

PROCEEDINGS OF THE AUTHORITY

BEFORE BENCH 5

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO: CMP/00606/2023

DATED THIS 13TH DAY OF NOVEMBER, 2023


COMPLAINANT : Mr.Mahesh Babu A
No.5, 1st Cross, Near GKM College
Annayappa Layout, Jaraganahalli
Bangalore : 560 078
(Party in Person)

**RESPONDENT /
PROMOTER** : 1. M/s.Allam Infinite India Pvt Ltd
No.44/1, Azeem Pearl,
Dickenson Road, Yellappa Garden
Bangalore:560042
(Ms.Vaidehi, Advocate)

**PROJECT NAME &
REGISTRATION NO.** : GM AMBITIOUS ENCLAVE
PRM/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**, situated at Maragondanahalli Village, Jigani Hobli, Anekal Taluk, Bangalore Urban District, praying for a direction to Refund the amount paid with Interest.



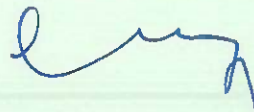
BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. As per the details furnished by the Complainant in the memo of calculation, the complainant has entered into an agreement of sale on 30.01.2009 for purchase of an apartment in the project known as **GM AMBITIOUS ENCLAVE**. The project completion date as per agreement was 20.04.2022. The complainant has paid an amount of Rs.29,63,466/- (Rupees Twentynine lakhs sixty three thousand four hundred sixty six only) to the Respondent. Even after more than one and half years delay from the date of completion date mentioned in the agreement, the Respondent has not communicated the probable date of completion and handing over the apartment booked by the complainant. Hence, the complainant has filed the above complaint before the Authority praying for following relief:

Request for refund of the amount paid along with interest

2. As per the agreement, it is seen that the completion date is agreed as 20.04.2022. The promoter-respondent was required to complete the project and hand over possession of the apartment by 20.04.2022. Since the respondent-promoter has failed to handover the apartment and there is no communication on the same to the Complainant, the complainant filed the above complaint seeking refund of the amount paid with interest. The complaint filed by the Complainant is admissible for relief in accordance with Section 18 of the Act.

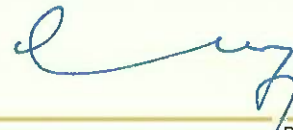
3. After registration of the complaint, Notice was sent to both complainant and respondent to appear before the Authority on



17.08.2023. Complainant has appeared before the Authority and was directed to file MOC for refund with interest together with supporting documents. Respondent entered appearance through their counsel and filed vakalath and given an opportunity to file statement of objections and serve the same on the complainant. The hearing was adjourned to 11.10.2023.

4. On 11.10.2023, the Complainant filed MOC for refund with interest along with supporting documents such as construction agreement, sale agreement, payment receipts, etc., in support of its contention and served the same on the Respondent. The Respondent in spite of availing more than 45 days for filing statement of objections have not filed any statement of objections. The Respondent has neither filed any MOC nor disputed the MOC filed by the Complainant. Based on the documents and information furnished by the Complainant in their memo of calculation for refund with interest, it is apparent that the promoter has received the amount and failed to refund the money with interest. Since the respondent-promoter has failed to refund the money to the complainant, 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.

6. From the averments made in the complaint and the documents produced by the Complainants, it is evident that the complainant has paid the advance sale consideration amount and is entitled to get refund of his amount paid along with interest as per 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 18.08.2023

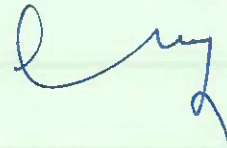
Principle amount (A) Rs.	Interest (B) As on 18.08.2023 Rs.	Refund from Promoter (C) Rs.	Total Balance Amount (A+B) Rs.
29,63,466	10,38,069		40,01,535

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/00606/2023 is hereby allowed.

2. Respondent is directed to refund a sum of **Rs. 40,01,535/- (Rupees Forty Lakhs One Thousand five hundred thirty five only)** towards refund with interest to the complainant within 60 days from the date of this order as per



the calculation of the Complainants, calculated from 01/05/2017 till 18.08.2023. The interest due from 19.08.2023 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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