



KERALA REAL ESTATE REGULATORY AUTHORITY

THIRUVANANTHAPURAM

Complaints No. 17/2021, 18/2021, 19/2021

Dated 31st May 2021

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

Complainants

1. Mable.M Complaint No 17/2021
Villa-V, Hamnet Hillcrest
Variakonam, 825/L, Karakulam P.O
Thiruvananthapuram- 695564
2. A.V Thomas Complaint No: 18/2021
Transformer Installation
CSFS Richmond Apartments
Sasthamangalam, Trivandrum.
3. Bijey Narayan Complaint No: 19/2021
College of Architecture Trivandrum
Thinavila, Mulayara P.O, Trivandrum.

Respondent

- 1) C.H. Noushad
Hamnet Builders and Developers
Rangoon Lane, Kowdiar, Thiruvananthapuram.

Three Complainants attended the virtual hearing today.
The Respondent was absent.

COMMON ORDER

1. As the above three complaints are related to the same project developed by the same Promoter, the cause of action and the reliefs sought in all the complaints are one and the same, the said Complaints are clubbed and taken up together for joint hearing for passing a common order, as provided under Regulation 6 (6) of Kerala Real Estate Regulatory Authority (General) Regulations, 2020.

2. The Complainants in the above cases have booked their respective Villas in the real estate project named "Hill Crest" at Variakonam, Karakulam, Trivandrum developed and constructed by the 1st Respondent. All of them had entered into agreements for construction of Villas with the Respondent. The Complainants allege that though the construction of villas were almost completed and the ownership certificates were issued, there was no permanent water and electricity connections, no internal roads or common amenities like gymnasium, children play area, badminton court, drainage, drivers' dormitory, were provided as promised in the agreement. Despite all these, the Complainants have settled their respective construction costs as per the schedule. It is also reliably learned by the Complainants that most of the villa owners have paid separate funds for individual electricity and transformer commissioning. It is also alleged that the Respondent was giving false commitments towards the transformer commissioning and later the Complainants realized the fact that those funds were never deposited with KSEB. Upon frequent follow ups on transformer commissioning, it was brought to notice that the transformer costs have increased and an additional 33,000 has to be paid in addition to the initial amount of Rs 50,000. The Complainants have made this payment also. The Respondent didn't

collect the service taxes according to the schedules and in a later stage, he forced the Complainants to pay all on lump sum amount 2,55,000. The Complainants and other owners have lost trust in the Respondent due to which many are not willing to pay the extra amount. The Complainants have invested the amounts with the Respondent who assured them a peaceful life there. The burden of collecting the funds from rest of the owners is now on the shoulders of the owners which is also causing distress to the Complainants. The Complainants have made several discussions with the Respondents regarding the completion and handover of the project but the Respondent opted to give them only some false promises.

3. Hence the reliefs sought by the Complainants are direction for the completion of villas as early as possible with all amenities and facilities including provisions for waste management as promised in the agreement and to provide 24 hours security, permanent electricity connection with transformer commissioned at the premises with individual connection to each villa and to provide free three phase electricity, regular housekeeping in the premises, cleaning of common areas, to provide street lights in the premises, CCTV coverage within the premises, maintenance of villa for post possession and for providing transparency on the service tax collected in lump-sum.

4. The Respondent did not file any objection/counter statement to the complaints. During the hearing, the Respondent admitted that some works are yet to be completed in the project. After hearing both parties, this Authority vide its interim order dated 15.03.2021, directed the Respondent 1) to apply for development certificate from the Corporation at the earliest, 2) to issue notices to all the allottees and arrange a meeting for enabling the formation of association and discuss the non-completion of the project, 3) to file an affidavit with clear affirmation regarding the completion of the whole project in all respects with all the statutory approvals, amenities and facilities as committed/promised to the

allottees, registration of common areas in favour of the association and handing over all the documents related to the project including land title deeds, electricity and plumbing drawings to the association and also clearly showing stage wise work schedule with clear dates and minutes of meeting after serving copies to the complainants, 4) to list out all the details of the payments made out by the allottees and payments due from each allottee and 5) to file counter statement, if any, within two weeks after serving copies to the Complainants.

5. In compliance of the above direction, the Respondent has filed an affidavit dated 20-04-2021 and submitted that a virtual meeting was on 15-04-2021 with the members of Hill Crest Villas and formed a residence association named 'Hamnet Hill Crest Residence Association'. The Respondent states that out of 24 villas, only fifteen owners of the villa have paid the installation of transformer expenses and he is ready willing to install the transformer at the earliest on receiving the amount from the defaulters of the villa owners. It is noticed that the said Affidavit filed by the Respondent does not mention the date of completion and handing over of the total project as directed by this Authority. He has also not submitted any work schedule for completion as directed and did not mention any details of payments done by the allottees.

6. As the Respondent was not ready to comply with the directions given by this Authority, vide its order dated 15.03.2021, invoking Section 34(f) & 37 of the Act, this Authority hereby issues directions as follows:

- 1) The Respondent shall complete and hand over, the project 'Hamnet Hill Crest' to the Complainants, in all respects as committed/promised to them, along with all the amenities and facilities as agreed as per the agreements entered into with them and with all the mandatory sanctions/approvals required to be received from the Authorities concerned, **within six months from the date of receipt of**

this order, without fail. The Respondents shall transfer the common area to the Association and handover all the documents pertaining to the project to the Association within the said period.

2) The Association of allottees formed and registered, shall monitor the progress of work and make sure that it is being carried out in conformity with this order. In case of any default from the part of the Respondent, the Association can approach this Authority seeking further intervention.

3) The Respondent shall open an escrow account with the Association of allottees and all the allottees shall deposit the respective due amounts to be paid by them in the said account.

The Compliance report in the form of an affidavit shall be submitted by the Respondent on or before 31/10/2021. In the event of any non-compliance of this order by the Respondent, this Authority shall initiate severe penal actions as provided under Section 63 of the Act.

This order is issued without prejudice to the right of the Complainants to approach the Authority with claims for compensation in accordance with the provisions of the Act and Rules, for any loss or damage sustained to them due to the default from the part of the Respondents.

Sd/-


Smt. Preetha P Menon
Member

Sd/-

Sri. P H Kurian
Chairman



/True Copy/Forwarded By/Order/


Secretary (legal)

APPENDIX

Exhibits on the side of the Complainants

- Exhibit A1 series : True Copy of agreement for construction produced by the Complainants.
- Exhibit A2 series : Copy of agreement for Sale deed executed with Respondent.
- Exhibit A3 : Ownership certificate produced by Complainant in C.C No: 17/2021
- Exhibit A4 series : Brochures produced by the Complainants.

Exhibits on the side of the Respondents

- Exhibit B1 : Affidavit dated 20-04-2021 filed by the Respondent.
- Exhibit B2 : Minutes of the meeting held on 15-04-2021.