pvt. Ltd. to meet the new deadline of 31st Dec, 2017 for completing the project in entirety with the amenities as mentioned in the attached prospectus and brochure. d) To instruct KSR Properties Pvt. Ltd. that if there is any reduction in the amenities from the list provided in the Prospectus / Brochure, then they shall waive off the Club house charges of INR 150,000/- which too is also not adequate compensation because I purchased the apartment at a whopping rate of INR 3424 / SQFT in the year 2011 based on the amenities promised by way of Prospectus / Brochure. e) As per the AOB, the interest charged for any delay from the Buyers side in payment is 15% whereas, the delay compensation the Builder is liable to pay is mere Rs. 6 / SQFT, this is a unilateral agreement and delay component of Rs. 6 / SQFT could have been accepted for a month or two, to take care of some spill over, rather than the present scenario where builder has intentionally made the delay and is profiting out of it. Hence the builder should be instructed that in the next installment due, they shall reduce INR 30,000/- x number of month in excess to the 23 months by which the apartment had to be handed over. This 30,000/- is the average rental value for a 3BHK apartment of 1367 SQFT in the area where the said project is

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located. f) To increase the defect liability from 1 year to 5 years from date of OC and CC which ever is later so that the builder is liable for poor workmanship and any cracks and seepage in the building because of delay. g) Any other relief, which the Hon?ble authority feels is justified in this case. h) The difference of GST and VAT be paid by the builder as due to the incessant delay from their end, project has fallen into GST regime.

Relief Sought from RERA : As requested towards the end in the complaint

2. In pursuance of the summons issued by this authority, the parties were present. The complainant is represented by his advocate Rihabha Raj Thakur and the developer is represented by his advocate Sri R. Muralidhar. After filing the objection statement and hearing the parties, the matter was posted for judgment. In the mean while the complainant has sent a mail to this authority on 19/08/2019 which reads as under:

Dear Sirs,

I would like to bring to the notice of the department that Complain No. 150 was filed by me on 16th October 2017.

While so far there has been no action from the department on my complaint, during this period the builder KSR Properties Private Limited has obtained OC and is progressing the project towards completion.

They have committed to handover my flat with all amenities by the end of December 2019.

In view of the above, I would like to withdraw my complaint against the Builder for now.

Request you to acknowledge my complaint withdrawal.

Lithmuralidhar

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[Signature]



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3 The present complaint is being closed as withdrawn as per e-mail sent by the complainant dated 19/08/2019. With this observation, we proceed to pass the following

ORDER

- a. The Complaint filed by the complainant bearing No.CMP/171016/0000150 is hereby treated as closed as withdrawn as per e-mail dated 19/8/2019.

Intimate the parties regarding the order.


(D. Vishnuvardhana Reddy)
Member-1
K-RERA


(Adoni Syed Saleem)
Member-2
K-RERA


(M.R. Kamble)
Chairman
K-RERA

