

PROCEEDINGS OF THE AUTHORITY

BEFORE BENCH 5

Dated 14th September, 2023

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO: CMP/200815/0006371

COMPLAINANTS : Mr.Raghavendra YT
Darshan Nilaya, 2nd Main Road
Gandhi Nagar, Tumkur
Karnataka : 572 102

By Mr.Mohan Kumar, Advocate

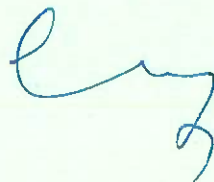
RESPONDENT / : M/s.Mantri Developers Pvt Ltd.
PROMOTER : Mantri House, # 41,
Vittal Mallya Road
Bangalore : 560 001

By M/s.Trialbase, Advocates

PROJECT NAME & : MANTRI WEBCITY 2A
REGISTRATION NO. : PRM/KA/RERA/1251/310/PR/
171015/000608

J U D G E M E N T

This complaint is filed under Sec-31 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the project **MANTRI WEBCITY 2A** praying for a direction to pay delay period interest and for other reliefs:

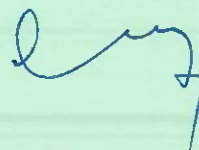


BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. As per the details furnished by the Complainant, the complainant has entered into an agreement of sale on 27.12.2018. The project completion date as per agreement was 28.02.2020. The complainant has paid advance sale consideration amount of Rs.64,32,088/- (Rupees Sixty four lakhs thirty two thousand eighty eight only) to the respondent. Since there was delay in handing over the apartment, the complainant has filed the above complaint before the Authority praying for the following reliefs:

- a) Direct the Respondent to complete the construction and handover the apartment with all amenities with occupancy certificates and amenities.
- b) Direct the Respondent to pay the delay period interest.
- d) Direct the respondent to pay Rs.5.0 lakhs towards Compensation for mental agony.
- e) Direct the Respondent to pay Rs.5.0 lakhs towards unfair trade practice;
- f) Direct the Respondents to pay Rs.50,000/- towards cost of litigation and other reliefs.

2. As per the information furnished by the Complainant, it is seen that the completion date is agreed as 28.02.2020. The promoter-respondent was required to complete the project and hand over possession of the apartment by 28.02.2020. In cases where the respondent-promoter has failed to complete or unable to handover the possession of the apartment to the allottee as per the agreed delivery date, the Complainant is entitled to file a complaint before the authority and the complaint filed by the Complainant is admissible for relief in accordance with Section 18 of the Act.



3. After registration of the complaint, notice was sent to both complainant and respondent to appear before the authority. In response to the Notice, the Respondent entered appearance through their counsel and filed vakalath. The complainant also entered appearance through his counsel, filed agreement of sale, copies of the receipts for having made the payments and the Memo of calculation for delay period interest. The Respondent filed statement of objections before the Adjudicating Officer and the same is taken on record. In the statement of objections, the respondent has sought to explain the delay by referring to several issues such as demonetisation, introduction of GST, Overall global slowdown, higher tax rates, reduction of demand in real estate sector, legal issues, license issues, heavy and continuous rainfall and etc., which are nothing but routine requirements of compliances and construction related issues which are required to be handled by the Promoter of any project who has undertaken to develop the real estate project. None of the reason submitted by the Respondent has any force and legal validity to justify the delay in completion of the project and provide any exception from the application of Section-18 of the Act. In addition to which the Respondent pleaded that Covid-19 Pandemic and the lockdown have contributed significantly to the obstacles faced by the Respondent. The delivery date promised by the respondent as per agreement is 28.02.2020 and the Covid-19 and lockdown imposed only during March/April 2020 and as such there is no relevance of Covid-19 and lockdown for delay in completion of the project pleaded by the respondent. Therefore, as per Section 18 of the Act, the promoter is liable pay the delay period interest. The Respondent has not filed memo of calculation for delay period interest nor disputed the memo of calculation submitted by the complainant. The matter was

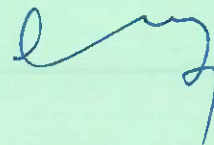


heard on 19.07.2022, 17.08.2022, 07.09.2022, 16.02.2023, 28.02.2023, 30.03.2023, 22.06.2023, 20.07.2023 and 30.08.2023.

4. On a perusal of the memo of calculation for delay period interest submitted by the complainant before the authority, it is evident that complainant has paid the advance sale consideration amount and the Respondent has acknowledged the receipt of advance sale consideration. Admittedly there is a delay in handing over the apartment as per the agreement. Hence the complainant is entitled to delay period interest u/s 18 of the Act.

5. As regards damages of Rs.5.0 lakhs claimed by the allottee on account of mental agony and pain, the complainant may seek an appropriate relief by filing a complaint before the Adjudicating Officer who is empowered to adjudge the compensation under the provisions of the Act. Similarly as regards the compensation of Rs.5.0 lakhs claimed for unfair trade practice, the complainant is at liberty to seek appropriate relief by filing a complaint before the Adjudicating Officer.

6. The complainant has sought a relief of RS.50,000/- towards litigation expenses. It is noted that the complainant has booked the apartment in the year 2018 for a total consideration of Rs.77,88,336/-. It is submitted by the complainant that about Rs.64,32,088/- was paid. It is also submitted as per the sale agreement and construction agreement that the completion date was fixed as 28.02.2020. These facts brought out in the complaint indicate that the complainant was left with no choice but to file a complaint before the Authority and pursue the same. It is evident that the complainant has engaged an advocate and incurred expenditure for pursuing the litigation which has arisen only on account of the defaults committed by the promoter-

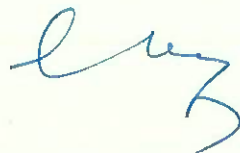


respondent. Having regard to all the facts the Authority is of the view that the complainant is entitled for some relief in the form of payment of litigation expenses by the promoter-respondent. Accordingly, it is hereby ordered that respondent-promoter shall pay a sum of Rs.50,000/- to the complainant on account of litigation expenses.

Accordingly the Authority passes the following:

ORDER

1. In exercise of the powers conferred under Section 31 read with section 18 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing CMP/200815/0006371 is hereby partly allowed.
2. Respondent is directed to pay interest on delay period at the rate of SBI MCLR + 2 % from 28.02.2020 till the date of handing over possession along with occupancy certificate. The promoter shall pay the interest for the delay period as arrived at by the Complainant amounting to Rs.18,60,225/- (Rupees Eighteen lakhs sixty thousand two hundred twenty five only) within 60 days from the date of this order. The Promoter-Respondent is also liable to pay delay period interest every month for the subsequent period and up to the date of completion of the project.
3. Respondent-Promoter is directed to complete the construction of the project at the earliest with all amenities as per agreement, obtain occupancy certificate and handover the apartment to the allottee at the earliest.
4. As regards payment towards damages of Rs.5.0 lakhs claimed by the allottee on account of mental agony and pain, the complainant may seek an appropriate relief by filing a complaint before the



Adjudicating Officer who is empowered to adjudge the compensation under the provisions of the Act.

5. Similarly the compensation of Rs.5.0 lakhs claimed for unfair trade practice also the complainant is at liberty to seek appropriate relief by filing a complaint before the Adjudicating Officer.

6. As regards the cost of litigation expenses to the extent of Rs.50,000/- claimed, the promoter is directed to pay an amount of Rs.50,000/- to the Allottee towards cost of litigation.

(G.R. REDDY)

MEMBER

FIFTH ADDITIONAL BENCH

K-RERA

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