

Before Sh. J. S. Khushdil, Member
The Real Estate Regulatory Authority, Punjab

Complaint No. 9
Date of Institution – 23/08/2017
Date of Decision – 11/01/2018

Jagtar Singh S/o Sh. Charan Singh, R/o: Plot No. 21, Krishna Enclave,
Sirhind Road, Patiala.

Complainant

Versus

Harjeet Singh S/o Sh. Harbans Singh & Sh. Talwinder Singh S/o
Sh. Surinder Singh, (Managing Director Gurkirat Promoters & Developers)
R/o: Kothi No. 55, Majithia Enclave, Patiala.

Respondent

Present: Sh. Jagtar Singh - in person.

ORDER

The complainant has filed this complaint alleging certain violations and contraventions against promoter of Krishna Enclave M/s Gurkirat Promoters & Developers Private Limited, Himmatgarh Dhakola, NAC Zirakpur, Tehsil Derabassi, Distt. Mohali. The case was at the initial stage i.e. for consideration of the point of admissibility of the complaint before the Authority. The complainant has made statement that he had purchased a plot measuring 287.5 sq. yd. (plot No. 21) from M/s Gurkirat Promoters & Developers Private Limited through its Managing Director Sh. Harjeet Singh S/o Sh. Harbans Singh and further through his special attorney namely Sh. Talwinder Singh S/o Sh. Surinder Singh vide registered sale deed dated 28-02-2013. The Gurkirat Promoters & Developers Private Limited assured him that the project namely "KRISHNA ENCALVE" is approved project from PUDA. He believed this assertion made by the above said developer. He was not being provided the basic amenities as claimed by them at the time of executing the sale deed dated 28-2-2013 in his favour. At present there is no electricity connection given to his residence. As per his knowledge the project Krishna Enclave was not registered at the time of filing the instant complaint. Since there are legal flaws in this case, therefore, he be permitted to withdraw this complaint with permission to file fresh complaint.



This Authority has held in case of Bikramjit Singh and others, Complaint No. 3 of 2017 decided on 13/12/2017 that the complaint would not be maintainable in relation to the projects which are not registered with this Authority. This decision was further followed in the subsequent cases also. The Hon'ble Bombay High Court has further held in Judicial Pronouncement No. 2737 of 2017 dated 06/12/2017 in case of Neelkamal Realtors Suburban Pvt. Ltd and others Vs Union of India and others that "the Authority concerned would be dealing with the cases coming before it in respect of projects registered under RERA". Thus, in view of the decision of the Hon'ble Bombay High Court, decision of this Authority as well as the statement of the complainant, this complaint is held not maintainable. The complaint is accordingly rejected, however, the complainant is at liberty to file a fresh complaint in the proper forum if so advised.

The complainant has stated that legal action may also be initiated against the promoter. As per the report of the office as well as the statement of the complainant the project "KRISHNA ENCALVE" is not registered under Section 3 of the Act. The promoter, however, is required to get a real estate project register with the Real Estate Regulatory Authority unless such promoter seeks exemption under this Act vis a vis under Section 3. Thus, without getting the project registered no promoter shall advertise, market, book sell or offer for sale or invite persons to purchase in any manner any plot, apartment or building as the case may be. Therefore, it is required from the respondent promoter to get his project registered if the same is not registered. The promoter may be asked to get his project register or to explain as to why and how his project is exempted from the requirement of registration of the project under reference. Copy of the order be sent to the complainant. A copy of this order be also forwarded to the Administration Branch of this Authority to initiate further legal action against the promoter under law.

The main file be consigned to the record room.

(J.S. Khushdil)
Member

11/1/2018

