

PROCEEDINGS OF THE AUTHORITY

Dated 25th of AUGUST 2020

Ref:	CMP/190902/0004108 OF 2019
Complainant	Saroj Kumar Padhi, Flat No.A-404, Umiya Woods, ECC Road, Whitefield, Bangalore - 560 066 Mob No: 88865-44566
Promoter / Respondents	Aniruddha Bhanuprasad Mehta Proprietor, Umiya Builders & Developers, # 29/3, H. V. Stagfford, 2 nd Floor, 7 th Cross, Vasanthnagar, Bangalore-560052

FACTS OF THE CASE:

1. In the Online complaint dated 2.9.2019, the complainant has alleged that the developer had promised a premier property at the time of execution of sale agreement dated 28.4.2017. Thereafter the complainant availed finance from SBI via home loans. The sale agreement was for a property developed on Khata No. 809/1153/57/2 of Pattandur Agrahara, Mahadevapura Ward, Whitefield, Bangalore. In order to ascertain the true facts the complainant filed an application under RTI and ascertained that no approvals had been given for the property to be developed on the above said survey number.

When the issue was raised with the promoter, he agreed and further said that the property was in fact developed on Khata No. 629/1153/57/2. But the complainant did not agreed to purchase the property created on the said Khata No. 629/1153/57/2 on the following grounds.

- (i) That the RCC work is defective
- (ii) In the basement retaining walls should have been constructed to withstand the pressure of external soil and water pressure.

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Karnataka Real Estate Regulatory Authority,

1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

- (iii) The lift shaft of 1 block (c Block) has not been extended upto basement – 2.
- (iv) Both the basement work and the STP are not satisfactorily constructed.
- (v) The Bangalore Building Bye laws – 2003 has been violated during construction.
- (vi) The gym and club house are not equipped.
- (vii) The garbage recycling process is yet to be installed.

Hence in view of the above defects, the complainant has requested for refund and has expressed refusal to get the sale agreement registered for the property situated in Khata No. 629/1153/57/2.

Notices were issued and enquiry conducted.

Mr. Sanjay Nair and other advocates have filed vakalat on behalf of the promoters and have filed a written statement containing the following salient points.

- (i) The complainant has to immediately vacate the apartment bearing No. A-404 within a period of one week.
- (ii) Even though the respondents is entitled to deduct Rs. 17,94,000/- i.e., twenty percent of the sale consideration towards liquidated damages as per the clause in the agreement to sell, the respondent is not enforcing their right.
- (iii) The respondent is ready to refund the GST amount also.
- (iv) The complainants will have to withdraw all the complaints filed against the respondent and also execute a separate deed for cancellation.
- (v) The respondent will not refund the payments made towards sales tax and service tax amounting to Rs. 3,99,900/-. The complainant has to pay maintenance charge for seven months amounting to Rs. 69,136/- i.e.,

G. Shrinivas

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the respondent agreed to refund an amount of Rs.
92,45,440/-.

On 17.12.2019 both the complainant and the developer were present and the complainant expressed his intention to exit from the project and the developer accepted to refund the amount due to the complainant. They were ask to file a joint memo within 23.12.2019 and the case was posted for orders.


A joint memo has directed above as not been filed.

Since the complainant has expressed his intention to withdraw and the respondent has agreed to refund the amount, as per the proceedings dated 17.12.2019, the following orders are passed.

ORDER

The complaint bearing No.
CMP/190902/0004108 is hereby allowed with the
following directions:-

The promoter of the project had undertaken to refund the money paid by the allottee as recorded in the proceedings dated 17/12/2019. Accordingly, the promoter of the project is hereby directed to refund an amount of Rs. 92,45,440/- to the complainant within 60 days from the date of receipt of this order. The complainant is directed to sign cancellation deed simultaneously on receipt of the refund amount.


(Adoni Syed Saleem)
Member - 2
KRERA


(D. Vishnuvardhana Reddy)
Member-1
KRERA


(M.R Kamble)
Chairman
KRERA

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