

PROCEEDINGS OF THE AUTHORITY

BEFORE BENCH 5

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO: CMP/00130/2023

DATED THIS 13th DAY OF NOVEMBER, 2023

COMPLAINANT : Mr.Abdul Jaleel Peedikandy
4 Floor, 3B, Rajendra Place Pusa Road
New Delhi : 110 008
(M/s.Canvas Legal, Advocates)

**RESPONDENT /
PROMOTER** : M/s.Aryan Hometec Pvt Ltd.
No.609, 15th Cross, Ring Road
JP Nagar 6th Phase
Bangalore : 560 078
(None Represented)

**PROJECT NAME &
REGISTRATION NO.** : ARYAN GOLDEN ARENA
PRM/KA/RERA/1251/310/PR/
171031/001288

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 **ARYAN GOLDEN ARENA**, situated at Attibele, Sarjapura Main Road, Bidaraguppa Village, Anekal, Bangalore South, 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 15.11.2017 for purchase of an apartment in the project known as **ARYAN GOLDEN ARENA**. The project completion date as per agreement was 14.02.2020. The complainant has paid an amount of Rs.8,71,122/- (Rupees Eight Lakhs Seventy One thousand one hundred twenty two only) to the Respondent. Even after more than three 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. Since there was no response or communication from the Respondent for handing over the apartment, the complainant sent a Legal Notice to the Respondent demanding the refund of the amount paid with interest. The respondent did not reply even to the Legal Notice issued by the Complainant. Hence, the complainant has filed the above complaint before the Authority praying for following relief:

**Refund of the amount paid along with interest
And compensation**

2. As per the agreement, it is seen that the completion date is agreed as 14.02.2020. The promoter-respondent was required to complete the project and hand over possession of the apartment by 14.02.2020. 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 16.08.2023. Complainant has appeared before the Authority and was directed to file MOC for refund with interest together with supporting documents. Respondent was absent and was given an opportunity to file statement of objections. 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 sale agreement, payment receipts, copy of the Legal Notice etc., in support of its contention and served the same on the Respondent. The Respondent did not appear even on this day either by itself or through any counsel to represent and file statement of objections. The Respondent was absent on both the days of hearing. Further, 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. The Complainant did not mention on what account the compensation of Rs.5.0 lakhs and Rs.2.0 lakhs is claimed. However, the complainant may seek an appropriate relief by filing a separate complaint mentioning on what account the compensation is claimed before the Adjudicating Officer who is empowered to adjudge the compensation under the provisions of the Act.

8. 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 15.06.2023**

Principle amount (A) Rs.	Interest (B) As on 15.06.2023 Rs.	Refund from Promoter (C) Rs.	Total Balance Amount (A+B) Rs.
8,71,122	4,85,841		13,56,963

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/00130/2023 is hereby allowed.
2. Respondent is directed to refund a sum of **Rs. 13,56,963/- (Rupees Thirteen Lakhs fifty six thousand nine hundred sixty three 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 15.06.2023. The interest due from 16.06.2023 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**