

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 BEFORE FULL BENCH

DATED 24th March 2026

PRESENT

SHRI. RAKESH SINGH, HON'BLE CHAIRMAN

SHRI G.R REDDY, HON'BLE MEMBER

COMPLAINT NO: 00972/2024

COMPLAINANT....

Promont Residents Welfare Association
The Promont (TATA) Tower 2-1902 Karnataka
Bengaluru - 560085

And also at

No-23 2nd Floor East Park Road Kumarapark
East Karnataka
Bengaluru Urban - 560001

(Rep. by Shri. ShivaKumar, Advocate)

Vs

RESPONDENTS.....

1.M/s TATA Housing Development Co. Ltd
E Block Voltas Preised T B Kadam Marg
Mumbai - 400033

2. The Promont Hilltop Private Limited
"Cornichle Al-Latheef", Ground Floor, 'A' Wing.
No.25, Cunningham Road
Bengaluru - 560052

(Rep. by Smt. Samiha Gopal, Advocate)

JUDGEMENT

1. This complaint is filed by the complainant under section 31 of the RERA Act against the project "The Promont" developed by **M/s TATA Housing Development Co Ltd.**, seeking relief of direction to the

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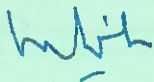
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respondent to register the project 'Promont' under RERA, to amend a fair Deed of Declaration and to rectify the defects in phase 1.

2. This project is unregistered one.
3. Said project is situated at SY NO. 168 (Old SY No.7) 3rd Main, Ittamadu, Hosakere Halli Village, Uttarahalli Hobli, Banashankari 3rd Stage Bengaluru.

Brief facts of the complaint are as under:-

4. The complainant herein is the Residents Welfare Association registered under the Karnataka Societies Registration Act, 1960 and the allottees residing in Phase -I of the project "The Promont" developed and built by the respondent no.1 and 2 herein consisting of 312 flat units. At the time of purchasing the flats, the allottees were promised that Phase-I would comprise of 312 flats in four towers (Tower 1-90 flats, Tower 2-82 flats, Tower 3-74 flats and Tower 4-66 flats), the respondents shall further develop Phase-II which shall consists of 24 Row Houses and Phase-III shall comprise of 46 stepped houses. The respondent no.1 herein had obtained plan approval in 2014 from BBMP for Phase-I & II and completed the Phase-I in the year 2017. The members of the complainant 'Residents Welfare Association' are the allottees in Phase-I of the project. the individual home buyers, after going through the offer of the Respondents in Print media and company brochure, purchased the individual flats by paying consideration to the respondents. The complainant association was formed by the allottees when the respondent no.1 did not execute the Deed of Declaration and failed to carry out adequate maintenance of the apartments in Phase-I.





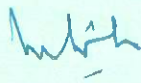
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The complainant sent the list of defects in emails. The respondent no.1 has not rectified all the defects till date which amounts to deficiency of service by the developer, thereby creating hardship to the members of the complainant association. The respondent no.1 had obtained a partial occupancy certificate for Towers 3 and 4 first. Subsequently, the partial occupancy certificate for Tower 1 was obtained by the developer.

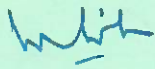
5. Despite being an ongoing project, the respondents have not registered Phase-1 of the project with RERA. The respondent no.1 - developer did not execute the Deed of Declaration (DOD) at the time of completion of Phase-I of the project. But, they chose to execute the same only in June 2024. This Deed of Declaration (DOD) was based on the modified plan approved by BBMP in the year 2023. The complainant has sent a legal notice to the respondents on 14.03.2024 and 31.08.2024. The respondents replied on 06.05.2024 only to the legal notice of the complainant dated 14.03.2024 which did not address the issues raised by the complainant in their Legal Notices. No response has been received for the legal notice dated 31.08.2024 from the respondents till date. Hence, this complaint.
6. After registration of the compliant, in pursuance of the notice the respondents have appeared before this Authority through their counsel, but not contested the matter by filing the statement of objections, producing documents etc. on its behalf.

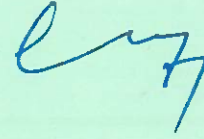


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7. The complainant in support of its claim has produced / uploaded documents such as copies of registration certificate of Association of Allottees, resolution authorising president PRWA to file this complaint, plan approved by BBMP in 2014, email communications, partial occupancy certificate of Tower 3 and 4 dated 23.08.2016, partial occupancy certificate of Tower 1 and 2 dated 23.08.2017, deed of declaration dated 01.06.2024, modified plan approved by BBMP in 2023 and legal notices dated 14.03.2024, 31.08.2024.
8. The respondents have not produced any documents on their behalf.
9. Hearings of this matter were conducted on 24.01.2025, 17.02.2025, 13.03.2025, 08.04.2025 and 25.04.2025.
10. Heard Arguments of complainant association.
11. **On the above averments, the following points would arise for our consideration:-**
 1. Whether the complainant association is entitled for the reliefs claimed?
 2. What order?
12. **Our answer to the above points are as under:-**
 1. In the Negative.
 2. As per final order for the following.





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REASONS

13. **Our answer to Point No.1:-** Here in this case, grievance of the complainant welfare association is that when their association was formed by the allottees, the respondent no 1 did not execute the Deed of Declaration and failed to carry out adequate maintenance of phase I in the project "The Promont". The complainant association sent a list of defects in email, the respondent no.1 had not rectified all the defects till date which amounts to deficiency of service. Further, the respondent no.1 had obtained partial occupancy certificate for tower 3 and 4 and subsequently procured partial occupancy certificate for tower 1 and 2. Despite being an ongoing project, the respondents have not registered the phase I of the said project with RERA. The respondents have executed DOD of Phase I only in month of June 2024 based on modified plan approved by BBMP in the year 2023. The respondents have not responded to the legal notice dated 31.08.2024 sent by the complainant association till date.

14. Admittedly, the members of the complainant 'Resident Welfare Association' are the allottees in phase I of the said project. It is not in dispute that the plan of said project was approved by BBMP in year 2014 and the respondents had procured the partial occupancy certificate of tower 3 and 4 on 23.08.2016 and subsequently they had obtained partial occupancy certificate of tower 1 and 2 on 23.08.2017. Further, the respondents have obtained modified plan

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[Signature]

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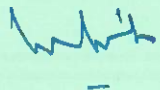
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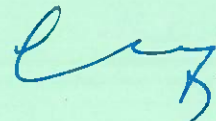
approved by BBMP in 2023 and thereafter executed Deed of Declaration on 01.06.2024.

15. At this juncture, our attention is drawn towards the decision of our Hon'ble High Court of Karnataka in case of W.P.No.18843/2022 M/s. Cambian Technologies Private Limited V/s Karnataka Real estate Regulatory Authority and Maraya Rose by UKN residents welfare association in which it is held that the projects already completed or to which the completion certificate has been granted are not under its fold and therefore vested or accrued rights if any, in no manner are affected. In terms of sub Rule (iv) of rule 4 of the rules those properties to which the applications are filed before the competent authority seeking occupancy certificate either partial or complete need not be registered with RERA. If no registration is required with RERA, the RERA would not get any authority to entertain any complaint against any property to which occupancy certificate is sought for either partial or complete.

16. The principle laid down in the aforesaid decision is aptly applicable to the present case on hand. Herein this case, after completion of the phase 1 of the said project, the respondents have applied for partial occupancy certificate on 19.05.2016 and 20.06.2017.

17. It is apparent from the copy of partial occupancy certificate pertaining to towers 1 and 2 that the promoter had applied for





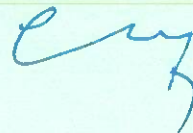
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partial on 20.06.2017 and procured the same on 23.08.2017. So, upon completion of the tower 1 and 2, the respondents have applied occupancy certificate prior to enactment of RERA. Irrespective of when the occupancy certificate was issued, the eligibility for obtaining occupancy certificate has to be reckoned from the date of application itself. From that point of view, the provision of RERA doesn't attract to the case on hand. Therefore, even though the occupancy certificate was issued subsequent to enactment of RERA, the case falls within the exemption provided under the Act. Hence, the present complaint would not be maintainable in any stretch of imagination before the Authority.

18. When the complaint itself is not maintainable, no scope is remained for consideration with regard to any grievances urged by the complainant.
19. Having regard to all these aspects, it is clear that the project 'The Promont' does not come within the definition of ongoing project. Hence, the said project requires no registration with RERA.
20. Taking into consideration of facts and circumstances of the case we are of the considered view that it is just and proper to dispose of this matter with a liberty to the complainants to approach appropriate forum for the reliefs claimed on the same grounds in this case.
21. The final order in the present complaint could not be passed within the stipulated period as prescribed under section 29(4) of the Real Estate (Regulation and Development) Act of 2016

With
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due to multiple adjournments sought by advocates / parties and other procedural reasons. Accordingly, this case is disposed of.

22. **Our answer to Point No.2:** - In view of the above discussion, this complaint deserves to be disposed of. Accordingly, we proceed to pass the following:

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **00972/2024** is hereby disposed of with a liberty to the complainant association to approach appropriate forum for the same reliefs on the same grounds.

No order as to costs.


(G.R.REDDY)
MEMBER
K-RERA


(RAKESH SINGH)
CHAIRMAN
K- RERA