

BEFORE THE ELECTRICITY OMBUDSMAN

9/2, 6th Floor, Mahalakshmi Chambers, M.G Road, Bangalore – 560 001

**Present: B.N.Krishnaiah
Electricity Ombudsman**

Case No.OMB/B/G-260/2016

Dated : 13.07.2016

Anil Kalgi,
No.612, 5th Floor,
'O' Block, Platinum City,
H.M.T.Road, Yeshwanthpura,
Bengaluru – 560 022

... Appellant

(Party in person)

V/S

1. Assistant Executive Engineer (O & M),
BESCOM, N-5 sub-division,
SRS Gate, peenya,
Bengaluru – 560 058

(AEE in person)

2. The Chairperson, CGRF,
Bangalore Urban District,
BESCOM, West circle, 05, 3rd stage,
Bhimajyothi HBCS Layout,
Next to Chord Road Hospital,
Basaveshwara Nagar,
Bengaluru -560079.

... Respondents

1. This is an appeal under clause 21.02 of KERC (CGRF & Ombudsman) Regulations, 2004 against the orders passed by CGRF, BESCO, Bangalore Urban District, Bangalore dated 30.04.2016.
2. The appellant Sri Anil Kalgi is the owner of Flat No.612, 5th Floor, 'O' Block, Platinum City, Yeshwanthpur, Bengaluru – 560 022.
3. The Platinum 'O' Block is a gated residential complex located in Yeshwanthpur. The appellant has filed this appeal against the order of the CGRF contending as follows :
 - (a) On coming to know of the fact that the electricity connections in respect of common area Platinum City 'O' Block were transferred to ROOP Welfare Association, a complaint was made to the Executive Engineer, Peenya Division for cancellation of the said transfer since it was unlawful but no action is taken;
 - (b) Though there was outstanding due of Rs.1,57,256-00 before transfer the transfer is made keeping aside the Rules;
 - (c) In the NOC produced by the Secretary ROOP Welfare Association from the existing registered consumer, there is no mention for having paid ISD/MSD as per the rules. The exiting consumer has not transferred the existing deposit nor there is authorisation to transfer to ROOP Welfare Association. The AEE of N-s sub-division has not verified the locas standi of the said Association;
 - (d) At the time of transfer of installations bearing RR Nos.DEH16638, DEH16511 and MSDEH32992 and at the time of agreement entered with BESCO by Nescons, no other documents were taken and considered;

- (e) Resolution passed by the General Body of the Association for transfer of the installations in respect of the common area not obtained;
- (f) Transfer of installations is contrary to Conditions of Supply. The real owners of flats in 'O' Block Platinum city were under threat and the accountability of the builder is not seen;
- (g) The AEE has not collected the proof of ownership of common area;
- (h) The finding of the CGRF to say that Regulation 9.10 (b)(ii) is applicable is not correct as the builder has not provided any relinquishment deed;
- (i) For transfer of installation, the AEE ought to have followed Regulation 9.14 of Conditions of Supply;
- (j) The CGRF has not applied its mind and erroneously interpreted Regulation 9.10 (b) of Conditions of Supply;
- (k) The CGRF has failed to recognise the difference between Association formed under Societies Act of 1960 and the Association formed under Karnataka Apartment Ownership Act, 1972, under which the builder can only relinquish his stakes in MSB/transfer the building for maintenance to the Association;
- (l) The builder has not completed the construction in all respects. Builder has not obtained mandatory clearances from department of Fire Services and Pollution Control Board. He has not taken Occupancy Certificate for the building. Two more lifts and proper STP are yet to be established. These require additional power connection. This illegal transfer puts extra burden on bonafide owners of flats in 'O' Block Platinum city. By this action of the AEE the bonafide owners of flats in

`O' Block are facing a threat like situation. The builder is made to escape from discharging his obligatory duties.

4. The AEE by his letter dated 26.05.2016 has furnished the reply as follows :

- (a) On 02.11.2015 Sri Anil Kalgi, had sought information under RTI seeking the certified copies of the documents submitted by Residents of `O' Block Platinum City Welfare Association (ROOPWA) for transfer of common area installation in `O' Block Platinum City. True copies of the documents submitted by the ROOPWA for transfer of common area installations, were given to the Sri Anil Kalgi;
- (b) The Executive Engineer (EI) who is the First Appellate Authority under RTI has held that transfer of common area installations from builder Nacons to ROOPWA is in accordance with Regulation 36.01 of Conditions of Supply and hence power supply not stopped;
- (c) In respect of the bill for the installation R.R.MSDEH32992, was serviced on 20.09.2015. However, due to Infosys data migration constraints, the 1st bill for Rs.1,57,256-00 was generated on 13.10.2015 for the period from 20.06.2015 to 02.10.2015 which was served to the consumer on 17.10.2015. Since it was the first bill for a period of 105 days from the date of service and moreover it was the bill for current month. The same cannot be treated as arrears since there were no previous bills generated nor issued to the consumer. Hence, it is clearly understood that on 31.10.2015, the date of name transfer there were no arrears. However, consumer have made the payment immediately during the next month i.e. of Rs.80,000-00, Rs.60,000-00, Rs,51,913-00

and Rs.17,256-00 on 5th 9th and 30th of November 2015 respectively to the BESCO;

(d) The transfer of name from M/s.Nascons to ROOPWA has been done after obtaining the necessary documents namely (i) request letter for Name transfer from ROOPWA (ii) NOC from the Builder for name transfer of the installations, (iii) Copy of Memorandum of Association of ROOPWA, etc.

5. Sri Anil Kalgi, in his arguments reiterated the points raised by him in the appeal memo and further argued that the NOC issued by the builder is undated. The builder has not executed any relinquishment deed in favour of ROOPWA. Further, he says that Certificate/sale deed/relinquishment deed showing that the platinum City `O' Block is registered in the name of ROOPWA is not a valid one. Proof of ownership Platinum City `O' Block (common area) is not obtained by the AEE and hence there is violation of Regulation 36.01 (c)(ii) and 36.01 a) Note I, ii of Conditions of Supply.

6. The AEE reiterated the contentions stated in his letter dated 26.05.2016 and further submitted that the action taken is in accordance with Regulation 36 of the Conditions of Supply and all the necessary documents like (1) Memorandum of Association of the Association, (2) NOC from builder, (3) Agreement for transfer of name, (4) Indemnity Bond for name transfer, (5) copy of the Registration of Association, (6) Certificate of registration of Society, (7) Proceeding of the General Body Meeting, (8) List of Executive Committee Members, for transfer of three electrical installation in the name of ROOPWA. Copies of the documents have been submitted before this Authority. Further he also submitted that the appellant was once the President of the ROOPWA.

7. The contentions raised by both the parties, and also documents submitted therein need to be evaluated and examined to ensure whether the proceedings of the AEE are in compliance of the stipulation laid down under Regulation 9.14 and 36 of Conditions of Supply and Sections 9 and 10 of Karnataka Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer Act, 1972).

8. With this, the issue which arises is “whether the action taken by the AEE is in order: Is it as per Rules? And more importantly whether the proceeding of AEE has caused any inconvenience to any of the residents including the appellant in the said dwelling complex?

9. On perusal of the averments made and documents presented it is seen that the Flat owners of the Platinum City `O' Block have formed a Society by name ROOPWA and registered under the Karnataka Societies Registration Act, 1960. The builder Nascons Nazeer Ahamed, has given NOC for transfer of common area installations DEH 16638, DEH 16511 and MSDEH 32992 to ROOPWA. The NOC is given only for transfer of three installations which are coming in the common area.

10. Accordingly, considering the request and documents submitted, the AEE has issued the three separate Official Memorandum all dated 31.10.2015, transferring the three installations in favour of ROOPWA which appears to be in order.

11. Further, the fact to be noted is, the bill for Rs.1,57,256-00 raised is for a period of first 15 days and it cannot be considered as arrears. Further, the fact to be noted is the bill for Rs.1,57,256-00 raised is for the first 105 days after transfer of the installations. It cannot be treated as arrears. It is also noted that the Association has paid the bill in time.

12. It is observed that none of the residents/consumers is put to inconvenience either in the form of disconnection of power or any other related service. If any other infrastructural facilities which are supposed to be provided by the builder, it is for the appellant to seek relief from a proper forum. As far as the electricity connection to the residents including the appellant, no disruption or inconvenience is noticed.

13. All these confirms the fact that the AEE has complied with all the stipulated norms cited above.

14. After having considered the oral and written submissions made before this Authority by both the parties, no valid and vital reasons are found to interfere with the proceedings of the AEE and the Orders of the CGRF. Hence, the following Order.

ORDER

Appeal is dismissed.

Sd/-

(B.N. Krishnaiah)
Electricity Ombudsman

To :

1. Sri Anil Kalgi, No.612, 5th Floor, 'O' Block, Platinum City, H.M.T.Road, Yeshwanthpura, Bengaluru – 560 022
2. The Assistant Executive Engineer (O & M), BESCO, N-5 sub-division, SRS Gate, Peenya, Bengaluru – 560 058
3. The Chairperson, CGRF, Bangalore Urban District, BESCO, West circle, 05, 3rd stage, Bhimajyothi HBCS Layout, Next to Chord Road Hospital, Basaveshwara Nagar, Bengaluru -560079.
4. Managing Directors of ESCOMs.
5. PS to Hon. Chairman, KERC
6. PS to Hon. Member (A), KERC
7. PS to Hon. Member (M), KERC
8. PS to Secretary, KERC