

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

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

PROCEEDINGS OF THE AUTHORITY

Dated 31st January 2019

Complaint No. CMP/180514/0000832

PD PAI,

.....Complainant

Represented by GPA Holder P Ravindra Pai,
No. 3/1, 4th Floor, JP Techno Park,
Millers Road,
Bengaluru Urban – 560052

AND

HJ SHIVANI AND MJ SHIVANI,

.....Respondent

HM Geneva House,
No. 14, Cunningham Road,
Bengaluru Urban – 560052.

This complaint has been filed against the project “HM Indigo 3.0 (Lavender – Phase 2 of HM World City)”, which is a registered project bearing No. PR/KN/170818/001354.

Following are the main issues raised in the complaint.

- (i) That Mr. P D Pai had entered into an agreement of venture on 19/03/2004 with the Respondent to carry on the business for the promotion, development, marketing and sale of the property in Kothnur and Raghavana Palya Village, Uttrahalli Hobli, Bengaluru South Taluk.
- (ii) It was agreed to construct residential apartments in the said project and the respondents would be in charge of the day to day affairs.



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- (iii) Due to mismanagement and non co-operation on the part of the respondent, a dispute had arisen and that the complainant had invoked arbitration clause for breach of contract.
- (iv) The Hon'ble XXVII Additional City Civil Judge, Bengaluru in A.A No. 378/2017 its order dated 20/01/2018 had ordered transfer of 24 % of the total collection from the project to the complainants account. This order is yet to be complied with.
- (v) As per the agreement of venture dated 19/03/2004 the respondent was duty bound to obtain approval of the project including registration under the provisions of the Real Estate (Regulation and Development) Act, 2016.
- (vi) The project was to be completed and the share of the complainant was to be received within 2014 and as a result of inordinate delay on the part of the respondent, the project has come within the preview of the Real Estate Regulatory Authority, for which the respondent alone is responsible.
- (vii) To ensure compliances to the Real Estate (Regulation and Development) Act, 2016.
- (viii) The respondent should be directed to stop the sales of the apartments in HM World City.

Notices were issued to both the sides and the case was heard.

Sri. Chandan, Advocate has filed vakalat on behalf of the complainant and Sri. Abhinav R and others are filed vakalat on behalf of the respondent.

The Advocate for the complainant has filed a MEMO along with an agreement of venture dated 19/03/2004, GPA dated 07/09/2016 and



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order dated 20/01/2018 of the Hon'ble XXVII Additional City Civil Judge, Bengaluru in A.A No. 378/2017.

The respondent in his objections dated 28/08/2019 has submitted as under:-

- (i) That the complaint is not maintainable. It is not in accordance with Rule 29(1) of the Real Estate (Regulation and Development) Rules, 2017.
- (ii) That the complainant is not an aggrieved party.
- (iii) That the complainant is making an attempt to absolve himself from obeying the law of the land.
- (iv) In view of the above the complaint has to be dismissed.

Heard both sides and perused the documents. The complainant has entered into a joint venture with the respondent by means of an agreement dated 19/03/2004. Since there was dispute between the complainant and the respondent the arbitration case was filed and came to be decreed on 20/01/2018, by partly allowing the claims of the complainant.

Under Section 31 of the Real Estate (Regulation and Development) Act, 2016, any aggrieved person can file a complaint. The complainant does not claim to be an allottee. The complainant has failed to demonstrate as to which provision of the Real Estate (Regulation and Development) Act, 2016 there has been violation.

Since the complaint is against the registered project, the promoter is bound by the duties cast on him under the provisions of the Real Estate (Regulation and Development) Act, 2016. The Authority can take up these issues independently of the complaint.



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In view of the same following order is passed.

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint filed herein is rejected as not maintainable.


(Adoni Syed Saleem)
Member - 2
KRERA