



KERALA REAL ESTATE REGULATORY AUTHORITY
THIRUVANANTHAPURAM

Complaint No: 111/2021

Dated 20th June 2022

Present: Smt. Preetha P Menon, Member

Complainant

Sreekumar K G
Villa No.2, Pravasi Nakshatra,
Cherukode, Peyad,
Trivandrum-695573.

Respondents

1. Sree Nakshatra Developers,
Palayam, Airport Road,
Pettah, Thiruvananthapuram-695024.
2. Ryan Markose,
Palayam, Airport Road,
Pettah, Thiruvananthapuram-695024.

The above Complaint came up for virtual hearing today. Only the Complainant attended the hearing.



ORDER

1. The case of the Complainant is as follows:- the Complainant is an allottee of project named 'Sreenakshatra Pravasi; located at Vilappil village, Thiruvananthapuram District. He had purchased 6 cents of property vide sale deed No.2084 in 2009 from the Respondents. The Respondent has constructed compound wall having 1.6 meter heights between Villa No.1 &2 and the Complainant is the owner of Villa No.2. On 03/02/2021, the Respondents along with some labours attempted to increase the height of compound wall from 1.6 to 2 Meters without the consent and knowledge of the complainant, against the same the Complainant had filed a complaint before the Vilappilsala Police station. Thereafter on 05/02/2021 in the absence of the complainant, the Respondents increased 30cm height of the said compound wall. At the time of registration of property the Respondent made a lot of promises in favour of house amenities like construction of car parking, designer lobby, waste recycling etc. The complainant also paid full amount of money but the respondent failed to act with the promises that they had made before. Later the unlawful increase of the sidewall is completely done without the prime consent and knowledge of the complainant. The complainant and his dependents also suffered some health related issues and discomfort after the construction to increase the height of the sidewall. The air circulation and light invasion in the house premises were struck down by the act of the Respondents. The unlawful construction made by the respondents is not in accordance with the building rules and regulations made by the represented authorities. It is totally against the project agreement made by the respondents. The relief sought by the Complainant is (1) the unauthorised modification made by the Respondents in the compound wall between the Plot

No.1 & 2 be brought back to the same to the original structure. (2) Though the project construction was initiated in 2010 and even after 12 years, the project has not been handed over to the allottee by the developer and a proper residence association was not formed, as promised by the developer. (3) undivided share of land was not handed over to the Allottees (4) water connection from Kerala Water Authority is not provided (5) provide other amenities like 2 fully furnished guest rooms, Individual Name boards and letter boxes for each villa, Common Rooms like Library, Pantry area and car parking spaces for Guests, As per the contract, the developer is to provide the allottee with Jaquar sanitary wares in their respective villas instead they have provided some other brand, underground electrical connections where promised, but instead the developer has provided the allottee with open cable connections.

2. The Respondent has filed objection stating that the Complainant is not maintainable either in law or on facts and no unlawful construction was made by the Respondent as depicted in the complaint. The complainant is deliberately creating totally false and vexatious allegations against the Respondent. The side wall construction mentioned in the above Complaint is by obeying the fire and safety standards. In fact, the ground level of the Respondent's property existed slightly in lower level compared to the filled with soil to create standard ground level. At present, the ground level of the two properties are almost equal. There is absolutely no violation existing in the aforesaid boundary wall construction. The Respondent further submitted that there is no unlawful construction made by the Respondent in any manner. The present height of the side wall is limited as per the rules and regulations of the Building rules. The side wall construction is done by the Respondent based upon



the rules and regulations mentioned in the Building Rules and Regulations. It is totally obeying the project agreement and with present laws and legislations.

3. Heard both parties in detail. During the hearing the Authority found that the only issue with regard to the Complainant is that the Respondent has increased the height of the Compound wall without his permission. To verify and report the matter in issue, the Authority deputed two of its officers to inspect the site. As per the report and photographs submitted by them, which is marked as **Exbt.X1**, " a compound wall is constructed in between Villa No.1 & Villa No.2 owned by the Complainant. The issue raised by the Complainant concerning the height of the compound wall constructed in between the villas, need to be settled internally, since no rules exists in Kerala Panchayat Building Rules, covering the height of compound wall. The alleged compound wall being constructed in such a height will not create any hindrance to the air circulation or light. An association of allottees has been formed which is functioning in the project. The common facilities such as club house, gymnasium, children's play area, multiple hall, security cabin, landscaped area etc. are seen provided in the project, but not exactly in accordance with the approved lay out plan in terms of location and area". It was also noted by the officers that the common facilities are not properly maintained, in the project. In the final hearing the Complainant reiterated that his only grievance is with regard to the height of the compound wall. He had purchased the said property through Sale Deed No.2084/2009 and he has been living there since 7 years. It is also noted that the project with common amenities has been already handed over to the association and the association is maintaining the said common amenities. Copies of agreement, Site layout of Pravasi Nakshatra, Villa Layout, Complaints given to



Panchayth & Nedumangad RDO & copies of Photographs are produced from the part of Complainant.

4. In view of the above, it is very clear that the subject matter in issue is only with regard to the height of compound wall for which the Authority has no jurisdiction to entertain. The Complainant can approach appropriate forum for getting his grievance redressed. Hence the above Complaint is hereby dismissed.

No order as to costs.

[Handwritten mark]

Sd/-

Smt. Preetha P Menon
Member

[Handwritten mark]
/True Copy/Forwarded By/Order
[Handwritten signature]
Secretary (legal)



EXHIBITS

Exbt.A1 - Copy of agreement.

Exbt.A2 - Copy of Site layout of Pravasi Nakshatra.

Exbt.A3 - Copy of Villa Layout.

Exbt.A4 series -Copy of Complaint given to Panchayath & Nedumangad RDO.

Exbt.A5 Series - Photographs.

Exbt.X1 - Report submitted by officers of the Authority.

