



# KERALA REAL ESTATE REGULATORY AUTHORITY

THIRUVANANTHAPURAM

Complaint No. 144/2020

Dated 20<sup>th</sup>, February 2021

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

Smt. Deepthi S.G,  
MRA-A-1-1, Sagarika,  
Maruthankuzhy Jn,  
Trivandrum-30

: Complainant

1. Nucleus Premium Properties Private Ltd  
Represented by its Chairman, Sri. Nashid N.P,  
3<sup>rd</sup> & 4<sup>th</sup> Floor, Ventura,  
NH 47 Bypass, Edapally, Ernakulam-24
2. Sri. Nashid N.P, S/o Mohammed Ali  
Nellaya Puthen Peediyakkal House,  
Thazhakode West P.O, Malappuram-679 352
3. Sri. Nazer N.P,  
Chairman ,  
Nucleus Premium Properties Private Ltd,  
3<sup>rd</sup> & 4<sup>th</sup> Floor, Ventura,  
NH 47 Bypass,Edapally, Ernakulam-24

Respondents

The Complainant only attended the final hearing today. The Respondents not attended the hearing despite frequent calls and intimation from the office.

1. The facts of the case are as follows:- The Complainant booked an Apartment in the Project named 'Nucleus Eleganza', Vazhakkala, Cochin developed by the Respondents, in February 2015. The Respondents promised to complete the work and handover possession of the Apartment within 15 months from the date of agreement. The Complainant alleged that even after five years, the work is still not completed and not registered the apartment in favour of the Complainant. Moreover, the Respondents are showing reluctant attitude to complete the project or to compensate the Complainant for the loss sustained to her. The Complainant had already paid more than 90% of the total sale value but the Respondents failed to fulfill their promises as agreed. The Respondents again, during 2019, started asking Complainant to pay the remaining 10% of the total amount pending for the agreed sale value which is to be paid at the time of completion and the registration. True copy of the agreement for sale and construction dated 11/02/2015 is produced herewith by the Complainant. The Complainant intimated the Respondents that they will pay the remaining amount only at the time of completion and handover as per the agreement terms. The Complainant also pointed out that the Respondents have not done any single work since last 2 years after receiving money. The Complainant has lost the trust in the Respondents, after knowing about many complaints against them from other customers. The Complainant also submits that the Respondents always refuse to answer the Complainant's queries through phone calls and emails and whenever they respond, they give lame excuses. The Respondents also offered a minimal amount as compensation for the delay in May 2019 and



informed the Complainant that is what the Respondents can maximum do. Whenever the Complainant tried to discuss the concerns, the Respondents always behaved in harsh and arrogant manner. In the month of December 2019, the Respondents informed the Complainant that they cannot complete pending work as promised due to the shortage of workers and it will be further delayed. So, the Respondents informed the Complainant to complete the pending work in her unit by herself. The Respondents also suggested that they will refund the pending amount of unfinished work which Complainant alleges that it is a strategy played by the Respondents to evade compensation. The Respondents also gave an estimate for the remaining work. Copy of said estimate is produced by the Complainant. The Respondents also assured that they will register the unit within two weeks, by January 2020 and they always kept on postponing the date of registration. The Complainant further submits that she has taken a bank loan for this property and is regularly paying interest to the bank for the past 3 years. Copy of loan amortization schedule from PNB housing finance limited is produced. The compensation amount offered by Respondents is not even close to the loss and grievance undergone by the Complainant. The relief sought by the Complainant is 1) to get the property registered, 2) to complete the remaining work 3) and to get compensated for the delay (43 months) occurred to complete and handover the unit.

2. The Respondents has not filed any written statement or objection to the complaint. During the course of hearing, the Complainant repeatedly alleged that the works were not resumed by the Respondents and the works of common amenities have not been started in the project. No windows or doors have been fixed on the back side. No association has been formed. During the hearing, the Respondents admitted that Fire NOC has not been

received for the project so far. Out of 19 flats, only 6 sale deed registration were done by them in favour of allottees. The Respondents assured to complete the works pending in the project and hand over the project to its allottees as early as possible, if time is granted by the Authority. Hence, this Authority, vide its interim order dated 30.11.2020, directed the Respondents to convene a joint meeting of all the allottees at the project site and enable to form an association and its registration. He was also directed to list out the works to be completed, assess the amount required for completion and fix the time for completion of the whole project in all respects as committed to the allottees and prepare a work schedule and submit the minutes of said meeting and work schedule supported by an affidavit declaring the period of completion of works as mentioned above within 15 days of the said order. The case was posted to 05.01.2021 on which day the Respondents neither attended the hearing nor complied with any of the directions issued by the Authority. The Authority expressed its serious displeasure over such a recalcitrant attitude from the part of the Respondents and decided to issue separate show cause notice to the Respondents to appear in person to show cause for not imposing penalty for failure to comply with the orders of this Authority as provided under Section 63 of the Real Estate (Regulation & Development) Act 2016. On 20.01.2021, Mr. Nishad, Managing Director of the 1<sup>st</sup> Respondent Company appeared in person before the Authority and submitted that the delay occurred in complying with the directions of this Authority was due to Covid-19 which affected him and his family members. He apologized for the delay and promised to comply with the order dated 30.11.2020 within two weeks.

3. In compliance, the Respondents submitted a sworn affidavit dated 20.02.2021 along with a Work Schedule regarding the pending works in the project. In the affidavit it is stated by the Respondents that they have



scheduled a meeting of the Apartment owners on 13-02-2021, to form the association as directed by this Authority. The Respondents also submitted that the delay in compliance of the direction was not willful or deliberate and prayed to condone the delay in the affidavit.

4. On the basis of the confirmations and undertakings by the Respondents as per the above-mentioned affidavit and with the consent of the Complainants, invoking Section 34 (f) & 37 of the Act, this Authority hereby issues the following directions:

- 1) The Respondents shall complete and hand over the individual flat No:2C in the second floor of the Complainant and register the sale deed in her favour by **31.03.2021** and complete the whole project 'Nucleus Eleganza' in all respects as committed/promised to the allottees, along with all the amenities and facilities and mandatory sanctions / approvals required to be received from the Authorities concerned, **on or before 31.07.2021** without fail.
- 2) The Respondents shall enable formation of the Association of allottees in the project and its registration as provided under Section 11(4) (e) of the Act.
- 3) The Respondents shall complete all the executions of sale deeds, if any, related to apartments/ common areas in favour of allottees/Association.
- 4) The Respondents shall handover all the documents pertaining to the project such as a) title deeds of land, b) permits/sanctions/approvals/NOCs, etc, c) all drawings of electricity, plumbing, etc. to the Association.

5) The Association shall monitor the progress of works and make sure that it is being carried out as per the Work Schedule. In case of any default from the part of the Respondents, the Association can approach this Authority with complaint.

6) The Respondents shall submit before this Authority, the compliance report in the form of an affidavit on 01.08.2021.

In the event of any non-compliance of this order by the Respondents, 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 Complainant to approach the Authority for compensation in accordance with the provisions of the Act and Rules, for the loss sustained to her due to the default on 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 : True Copy of agreement for sale and construction  
dated 11/02/2015.
- Exhibit A2 : Copy of work schedule
- Exhibit A3 : Copy of loan amortization schedule from PNB housing finance

### **Exhibits on the side of the Respondents**

- Exhibit B1 series : Compliance report dated 10.02.2021 and 20-02-2021  
with work plan/schedule.