



**KERALA REAL ESTATE REGULATORY AUTHORITY
THIRUVANANTHAPURAM**

Complaint Nos. 128/22

Present: Sri. P. H Kurian, Chairman
Smt. Preetha P Menon

Dated 30th November, 2022

Complainant

Thomas Mathew
Secretary
Bayvue Owners Association
Kottayam
[Adv. A K Satheesh]

Respondent

1. Joseph Lukose
12-C, Aliance Residency
Maraine Drive,
Ernakulam
2. The Secretary
Panachikkad Grama Panchayat
Panachikkad,
Kottayam



The Counsel for the Complainant attended the final hearing. The Respondents did not attend the hearing.

ORDER

1. The Complainant is the association of Allottees in the Project “Nucleus Bayvue” known and registered as Bayvue Owner’s Association which is represented by its secretary. The Allottees have entered into tripartite agreements with the 1st Respondent who is the land owner and Nucleus Premium Properties Private Limited who is the Promoter and purchased a total of 102.16 Ares equivalent to 252.43 cents of property in Panachikkadu Village Kottayam District described in schedule A of the Agreements. The 1st Respondent has obtained building permit from 2nd Respondent Panchayath for constructing the residential complex as villa Project named “Nucleus Bayvue”. Even though the building permits were granted as single permits for each villa as per the sale agreement the 1st Respondent had agreed to develop the land as a villa project named ‘Nucleus Bayvue’. The Complainant submitted that as per the agreement for Construction, the 1st Respondent and the Promoter had agreed to complete the project with various amenities but subsequently the promoter deviated from the contract and was not ready to



complete the project. Some of the Allottees have filed Complaints before this Authority individually which were numbered 7/ 2019, 8/2019,9/2019,10/2019 &146/2019 against the Promoter & the 1st Respondent herein in which a common order dated 23.10.2020 was passed by the Authority, as per which one of the directions was that the 4th Respondent (1st Respondent herein) should complete all pending registrations of sale deeds in favour of allottees. But the Respondent/Land Owner has withdrawn and deviated from earlier promises. In compliance with the 2nd direction in the above said common order, an association of allottees known as Bayvue Owners Association who is the Complainant herein was formed and registered as KTM/TC/259/2021 dated 10/11/2021 and a bank account was also opened in the name of the Association. The Complainants have complied with the directions in the order in all possible ways. The allottees who were the members of the association have completed the Construction of villas in accordance with the building permits issued by the 2nd Respondent by spending their own hard-earned money. Even after completing the construction of villas, the 2nd Respondent Secretary of the Local Authority is not numbering the completed houses stating the reason that project is not completed by the Promoter, Nucleus Premium Properties Private Limited. But the said Promoter/ company is in the process of liquidation as part of the NCLT proceedings and a



public advertisement/ announcement was also made by the Resolution Professional on 26/11/2021.

2. The Complainant further submits that the Construction of villas was completed as per the individual plans and separate building permits issued but the project completion is far beyond the management of the Complainant Association and its members. Hence, the 2nd Respondent cannot insist the allottees to complete the project as it is beyond the control and limits of the Complainant Association and its members who were the allottees. The demand of the 2nd Respondent to complete the project by the Complainant is beyond the directions issued by the Authority. The villa owners have completed the construction of villas through the Association and presently, they have no other option other than to approach the Authority seeking merciful intervention to attain the fruits of the earlier order. The completion works as stated in the Building permit is completed even though the builder is yet to complete the whole project. The following are the members who have completed the villas with their hard earned money

SL No	No of Villa	Name
1	3	Varghese Joseph
2	7	M C Philipose
3	8	Reji Jacob



4	9	Ani Abraham
5	11&12	Reena Susan
6	13&14	Reena Christy
7	19	V Kuriakose
8	20	Jacob George
9	27	Thomas Mathew
10	29	Prince Mathew
11	33	Mano Mathew

The relief sought by the Complainant is to (a) *direct the 2nd Respondent to number the villas that were constructed in compliance with the earlier order*, (b) *direct the 1st Respondent to comply with the order, and to execute sale deed of common areas in favour of the Complainant Association*. The copies of the Building permits, Registration Certificate, copy of the earlier order of the Authority in Complaints No. 7/ 2019, 8/2019,9/2019,10/2019 &146/2019 are produced by the Complainants.

3. The 1st Respondent neither entered appearance nor filed any objection statement despite repeated notices from the Authority.



4. The Project in question is registered under section 3 of the Act, 2016 with registration no. PRJ/196/2021 and the same expired on 28/02/2022.

5. The above Complaint came up for hearing on 29/09/2022. The documents produced by the Complainant are marked as **Exhibit No. A1 to A3**. On 26/07/2022, The Secretary of the 2nd Respondent/Panchayath attended the hearing and submitted a letter stating that the 1st Respondent/Land owner has not rectified the details pointed out in the report of Engineer so far and after rectifying the same, the Panchayath can move further on this matter. The letter issued to the Landowner Mr. Joseph Lukose was also submitted which is marked as **Exhibit B1**. He also submitted that no application has been received from the Allottees or the Association with respect to the numbering of their villas. Some of the allottees filed Complaints No. 7/2019, 8/2019, 9/2019, 10/2019, 97/2020 & 146/2020 asking for relief of completion, in which the Authority issued an order dated 23/10/2020. But the Promoter failed to comply with the directions as per the said order and it is noted that the Promoter Company undergoes a liquidation process now. The direction No. 1 of the common order dated 23/10/2020 was to the Respondent No. 4, who is the 1st Respondent herein to complete all the pending registrations of Sale Deeds with regard to the title of individual plots in favour of allottees and common areas to the Association



of allottees. But after hearing the above Complaint, it is noticed that Respondent No. 1/ Land owner has failed to comply with the aforementioned direction till date. The 2nd prayer in the above Complaint is to direct the 1st Respondent to comply with the order and to execute the sale deed of common areas in favour of the Complainant Association. It was held by the Authority (para 5 of page 18) in the aforementioned common order dated 23/10/2020 in Complaint Nos 7/ 2019, 8/2019,9/2019,10/2019 &146/2019 as follows: *“(5) During the hearings, the Respondents No.1-3 in Complaint No. 7/2019 to 10/2019 recurrently stated that they were ready with stamp papers and all to comply with the direction given by this Authority to complete the sale deed registrations but could not complete them due to the non-co-operation from the part of the Land Owner. It is clear that the Respondent/Land Owner Mr. Joseph Lukose is a party to the sale & construction agreements executed with the allottees. He is a party in all these agreements as First Party-Land owner who assures allottees to convey title over the plots as well as the common areas of the project. So, he cannot be absolved from the responsibility of executing sale deeds to the Allottees with whom he had executed such Sale & Construction Agreements.”*

6. The counsel for the Complainant submitted that the access land of the project in question was in the name of the Land Owner, but when the plots were transferred to the allottees, the right to use the access land was also transferred by the Land Owner. Hence, the application of the Allottees for



numbering the villas can be considered by the Panchayat on the basis of the sale deeds registered for individual plots.

7. On the basis of the above facts and invoking Section 37 of the Act, 2016, this Authority hereby directs as follows-

- i. The members of the Complainant Association those who completed construction of their villas shall submit applications before Respondent No. 2, for getting their individual villas numbered. Each of them shall also submit copies of sale deeds executed in their favour, along with the application.
- ii. The Respondent No. 1 shall execute the sale deed with regard to the common area in favour of the Complainant Association within one month from the date of receipt of this order, as directed in the common order dated 23/10/2020, failing which the Authority shall be constrained to initiate penal actions as prescribed under section 63 of the Act, 2016.

Sd/-
Smt. Preetha P Menon
Member

Sd/-
Sri. P H Kurian
Chairman



True Copy/Forwarded By/Order/


Secretary (Legal)

APPENDIX

Documents produced by the Complainants

1. Exhibit A1- The true copies of the building permits.
2. Exhibit A2- The true copy of the Registration Certificate Copy.
3. Exhibit A3- The true copy of the earlier order dated 23/10/2020 in Complaints No. 7/2019, 8/2019, 9/2019, 10/2019, 97/2020& 146/2020.

Documents produced by the Respondents

1. Exhibit B1- The true copy of the letter dated 26/02/2022.



CHAPTER 10

THE HISTORY OF THE UNITED STATES

The history of the United States is a complex and multifaceted story that spans centuries. It begins with the arrival of European explorers in the late 15th century, followed by the establishment of colonies and the eventual declaration of independence in 1776. The country's growth and development have been shaped by a series of events, including the American Revolution, the Civil War, and the Industrial Revolution.

THE AMERICAN REVOLUTION

The American Revolution was a pivotal moment in the nation's history, marking the birth of a new country. It was a struggle for independence from British rule, driven by a desire for self-governance and the protection of individual rights. The revolution culminated in the signing of the Declaration of Independence in 1776 and the adoption of the Constitution in 1787.

THE CIVIL WAR

The Civil War, fought between 1861 and 1865, was a defining moment in American history. It was a conflict over the issue of slavery, which ultimately led to the abolition of the practice. The war resulted in the preservation of the Union and the establishment of a more unified and democratic nation.

THE INDUSTRIAL REVOLUTION

The Industrial Revolution, which began in the late 18th century and continued through the 19th century, transformed the United States into a major industrial power. It brought about significant changes in the economy, society, and the environment, as well as the rise of new technologies and the growth of cities.

THE WESTERN EXPANSION

The Western Expansion, also known as Manifest Destiny, was a period of rapid territorial growth in the United States. It was driven by the desire for land, resources, and new markets, and it led to the acquisition of vast territories from the Louisiana Purchase to the Alaskan Purchase.

THE GREAT DEPRESSION

The Great Depression, which began in 1929 and lasted through the 1930s, was a period of severe economic hardship in the United States. It was caused by a combination of factors, including the stock market crash and the failure of banks, and it led to widespread unemployment and poverty.