

BEFORE ADJUDICATING OFFICER, RERA
BENGALURU, KARNATAKA
Presided by Sri K.PALAKSHAPPA
Adjudicating Officer

Complaint No. CMP/190911/0004166

Dated: 16th December 2019

Complainant : Smt. Anita Mohan Nayak
w/o Mohan V Nayak
no.390, 8th A main 11th Cross
Swathantra yodhara Nagar, laggera
Bengaluru -560058

AND

Opponent : M/s Sanchaya Land & Estate Pvt. Ltd.
No.470 HMT Layout R.T. Nagar , near
R.T.Nagara bus stop
Bengaluru - 560032
Rep. By its Managing Director

J U D G E M E N T

1. Anitha Mohan Naik , has filed this complaint under Section 31 of RERA Act against the project "The Green Phase-2 " developed by Sanchaya Land & Estate Pvt. Ltd. bearing Complaint no. CMP/190911/0004166. The facts of the complaint is as follows:

As per the terms and conditions mentioned in the Agreements, the Promoter was supposed to hand over the possession of the Apartment on or before September 2015 extendable for six month to complete along with common area and amenities. However, despite considerable efflux of time and despite several reminders they have miserably failed to meet their deadline of completing the project and handing over possession of the Apartment to us.

Relief Sought from RERA :Repay Rs. 8,93,755.00 a/w interest of 24% p.a.

2. In pursuance of the summons issued by this authority the complainant has appeared through her counsel Shri.Nityananda S.G. The developer has failed to appear throughout the trial.

Devi
16/12/19

3. I have heard the arguments.
4. The point that arise for my consideration is as to
 - a. Whether the complainant proves that he is entitled for the relief as prayed in the complainant?
5. My answer is affirmative for the following:

REASONS

6. The complainant has filed this complaint seeking for refund of her amount paid to the developer in respect of flat bearing No.309. The complainant has entered with agreement with the developer on 19/03/2014 where the developer has agreed to complete the project on or before March 2016 including the grace period. The complainant has said at the time of argument that he has paid a sum of Rs. 8,93,755/- to the developer. But the developer has not completed the project. It is said by the complainant that she sent legal notice for which he has not replied. Further he failed to either to pay the delay compensation or refund of the amount. Hence, she has filed this complaint. Evidence given by the complainant has not been answered by the developer. Keeping away from the proceedings is not proper answer to the claim.
7. The developer has failed to appear and contest the case. The evidence produced by the complainant is sufficient to believe his case. As per Section 18 of the Act the developer who fails to complete the project within time as given in the agreement of sale shall return the amount. Accordingly this complaint has to be allowed.

8. As per S.71(2) RERA, the complaint shall be closed within 60 days from the date of filing. In this case the Complaint was presented on 11/09/2019. The complainant was present on 05/11/2019 but the developer was not at all present. 60 days has to be computed from the date of appearance of the parties and as such the question of delay does not arise. With this observation I proceed to pass the order.

ORDER

The complaint No. CMP/190911/0004166 is allowed.

- a. The developer is hereby directed to return Rs, 8,93,755/-.
- b. The developer is directed to pay interest @ 9% p.a. on the respective amount paid on respective date till 30/04/2017
- c. Further the developer is also directed to pay interest on the amount paid @ 2%p.a. above the MCLR of SBI from 1/05/2017 till the entire amount is realised.
- d. The complainant is hereby directed to execute cancellation of agreement of sale after the entire amount is realized.
- e. Further the developer has to pay Rs. 5,000/- towards cost of petition.

Intimate the parties regarding the order.

(Typed as per dictated, corrected, verified and pronounced on 16/12/2019).

(K.Palakshappa)
Adjudicating Officer

NOT AN OFFICIAL COPY