

**PROCEEDINGS OF THE AUTHORITY**

**BEFORE BENCH 5**

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

**COMPLAINT NO: CMP/00287/2023**

**DATED THIS 13<sup>th</sup> DAY OF NOVEMBER, 2023**

COMPLAINANT : Mr.Sachin.M  
# 71, Soundarya Building, 3<sup>rd</sup> Floor  
House, 201, Nemmadhi Layout  
Masthena Halli Road, Jigani  
BANGALORE : 560 105

(Party in person)

RESPONDENT /  
PROMOTER : M/s.Allam Infinite India Pvt Ltd.  
# 44/1, Azeem Pearl, Dickenson  
Road, Yellappa Garden  
Bangalore : 560 042

(Ms.Vaidhei, Advocate)

PROJECT NAME &  
REGISTRATION NO. : GM AMBITIOUS ENCLAVE  
PRIM/KA/RERA/1251/308/PR/  
180406/001467

**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 AMBITIOUS ENCLAVE** praying for a direction to Refund the booking amount paid with Interest.

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

As per the details furnished by the Complainant in the memo of calculation, the complainant has paid a sum of Rs.25,000/-

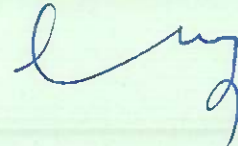
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(Rupees Twenty Five thousand only) towards purchase of an apartment in the project known as GM AMBITIOUS ENCLAVE on 05.11.2022 for purchase of flat No.A31007 which is facing on the East as per the promise made by the Respondent. The complainant came to know that the apartment allotted is actually facing South. Hence the complainant went to the office of the respondent for cancellation of the booking made. The Respondent offered another flat bearing No.C-00-02 which is in ground floor and the complainant is not okay with it. Hence, the complainant has filed the above complaint before the Authority praying for following relief and the same is admissible for relief in accordance with Section 18 of the Act.

### **REFUND OF THE BOOKING AMOUNT**

2. After registration of the complaint, notice was sent to both the complainant and respondent to appear before the Authority on 17.08.2023. Complainant has appeared before the Authority and prayed for providing link to file MOC together with supporting documents. The respondent filed vakalath through its counsel and opportunity was given to the respondent to file statement of objections, if any, and serve the same on the complainant. The hearing was adjourned to 11.10.2023 after giving more than 45 days time to Respondent for filing objections.

3. During the hearing on 11.10.2023, the complainant filed MOC with supporting documents and submitted email acknowledgement for having served the same on the respondent on 16.08.2023 itself. The Respondent did not file any statement of objections in spite of availing sufficient time.



From the information furnished by the Complainant in its memo of calculation for refund with interest, it is apparent that the complainant has paid the advance amount and the respondent has received the same.

4. 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 return the amount received along with interest.

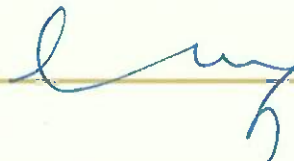
5. From the averments made in the complaint it is evident that complainant has paid the booking amount and are entitled to get their amount paid along with interest as per the memo of calculation submitted by the Complainant. The Promoter-Respondent has not submitted any memo of calculation.

6. 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 Complainant as on 15.07.2023**

<b>Principle amount (A) Rs.</b>	<b>Interest (B) As on 15.07.2023 Rs.</b>	<b>Refund from Promoter (C) Rs.</b>	<b>Total Balance Amount (A+B) Rs.</b>
<b>25,000</b>	<b>1769</b>		<b>26,769</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/00287/2023** is hereby allowed.
2. Respondent is directed to refund a sum of **Rs. 26,769/- (Rupees Twenty Six thousand seven hundred sixty nine 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 15.07.2023. The interest due from 16.07.2023 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**

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Memo of Calculation for Refund submitted by the Complainant on 15.07.2023

Principal Amount (A)	Interest (B) As on 15.07.2023	Refund from Promoter (C)	Total Balance Amount (A+B)
Rs. 28,000	Rs. 1769	Rs.	Rs. 26,769