

ಕರ್ನಾಟಕರಿಯಲ್‌ಎಸ್ಟೇಟ್ 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 21st March 2024

Present

Hon'ble Chairman Shri H. C. Kishore Chandra

Hon'ble Member Smt. Neelmani N Raju

Hon'ble Member Shri. G.R.Reddy

COMPLAINANTS.....

1. CMP/221029/ 0010141

N.Rajashekhar

Residing at Flat No.506,
Astrum Grandview apartment,
Mysore Nanjangud Road,
Opp. APMC yard, Bandipalya,
Mysore- 570025.

(By B.S.Muralidhara, Advocate)

2. CMP/221029/ 0010142

**Dr Hemanth Kumar A S and
Dr Divija D A**

Flat 206, 2nd Floor, Astrum Grandview
Mysore Phase I,
Mysore Nanjangud Road, Bandipalya
Mysore- 570025.

3.CMP/221029/ 0010143

**Smt.Shashikala N and
Sri. Narendranath H M**

Flat 302, 3rd Floor, Astrum Grandview
Mysore Phase I,
Mysore Nanjangud Road, Bandipalya
Mysore- 570025.

4. CMP/221029/ 0010144

**Mr Unnikrishnan K M and
Mrs Premakumari**

Flat 601, 6th Floor,
Astrum Grandview Mysore Phase I,
Mysore Nanjangud Road, Bandipalya
Mysore- 570025.

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5. **CMP/221029/ 0010145**

**Srinath N Kadaba and
Swapna M Sheshadri**

Both Residing at 31/7-1, 2nd Floor,
8th Main, 11th Cross, Malleswaram,
Bangalore 560003.

6. **CMP/221029/ 0010146**

**Mr.Ajit K. Nayak and
Mrs.Neethi Shenoy**

Both Residing at No.45, 3rd Floor,
Embassy Court, High Grounds,
Opp. Karnataka Film Chambers,
Bangalore North,
Bengaluru 560001.

7. **CMP/221029/ 0010147**

**Mr. D. Shridhar
Mrs.Veena Shridhar**

Flat 304, 3rd Floor,
Astrum Grandview Mysore Phase I,
Mysore Nanjangud Road, Bandipalya
Mysore- 570025.

8. **CMP/221029/ 0010148**

Mr. N. Raghuram

Flat 307, 3rd Floor,
Astrum Grandview Mysore Phase I,
Mysore Nanjangud Road, Bandipalya
Mysore- 570025.

9. **CMP/221029/ 0010149**

**Mrs.Gayatree Dey
Mr.Shyam Sunder Khambampati**

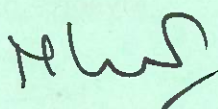
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Astrum Grandview Mysore Phase I,
Mysore Nanjangud Road, Bandipalya
Mysore- 570025.

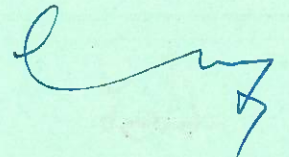
10. **CMP/221029/ 0010150**

**Mr.Vijendra. S
Mrs.Kumuda Vijendra**

both Residing at No.767, 16th Main,
13th Cross, Saraswathipuram,
Mysore 570009.







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11. **CMP/221107/ 0010190**

Ms. Aurelia Joan Dmello

Mrs.Louella Dmello

Flat 407, 4th Floor,
Astrum Grandview Mysore Phase I,
Mysore Nanjangud Road, Bandipalya
Mysore- 570025.

12. **CMP/221107/ 0010191**

Mrs.Lipsa Vinodray Monani@ Lipsa Khodani

Flat 412, 4th Floor,
Astrum Grandview Mysore Phase I,
Mysore Nanjangud Road, Bandipalya
Mysore- 570025.

13. **CMP/221107/ 0010192**

Mr. H.K. Subramanya

Mrs.Vanishree Batni

Flat 401, 4th Floor,
Astrum Grandview Mysore Phase I,
Mysore Nanjangud Road, Bandipalya
Mysore- 570025.

14. **CMP/221107/0010193**

Mr. Abbas A Mithiborwala

Mrs.Zenab Abbas Mithiborwala

Flat 904, 9th Floor,
Astrum Grandview Mysore Phase I,
Mysore Nanjangud Road, Bandipalya
Mysore- 570025.

15. **CMP/221107/ 0010194**

Mrs.Sapna Puri

No. 42, 1st Main, 2nd Cross,
Bharat Nagar, HSRG Road, MS Palya,
Bengaluru Urban- 560097.

V/S

RESPONDENT.....

Astrum Value Homes Private Limited,

Unit No.1024, 10th Floor,
JMD Megapolis, C – Wing,
Sohna Road, Gurugaon,
Harayana-122002.

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1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

Also at:

Unit No.405A, 4th Floor,
Tower B Unitech Business Park,
Sector 4, Gurugaon, H12001,
Hararyana.

(By. Sanjay Nair, Advocate)

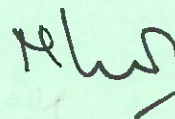
JUDGEMENT

1. All these complaints have been filed under section 31 of the RERA Act against the project "ASTRUM GRANDVIEW MYSORE PHASE-I" developed by "Astrum Value Homes Private Limited" for the relief of 'direction to the respondent to complete and provide all amenities as agreed, restrain the respondent from selling/constructing/deviating/changing the areas earmarked and compensation for delay'.
2. This project has been registered under RERA vide registration No.PRM/KA/RERA/1268/378/PR/171019/000373.
3. This project is situated at Bandipalya (Opp. APMC Yard), Nanjangud Road, Mysore.
4. All these complaints are taken up together for disposal as they are arising out of the same project and in order to avoid repetition.

Brief facts of all the aforesaid complaints are as under

5. All the aforesaid complainants have purchased their respective flats for valuable sale consideration in the project 'ASTRUM GRANDVIEW MYSORE PHASE-I' of the respondent under their respective sale deeds and have taken possession of the same. Earlier they have all entered into agreements of sale with the respondent towards purchase of their respective flats. The respondent had agreed to complete the construction within 30 months from the date of agreements of sale. The respondent had released brochure and advertisement regarding construction and





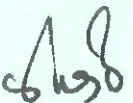


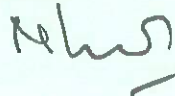
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promised to provide various amenities and facilities in the said project. The complainants have invested their hard earned money towards purchase of their flats. These being the facts during discussion with respondent they came to know that the respondent is trying to deviate and modified the scheme of development and construction as assured and trying to form individual sites and to sell the same independently. The said act will be going to result in curtailing the rights and benefits of common facilities and amenities.

6. The respondent had obtained sanctioned plan for construction of multi stored apartments. The area reserved for common amenities and facilities to be provided have been clearly identified in the approved plan. Now the respondent had failed to complete the project as agreed and started formation of layout of sites even at the place originally earmarked for amenities like club house and green area. Based on the assurances made by the respondent that the project being developed in such as fashion the complainants have agreed to pay the sale consideration on charges as demanded by the respondent. The respondent had violated the terms of sanctioned plan and his act amounts to breach of contract. All the occupants are compelled to bear the polluted surroundings, air and unbearable stench. It is obvious rodents ultimately attract snakes, cobras in the premises. Hence, this complaint.
7. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through his counsel and filed statement of objections as under
8. He has denied each every allegation made against them by the complainant as false. He contends that RERA registration for 'Astrum Grand View Phase-1 was for development of 132 apartment units only







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and the same has been already completed and possession of flats have been handed over to respective purchasers as on the date of their respective sale deeds. The respondent has planned remaining development over the larger project land being the land parcels reserved for future development including land parcels forming part of future extension phase-2 and space for future extension and devised a scheme for sale of independent plots. Accordingly, they obtained necessary approvals for development of plots in phase-2 which is under development with project completion date of 31/05/2025. Both phase 1 and phase 2 are inherent part of integrated project being developed by the respondent and all the amenities and facilities as were promised to the customers of group housing building project i.e. phase-1 are being developed by the respondent and shall be duly provided with no compromise on provision of any of the facilities and amenities. The purchasers of phase-1 of the project have already been enjoying some of the facilities and amenities since the year 2020 such as gym, table tennis, pool table, TV launch, kids play area and small park.

9. Further, he contends that the development works at site are in full swing and all the amenities and facilities being park of the project except club house shall be delivered within next 3-4 months and it shall be ready within 9-12 months time frame. Further, the occupancy certificate for 132 apartment units for phase-1 was obtained on 18/06/2020. The respondent has hired a maintenance agency for maintenance and all the purchasers are duly making payment of maintenance charges. The respondent is conducting regular meetings with purchasers to resolve the issues. The sanctioned plans as approved by MUDA whether for phase-1(for construction of 132 apartment units) or phase-2(for development of approximately 100 plots) does not provide for any ear-

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marked areas for facilities and amenities to be provided in the project. The facilities are always designed and planned by the promoter of the project. Hence, prayed to dismiss the complaint.

10. In support of their claim, the complainants have produced/uploaded the documents such as the copy agreements of sale, sale deeds, legal notice and brochure.
11. On the other hand, in support of his defence, the respondent has furnished order copy of photographs of the project phase-1 and phase-2, approved plan, occupancy certificate dated 18/06/2020, modified sanction plan, list of amenities and facilities being provided, minutes of meetings, resolution passed at the meeting of the board of directors dated 31/01/2023.
12. This matter was heard on 12/01/2023, 15/02/2023, 08/03/2023, 28/06/2023, 06/09/202 and 20/12/2023.
13. Heard Arguments.
14. **Based on the above averments, the following points would arise for our consideration:-**

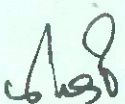
- 1) Whether the complainants are entitled for the relief claimed?
- 2) What order?

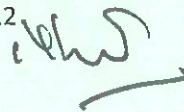
15. Our findings to the above points are as under:-

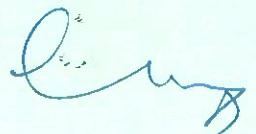
- 1) Partly Affirmative
- 2) As per the final order for the following

REASONS

16. **Our findings on point No.1:-** The complainants herein have approached this forum with the grievance that the respondent has not completed and provided them all the facilities and amenities as agreed.







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17. Same is resisted by the respondent on the grounds that there are phase-1 and phase-2 in the said project and they are constructing and developing the said project as per approved sanctioned plan. They have completed the construction of phase-1 i.e. 132 apartment units and executed sale deeds and handed over possession and that the purchasers are in possession of their respective flats. Further, they obtained occupancy certificate of phase-1 on 18/06/2020 and completion date as per RERA registration of phase-2 is on 31/05/2025. They have provide all the amenities and facilities to the customers of phase-1 except club house and green area and they are enjoying the same. The construction of club house and green area are in progress and they are going to complete the same within 9-12 months. The phase-2 is for development of approximately 100 plots.
18. It is pertinent to note that the complainants herein are the purchasers of flats of phase-1. From the materials available on record it is apparent that during the proceedings before this Authority, the respondent has completed most of the facilities and amenities. The swimming pool and club house are still under construction. The said project is divided in 2 phases and the construction of phase-1 has been completed and the respondent has obtained occupancy certificate on 18/06/2020 for the same. Initially, the complete project was to be developed as multi storied housing complex. Subsequently, 2 separate approvals were obtained by the respondent, with phase-1 being the multi storied housing complex and phase-2 being the plotted development project. It is pertinent to note that as per sanctioned plans the amenities and facilities are common to both the phases.

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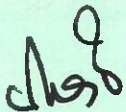
19. The phase-2 of the project was registered as a new project with the Authority as plotted project with sites and other areas. The sanctioned plans issued by the planning authorities do not deal with placement of various amenities and facilities and largely delineate the green areas. Reliance has been placed by the complainants on the brochures as to change in location of the amenities and facilities and include areas forming part of phase-2 which was yet to be launched and was a concept document with disclaimers.
20. During the proceedings, the complainants have complained about the size of some of the amenities and facilities which have been provided and maintenance issues with regard to some of the amenities whereby water logging or other issues were raised. It is evident from the sanctioned plans that all the amenities, facilities and utilities from part of phase-2/sites area and covered under the project with completion date of 31/05/2025. Hence, all the facilities and amenities were planned to be developed in phase-2 and most of the facilities and amenities have already been completed.
21. As regards the prayer of complainants for restraining the respondent from selling/constructing/deviating/changing the areas earmarked for amenities as per sanctioned plan, the observation made against prayer No.1 are relevant that the complainants are relying on brochure as against the sanction plans and final registration obtained by the respondent with the Authority. Actual sanctions have been obtained by the Respondent in two different phases and registrations for both these phases have been obtained by the Respondent separately, with Phase 1 being the multi-storey development and phase 2 being the plotted/sites development project. There seems to be no deviation from the actual sanction plans obtained by the Respondent and the same are

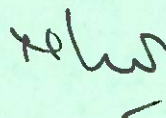
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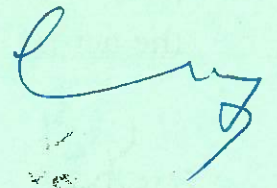
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being implemented as per registration obtained with the Authority. If the comparison is made with brochures i.e. conceptual plan documents as against the actual sanction plans, there are changes in the planning aspects but that has neither changed the apartment units promised to the Complainants which have already been completed and conveyed to the Complainants by way of registered conveyance deed, nor has that changed the number of amenities and facilities promised to the Complainants and the same are being delivered as has already been observed hereinabove. The sites are being developed as per sanction plans submitted before the Authority and hence cannot be stated to be in deviation of the sanction plans and amenities and facilities are also being developed in the areas as permissible for development for such amenities and facilities in the sanction plans. It has been submitted by the Respondent over the course of hearings that amenities and facilities are developed in the open areas and sanction plan documents never contained details of amenities and facilities to be developed. The placement of amenities and facilities is part of the conceptual planning at the end of the Respondent and within the open areas available in the project the amenities and facilities have been placed and placement may be have changed within open area. It has been stressed by the Respondent that due to change in the placement, most of the facilities and amenities now fall in the immediate vicinity of Phase I and rather beneficial to the Complainants. Given the submissions of both parties, it is understood that the Complainants cannot be stated to be aggrieved by change in the placement of amenities and facilities within the open areas in the project and hence no order in the matter.







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22. With regard to prayer of complainants for delay compensation in providing amenities and facilities as agreed, the complainants are at liberty to file a separate complaint before the Adjudicating Officer, K-RERA as the said relief is not coming under the purview of this Authority.

23. **Our findings on point No.2:-** In view of the above discussion, the complaints deserves to be partly allowed. Accordingly, we proceed to pass the following

ORDER

In exercise of powers conferred under Section 31 of the Real Estate (Regulation & Development) Act, 2016, the Complaints bearing Nos. CMP/221029/0010141, CMP/221029/0010142, CMP/221029/0010143, CMP/221029/0010144, CMP/221029/0010145, CMP/221029/0010146, CMP/221029/0010147, CMP/221029/0010148, CMP/221029/0010149, CMP/221029/0010150, CMP/221107/0010190, CMP/221107/0010191, CMP/221107/0010192, CMP/221107/0010193 and CMP/221107/0010194 are hereby partly allowed as under:

1. The Respondent is hereby directed to complete the remaining amenities and facilities as per agreement to sell and RERA on or before 31.05.2025 i.e. completion date set under RERA Registration for Phase 2 of the Project.
2. Further, the respondent is directed to form an association of allottees of phase-1.
3. The Respondent to ensure that the owners association for Phase 2 of the Project is also formed as per provisions of RERA within applicable timelines.

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4. The project being an integrated project with common utilities, facilities and amenities, the Respondent to ensure that handover to both the associations for Phase 1 and 2 is done in a manner whereby integration concept is maintained and strictly adhered to by the owners of both the phases.
5. The complainants are at liberty to initiate action in accordance with law, if the Respondent fails to comply with this order.

No order as to costs.


(Neelmani N Raju)
Member
K-RERA


(G.R. Reddy)
Member
K-RERA


(H.C. Kishore Chandra)
Chairman
K-RERA

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