

PROCEEDINGS OF THE AUTHORITY

BEFORE BENCH 5

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO: CMP/220720/0009774

DATED THIS 13th DAY OF NOVEMBER, 2023

COMPLAINANTS : 1. Mr.Avinash Bhaskar Rao Bhardwaj
2. Ms.Sandhya Avinash Bhardwaj

Both are residing at 36,
Aryind Nagar society, Narendra
Nagar, Vivekanand Nagar, Nagpur
Pin: 440 015

(M/s.VNA Law Offices, Advocates)

**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 Complainants in the memo of calculation, the complainants have entered into an agreement of sale on 16.06.2018 for purchase of an apartment bearing No.C-06-17 in Block-C. The project completion date as per agreement was 03.04.2022. The complainants have paid an amount of Rs.19,61,674/- (Rupees Nineteen Lakhs Sixty One Thousand Six Hundred Seventy Four only) to the Respondent. The complainants have submitted that the construction of building in Block-C has not even commenced as on the date of filing the present complaint. The complainants called the builder to know the status of the project and not starting the construction work, there was no response from the builder. Hence, the complainants have filed the above complaint before the Authority praying for following reliefs:

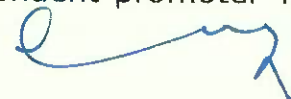
Cancel the agreement and refund of the entire amount along with interest.

2. As per the agreement, it is seen that the completion date is agreed as 03.04.2022. The promoter-respondent was required to complete the project and hand over possession of the apartment by 03.04.2022. 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, Notice was sent to both complainants and respondent to appear before the Authority on 21.09.2023. Complainants have appeared before the Authority and submitted before the Authority that the construction work in C-Block have not started even after completion of more than 3 years from the date of agreement and receipt of advance sale consideration. Hence, the complainants have sent email dated 7.10.2021 cancelling the construction and sale agreement entered with the Respondents and sought for refund of the amount paid along with interest. Since the respondent did not reply for the email communication, the complainants have sent Legal Notice to the respondents demanding refund of the amount paid along with interest. The Respondent received the Legal Notice and failed to reply to the legal notice nor refunded the money. The Respondent entered appearance before the Authority by filing vakalath and did not file any statement of objections.

4. The Complainants filed MOC for refund with interest along with supporting documents such as construction agreement, sale agreement, email correspondence, payment receipts, consolidated statement showing the total payments made, Legal Notice etc., in support of its contention and served the same on the Respondents. The Respondents have neither filed any MOC nor disputed the MOC filed by the Complainants. 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 received the amount and failed to refund the money with interest. Since the respondent-promoter has



failed to refund the money to the complainants, 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 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.

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 10.09.2023

Principle amount (A) Rs.	Interest (B) As on 10.09.2023 Rs.	Refund from Promoter (C) Rs.	Total Balance Amount (A+B) Rs.
19,61,674	9,65,708		29,27,382

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/220720/0009774 is hereby allowed.

2. Respondent is directed to refund a sum of **Rs. 29,27,382/- (Rupees Twenty Nine Lakhs Twentyseven Thousand Three hundred eighty two 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 10.09.2023. The interest due from 11.09.2023 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**