

**PROCEEDINGS OF THE AUTHORITY**

**BEFORE BENCH 5**

**PRESIDED BY HON'BLE MEMBER G.R. REDDY**

**COMPLAINT NO: CMP/220525/0009522**

**DATED THIS 26<sup>th</sup> DAY OF OCTOBER, 2023**


**COMPLAINANTS** : 1. Ms.Sabitha Gopinathan  
W/o Ramaswamy Pothipichai  
  
2. Mr.Ramaswamy Pothipichai  
S/o late Mr.Pothipichai  
  
Both are residing at No.41,  
4<sup>th</sup> Cross, Anugraha Layout  
Shivgaha Layout, Mahadevapura  
Outer Ring Road, Bangalore:48  
  
(Parties in Person)

**RESPONDENT /  
PROMOTER** : 1. M/s.Allam Infinite India Pvt Ltd  
No.6, GM Pearl, BTM Layout  
I Stage, I Phase, Bangalore:560068  
  
(None Represented)

**PROJECT NAME &  
REGISTRATION NO.** : GM NORTH ENCLAVE  
PRM/KA/RERA/1251/309/PR/  
190410/002520

**J U D G E M E N T**

This complaint is filed under Sec-18 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the project **GM NORTH ENCLAVE**, situated at Chokkanahalli Village, Yelhanka Hobli, Bangalore North, praying for a direction to Refund the amount paid with Interest.



**BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-**

1. As per the details furnished by the Complainants in the memo of calculation, the complainants have entered into an agreement of sale on 25.03.2021. The project completion date as per agreement was 31.10.2023. The complainants have paid an amount of Rs.10,00,000/- (Rupees Ten lakhs only) to the Respondent. After paying the initial amount of Rs.10.0 lakhs, there was no communication from the Respondent about the starting of the project and hence the complainants visited the project site to know the progress of construction. When the complainants visited the project site, they noticed that the project site is under litigation and no construction activities were started. The complainants called the builder to know the status of the project and stoppage of the work, there was no response from the builder. Hence, the complainants have filed the above complaint before the Authority praying for following reliefs:

**Direct the Respondent to refund all monies paid with interest**

2. As per the agreement, it is seen that the completion date is agreed as 31.10.2023. The promoter-respondent was required to complete the project and hand over possession of the apartment by 31.10.2023. Since the respondent-promoter has failed to start the construction activities and there is no communication on the same to the Complainants, this complaint is admissible for relief in accordance with Section 18 of the Act.

3. After registration of the complaint, the Respondent sent an e-mail communication dated 13.06.2022 intimating the complainants that the respondent have decided not to move ahead with the development plan of North enclave at this point of time and decided to refund the monies paid by the complainants with the accrued interest from the date of receipt in line with K-RERA stipulation. The refund process will take 3 to 4 months.

4. Notice was sent to both complainants and respondent to appear before the Authority on 21.09.2023. Complainants have appeared before the Authority filed memo of calculation for refund with interest together with payment receipts, copy of the agreement of sale and served the same on the Respondent. The Respondent neither appeared nor authorised anyone to appear before the Authority to file statement of objections. The complainants have orally submitted that though the respondent promised to settle the dues within 4 months from 13.06.2022, it is already more than one year from the date of promise, the Respondent has not settled the dues and hence prayed for passing an award directing the respondent to refund the money with interest.

4. Based on the documents and information furnished by the Complainants in their memo of calculation for refund with interest, it is apparent that the promoter has agreed to refund the money within 4 months from 13.6.2022, but failed to refund the money with interest. Since the respondent-promoter has failed to refund the money to the complainants as per the e-mail





sent by the respondent, this complaint is admissible for relief in accordance with Section 18 of the Act.

5. As per Section 18 of RERA Act, in case the allottee wishes to withdraw from the project the promoter is liable without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building as the case may be with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act. Therefore, as per Section 18 of the Act, the promoter is liable to refund the amount received along with interest as per the Respondent e-mail dated 13.6.2022.

6. From the averments made in the complaint and the documents produced by the Complainants, it is evident that the complainants have paid the advance sale consideration amount and is entitled to get refund of their amount paid along with interest as per the memo of calculation submitted by the Complainants. The Promoter-Respondent has not submitted any memo of calculation or objections to the memo of calculation submitted by the Complainants.

7. Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as under:

**Memo of Calculation for Refund submitted by the Complainants as on 17.09.2023**

<b>Principle amount (A) Rs.</b>	<b>Interest (B) As on 17.09.2023 Rs.</b>	<b>Refund from Promoter (C) Rs.</b>	<b>Total Balance Amount (A+B) Rs.</b>
<b>10,00,000</b>	<b>2,30,831</b>		<b>12,30,831</b>

And 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 No. CMP/220525/0009522 is hereby allowed.
2. Respondent is directed to refund a sum of **Rs. 12,30,831/- (Rupees Twelve Lakhs Thirty Thousand Eight Hundred thirtyone only)** towards refund with interest to the complainant within 60 days from the date of this order as per the calculation of the Complainant, calculated from 01/05/2017 till 17.09.2023. The interest due from 18.09.2023 up to the date of final payment will be calculated likewise and paid to the complainant. The complainant is at liberty to initiate action for recovery in accordance with law, if the respondent fails to pay the amount as per the order of this Authority.

**(G.R. REDDY)**  
**MEMBER**  
**FIFTH ADDITIONAL BENCH**  
**K-RERA**