

ಕರ್ನಾಟಕ ರಿಯಲ್‌ಎಸ್ಟೇಟ್ 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 BEFORE THE AUTHORITY**

**Dated 4th January 2024**

**CMP/UR/190904/0003967**

**Present**

**Hon'ble Chairman Shri. H.C. Kishore Chandra**

**Hon'ble Member Smt. Neelmani N Raju**

**Hon'ble Member Shri. G.R.Reddy**

**Complainant.....**

**Bhagyalakshmi N**  
No.100, 3rd Main,  
Jayamahar Extension,  
Bengaluru - 560046.  
(By Shri. Mohan Kumar, Advocate)

**V/S**

**Respondents.....**

- 1. Provident Housing Limited**  
130/1 Ulsoor Road Bangalore,  
Bengaluru-560042.  
(By Shri. Anandarama, Advocate)
- 2. Ashish Ravi Puravankara**  
130/1 Ulsoor Road Bangalore,  
Bengaluru-560042.
- 3. NaniRusiChoksey**  
130/1 Ulsoor Road  
Bengaluru-560042.
- 4. Amanda Joy Puravankara**  
130/1 Ulsoor Road,  
Bengaluru-560042.  
(Respondent No.2 to 4 are absent)

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1. This complaint is filed under section 31 of the RERA Act against the project "Provident Welworth City" developed by "Provident Housing Limited" of the respondent for the relief of direction to the respondent to register the project, handover the title documents to the association, to provide occupancy certificate, KPTCL and BESCOM connections, for bank indemnity, WTP and STP.
2. This project is not registered with RERA.
3. The said project is situated at Sy.No.30, 31, 32, 33, 34 and 161, Arakere Village, Hesaraghatta Hobli, Bengaluru.

**Brief facts of the complaint are as under:-**

4. The complainant had purchased a flat bearing No.G12 in the project Provident Welworth City of the respondent in the year 2012. The entire said project is developed over 41 acres consisting of 3360 flats. When the sale deed was executed in her favour, the entire project was not developed. The respondent has not completed the entire project even today and the following works are still pending.

- i)KPTCL and BESCOM installation of the Sub-station is incomplete.
- ii)Occupancy certificate for the entire project is not issued.
- iii)Title deed/mother deed of the project is mortgage with other bank and same is not been discharged.
- iv)The commercial complex which is part of the project is not yet started as such the project is incomplete.
- v)Title Deed/mother deed has not been handed over to any association of person.
- vi)The Respondents have not shared service and vat record for having remitted the money collected on the aforesaid project.

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Vii)The Respondents have not cleared the partition litigation pending before the Civil Court in the aforesaid project since the inception of the project.

viii)The respondents have not provided STP and WTP in the project.

5. The same promoter is indulged in irregularities in various other projects like Provident Sunworth and is engaged in various pre-launch etc.
6. With regard to Provident Sunworth, the said project is under investigation of this Authority and is red listed. However, in order to overcome the legal hurdle the said promoter is changed the name of the project from Provident Sunworth had renamed it as Provident Equinox 1 Provident Equinox 1 (4N, 4P, 4Q, 4R) and Provident Equinox 2 . It is pertinent to state that the provident has combined the Provident Welworth and Provident Sunworth and other project and raised huge sum of bank loan.
7. With regard to Provident Sunworth/Equinox both the project should be declared as under investigation. The promoter should be blacklisted for indulging in unfair trade practices and misleading the RERA authorities and bank and financial institution.Hence, this complaint.
8. After registration of the complaint, in pursuance of the notice, the respondent No.1 has appeared before the Authority through their counsel and contested the matter by filing statement of objections. Respondents No.2 to 4 have not appeared before the Authority and remained absent.
9. Statement of objections of respondent No.1 is as under







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He has denied each every allegation made against them by the complainant as false. According to him this project has been completed and occupancy certificate dated 31/05/2013 and 18/06/2014 has been issued. The RERA Act came into effect from 01/05/2016. Therefore, the Act is not applicable to the said project and there is no obligation to register the said project under the Act. Hence, this complaint is not maintainable. Further, the complainant has filed 3 suits in O.S.No.679/2016 before rural court Bengaluru, O.S.3162/2019 and 2104/2020 before city civil court Bengaluru. Having failed to get any relief in the said suits, the complainant has filed the present complaint after almost 10 years from the date of registration of sale deed and after 8 years from the date of issuance of occupancy certificate. The respondents No.2 to 4 are not necessary parties. The complainant has no locus standi in respect of other projects of this promoter. Further, all the amenities and facilities have been provided in the said project.

10. Further, it is contended that the credit facility was availed by keeping security of unsold units, balance receivable of sold units and land areas of the respective projects Provident Welworth City and Provident Sunworth that are yet to be launched. The said credit facility has been fully repaired/discharged. In so far as the issue relating to the substation is concerned the same is pending for consideration in W.P.No.16450/2022(GM-KEB) filed by the association of owners. There is no partition litigation pending in so far as the present project is concerned and the STP and WTP are fully functioning. This project has been handed over to the

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association way back in June 2016. Hence, prayed to dismiss the complaint.

11. The complainant has filed rejoinder stating that at the time of executing sale deed dated 15/12/2012 many of the blocks were not ready and were under construction. At the time of implementation of RERA Act, the respondent had not completed the said project. The respondent instead of completing the project, hurriedly called for an election of resident welfare association which came to be challenged before civil court by the residents of apartment in O.S.No.1462/2015 and O.S.1464/2015. Thereafter, the respondent withdrew the election and settled the suits. Immediately with few supporters the respondent called for another election without following the due process of law. Hence, the complainant herein has challenged the same in O.S.No.679/2016 which is pending for adjudication.
12. Further, she has contended that the respondent knowing fully that the said project was incomplete and needed huge finance had approached the various financial institutions by mortgaging the title deeds that even during the year 2017. The respondent had approached IDBI Trustees ship Service Limited and obtained the loan of Rs.370 crores by depositing title documents. Hence, the complainant herein had filed a suit in O.S.No.3162/2019 before civil court and during the course of hearing the respondent had modified the loan and further raised nearly Rs.750 crores by closing Rs.370 crores. The action of the respondent in raising continuous loan over the said project which he claims to be completed by obtaining occupancy certificate dated 18/06/2014 is nothing but



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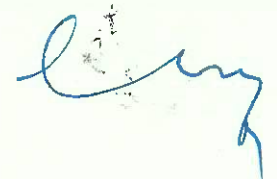
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blatant lie. Since, the respondent had modified the charges and increased the loan amount the complainant withdrew the said O.S.No.3162/2019 with a liberty to file fresh suit. The said suit challenging the loan transaction was numbered as O.S.No.2104/2020. Further, in W.P.No.16450/2022 the KPTCL has been continuously issuing notice to the respondent to implement the sub-station as per the requirement of the sanctioned plan. The respondent has produced fabricated occupancy certificate alleged to be issued by Arakere Gram Panchayat which has no power to issue any occupancy certificate. Only BIAAPA has the right to issue such occupancy certificate. However, BIAAPA has issued partial occupancy certificate for 3 tower/block and club house. The respondent himself had addressed to the BIAAPA to extend the term of the plan for a further period of 3 years vide letter dated 14/05/2013. Therefore, the said project was incomplete in the year 2013 and 2014. Till date certain issues are unresolved and the respondent is trying to block the main entrance gate and intends to close the same in order to develop the commercial complex there.

13. Further, he has contended that the Hon'ble High court of Karnataka has in W.P.No.11522/2012 c/w W.P.No.739/2013 between Bengaluru housing development and investments v/s BBMP held that partial occupancy certificate is invalid. Hence, prayed to allow the complaint.
14. On the other hand, the respondent has filed statement of reply to the aforesaid rejoinder as under.
15. The occupancy certificate issued by the Arakere Gram panchayat is a valid document which is in accordance with law. Though initially







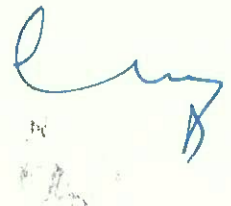
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BIAAPA had issued occupancy certificate dated 17/05/2012, subsequently BIAAPA has issued endorsement during October 2012 stating that there is no provision in the Town and Country Planning Act enabling BIAAP to issue the occupancy certificate. Hence, the respondent has approached the jurisdictional Gram Panchayat for occupancy certificate. Both occupancy certificates are dated 31/05/2013 and 18/06/2014 and as such RERA Act is not applicable to the said project. In so far as the STP is concerned the same has been installed as per the pre approval obtained from KSPCB and the same was built and certified by KSPCB in its consent for operation vide letter dated 05/12/2012 and the same has been renewed subsequently. With regard to commercial development is concerned the commercial portion of the project belonging to the promoter and the same has been clearly mentioned in the sale agreement and in the sale deed vide clause 7. There are no litigations pertaining to partitions or any unresolved issues. The judgement of Hon'ble High court of Karnataka in W.P.No.11522/2012 e/w W.P.No.739/2013 totally under different circumstance and the same is not applicable to the present case on hand. Hence, prayed to dismiss the complaint.

16. In support of their claim, the complainant has produced the documents such as the copies of agreement of sale, statement of account, sale deed, loan document, KPTCL Letter, occupancy certificate dated 17/05/2012, letter dated 14/05/2013, certificate of incorporation, Registrar order dated 13/09/2019 and final order in W.P.No.11522/2012.



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17. On the other hand, in support of his defence, the respondent No.1 has furnished the documents such as copies of occupancy certificate dated 31/05/2013 and 18/06/2014, decision in W.P.No.18448/2021, plaint in O.S.No.679/2016, O.S.No.3162/2019, O.S.No.2104/2020, endorsement issued by BIAPPA and communications regarding credit facility being fully repaid/discharged.
18. This matter was heard on 08/11/2022, 03/01/2023, 10/01/2023 and finally on 24/01/2023.
19. Heard Arguments.
20. **Based on the above averments, the following points would arise for our consideration:-**
- 1) Whether the project Provident Welworth City requires registration?
  - 2) Whether the complainant is entitled for the reliefs claimed with regard to handover title documents to association, for occupancy certificate and amenities?
  - 3) What order?
21. **Findings on the above points are as under:-**
- 1) In the Affirmative
  - 2) In the Affirmative
  - 3) As per final order for the following

**REASONS**

22. **Findings on point No. 1:-**One of the claim of the complainant is that the project 'Provident Welworth City' is not registered with RERA and it was an ongoing project as on the date when









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RERA Act came into force. The occupancy certificates dated 31/05/2013 and 18/06/2014 obtained by the respondent from Arakere Gram Panchayat are not valid. Because the BIAPPA had issued partial occupancy certificate on 17/05/2012 and hence the authority which has issued partial occupancy certificates is the only competent authority to issue complete occupancy certificates.

23. Same is resisted by the respondent on various grounds contending that the said project has been completed and occupancy certificates have been obtained on 31/05/2013 and 18/06/2014 respectively. Therefore, there is no obligation on the respondent to register the said project under the RERA Act.

24. From the materials available on record it is apparent that the respondent had obtained partial occupancy certificate dated 17/05/2012 from BIAPPA and obtained occupancy certificates dated 31/05/2013 and 18/06/2014 from Arakere Gram Panchayat in respect of the said project. The respondent is disputing to register the said project under RERA claiming that he had completed the entire project before the enforcement of said Act and also he had provided entire amenities as agreed.

25. As per section 3 and 4 of RERA Act the projects which were not completed in all respect have to be considered as ongoing project and such projects require registration with RERA. As per provision of Karnataka Country and Town Planning Act under which BIAPPA authority is established, the BIAPPA has jurisdiction to sanction the building plan of a large scale. Herein







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this, there are in all 3360 units in the said project. Hence, for such a large scale project BIAPPA is the only competent authority to issue occupancy certificate. The respondent is relying on the occupancy certificates issued by Arakere Gram Panchayat. As per section 9 to 18 (b) of chapter 3 of Karnataka Country and Town Planning Act, the village Panchayat has no power to issue occupancy certificate for such a large scale project. Both occupancy certificates are issued by Arakere Gram Panchayat as per section 64 of Karnataka Village Panchayat Act 1993. Said section 64 of the Act reads as under.

(1) *Subject to such rules as may be prescribed, no person shall erect any building or alter or add to any existing building or reconstruct any building without the written permission of the Grama Panchayat. The permission may be granted on payment of such fees as may be specified by bye-laws.*

(2) *If the Grama Panchayat does not, within sixty days from the receipt of the application determine whether such permission should be given or not and communicate its decision to the applicant, such permission shall be deemed to have been given and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or bye-laws made under this Act.*

(3) *Whenever any building is erected, added to or reconstructed without such permission or in any manner contrary to the rules prescribed under sub-section (1) or any conditions imposed by the permission granted, the Grama Panchayat may, whether any action is taken or not against such person under section 298,-*

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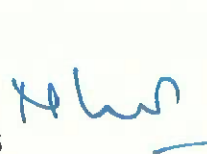
(a) direct that the building, alteration or addition be stopped;  
or

(b) by written notice require within a reasonable period to be specified therein , such building, alteration or addition to be altered or demolished as it may deem necessary for the promotion of public health or prevention of danger to life or property.

(4) In the event of non-compliance with the terms of any notice under clause (b) of sub-section (3) within the period specified in the notice, it shall be lawful for the Grama Panchayat to take such action as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the Grama Panchayat shall be paid by the person or persons upon whom the notice was served and shall be recoverable as if it were a tax imposed under section 199.

(5) An appeal shall lie to the <sup>1</sup>[Executive officer]<sup>1</sup> from any order or direction or notice of the Grama Panchayat under sub-section (1), (2) or (3) and his decision on such appeal shall be final.

(6) Any appeal under sub-section (5) pending before the Public Works and Amenities Committee of the Zilla Parishad shall on the date of commencement of the Karnataka Panchayat Raj Act, 1993 stand transferred to the Assistant Commissioner and such appeal shall be decided by him as if it had been filed before him."



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26. Further, as per rules of Karnataka Panchayat Raj(Gram Panchayat control over erection of building) 1994 a Gram Panchayat has power to sanction building plan only upto 3 floors whereas the project 'Provident Welworth City' is a large scale spreading across 41 acres, consisting of numerous blocks, towers totally having 3360 apartment units. Each tower is having ground plus 8 floors. Therefore Arakerer Gram Panchayat has no right to issue occupancy certificates which is beyond their limit as per the provisions of both Karnataka Country and Town Planning Act r/w Karnataka Panchayat Raj Act.

27. Section 75 of Karnataka Country and Town Planning Act reads as under

*Bye-laws(1) A Planning Authority may, with the previous sanction of the state Government, make bye-laws consistent with the provisions of this Act and the rules there under to carry out the purposes included in the Master Plan.*

*(2) A bye-law made under this section may provide that a person contravening any of the provisions of the bye-laws which are specified in such bye-law shall on conviction, be punished with fine, which may extend to one hundred rupees and in the case of a continuing contravention, with an additional fine, which may extend to five rupees for every day during such contravention continues after conviction for the first such contravention.*

*(3) The power to make bye-laws under this section shall be subject to the conditions of previous publication and such*

*Ad*

*HWS*

*luy*

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*publication shall be in official Gazette and in such other manner  
a may be directed by the State Government.*

28. Hence, viewed from any angle the Arakere Gram panchayat has no power to issue occupancy certificate in respect of such a large scale project. It is pertinent to note that the respondent had intimated the complainant vide email dated 11/08/2023 that the respondent/builder makes the property tax payment until the date of occupancy certificate for all sold and unsold apartments, once occupancy certificate is received, customer is liable to make payment of property tax and a customer expected to make the payment of property tax from the date of receipt of occupancy certificate till date. The respondent had also intimated the complainant that "later they must submit the property tax payment receipts with us (provident). Upon which our team will verify/calculate and will process for reimbursement of the amount from the date of occupancy certificate to intimation of possession (sent to you by our registration team) and this amount will be reimbursed by us to the customers". Thus, it is apparent from the said email that the respondent himself has admitted regarding paying of property tax by them till obtaining occupancy certificate. Accordingly, the point raised above is answered in the Affirmative.

29. **Findings on point No. 2:-** According to the complainant, the respondent has not yet handed over the title documents to their association, not provided OC, KPTCL and BESCO connection and also not completed all the amenities. It is

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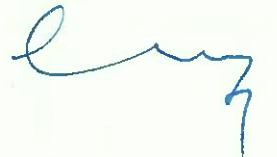
further case of the complainant that she has filed original suit before the civil court in O.S No.679/2016 challenging the election of the Association established by the respondent under Karnataka Apartment Ownership Act and same is pending. Similarly, the complainant has filed another original suit in O.S No.2104/2020 pending before the civil court, wherein the complainant has challenged the deposit of the title documents with various Banks and raising finance.

30. On the other hand, the respondent is contending that the KPTCL issue is not completed since the Association of Owners, has preferred a Writ Petition before Honourable High Court of Karnataka in W.P No.16450/2022 (GM-KEB. In so far as the deposit of title document is concerned, the respondent has produced written statement of O.S No.2104/2020, wherein it is admitted that the title document is deposited, since the respondent has many apartments which are not sold.

31. From this, it is clear that the amenities such as KPTCL which should have completed way back in year 2016 when the RERA Act came into effect was pending and now the respondent is trying to take shelter under the writ petition preferred in the year 2022 by the Association of Owners. Hence, it is established that the respondent has failed to complete the project with basic amenities even as on today. It is pertinent to note that the respondent has failed to produce any document to substantiate that the STP and WTP are provided by showing licence of the same from the concerned authorities.







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32. On the issue of deposit of title documents, the RERA Act as well as Karnataka Apartment Ownership Act clearly mandate that if the project is completed, the title documents needs to be handed over the Association of Owners as per section 17 of the RERA Act. The respondent on one hand claims that the project is completed but on the other hand is claiming that the title documents are deposited for raising the loan for completion of the project. From this it is clear that the said project is not complete as on this date and the respondent has not provided all the amenities including KPTCL and BESCOM connection, WTP and STP. This is further strengthens by the fact that the title documents are deposited by the respondent with financial institution and raising huge loan for completion of the project.

33. Having regard to all these aspects, we arrived to a conclusion that the respondent has not completed the project till date and has not provided all the amenities as agreed. Accordingly, this issue is answered in the Affirmative.

34. **Findings on point No. 3:-**In view of the above discussion, this complaint deserves to be allowed. Hence, we proceed to pass the following

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**ORDER**

In exercise of the powers conferred under section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.**CMP/UR/190904/0003967** is hereby allowed as under

1. The respondent is hereby directed to register the project "Provident Welworth City" under section 3 of RERA Act immediately.
2. Further, the respondent is directed to complete the project and to clear the entire loan proceeds and to hand over the entire title documents pertaining to the said project to the Association of Allottees.
3. Further, the respondent is directed to provide Occupancy Certificate, KPTCL and BESCOM connections, WTP and STP plants within 60 days from the date of this Order.
4. The complainant is at liberty to initiate action in accordance with law, if the respondent fails to comply with this order.

No order to cost.

  
(Neelmani N Raju)

Member  
K-RERA

  
(G.R.Reddy)

Member  
K-RERA

  
(H.C.Kishore Chandra)

Chairman  
K-RERA