

PROCEEDINGS OF THE AUTHORITY BEFORE BENCH 5

PRESIDED BY SHRI G.R. REDDY, HON'BLE MEMBER

Dated: 17th November 2023

COMPLAINT NO: CMP/220623/0009662

COMPLAINANT...

**Mr. K. ASHOK,
Aged about 56 years,
Programme Executive, CRD
Marketing Wing,
All India Radio Complex,
Raj Bhavan Road,
Bangalore-560001.
STATE: KARNATAKA.**

(Party in person)

Vs

RESPONDENT.....

**M/s Allam Infinite India Pvt. Ltd.
No. 44/1, Azeem Pearl,
Dicknson Road, Yellappa Garden,
Yellappa Chetty Layout,
Bengaluru-560042.**

(by Sri. J.P. Darshan, Adv)

JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act against the project "**GM NORTH ENCLAVE**" developed by **M/s Allam Infinite India Private Limited**" for the relief of refund with interest.
2. This project has been registered with RERA vide registration No. PRM/KA/RERA/1251/309/PR/190410/0002520.



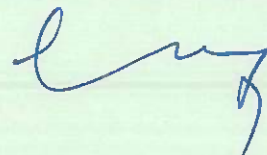
3. This project is situated at, Chokkanahalli Village Yelahanka Hobli, Bangalore North (Addl) Taluk, Bangalore Urban District, Bangalore North.

Brief facts of the complaint are as under:-

4. The complainant had booked Flat No. N-14-10, Tower-N an apartment in the project developed by the respondent namely "**GM NORTH ENCLAVE**" and the complainant had paid an amount of Rs. 50,000/- (Rupees fifty thousand only) out of total sale consideration of Rs. 49,50,000/- through Cheque bearing No.668201 dated: 17/02/2021 of Karnataka Bank. The respondent had issued receipt bearing No. 6471 dated 02-03-2021 with regard to the payment paid by the complainant. Due to some discrepancy found in the document sent by the Marketing Officer with the documents show in the RERA website like sanctioned plan and broacher plan are differ. It is also alleged by the complainant that, the respondent had not started the project even after lapse of 18 months etc.,

5. The complainant has not satisfied with the clarification given by the respondent through its e-mail dated 13th March, 2021 and finally decided to cancel booking. In this regard the complainant had sent e-mail to the respondent on March 26, 2021 and requested to return the booking amount of Rs. 50,000/- (Rupees Fifty thousand only). The complainant had also requested the respondent over telephone, but the respondent did not respond to the requests made by the complainant. Hence, this complaint.

6. After registration of the complaint, notice were issued to both complainant and respondent to appear before the Authority. The



complainant appeared before the Authority and submitted documents in respect of his claim. The copies of the documents also sent to the respondent through e-mail. The Advocate appeared on behalf of Respondent filed vakalat, without filing any documents, statement of objections and not contested the matter.

7. The complainant in support of his claim has produced documents such as Memo of Calculation date 28-07-2023, copies of receipts e-mail corresponding letters and served the same on the respondents. This matter was heard on 21-09-2023.

8. On the above averments, the following points would arise for my consideration:-

1. Whether the complainant is entitled for the relief claimed?
2. What order?

9. My answer to the above points are as under:-

1. In the Affirmative.
2. As per final order for the following.

REASONS

10. My answer to Point No.1:- From the materials available on record, it is apparent that the respondent had received an amount of Rs. 50,000/- (Rupees fifty thousand only) and the respondent had also acknowledged the same vide receipt No. 64712 dated 02-03-2023. It is clearly shown on the documents available on records that the respondent had not properly explained with regard to the discrepancy found with RERA website and the documents provided



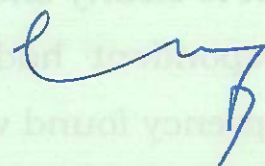
by the respondent. Hence, the complainant has sent e-mail to the respondent cancelling the booking and requested to return the amount of Rs.50,000/- (Rupees Fifty thousand only).

11. As per section 18(1) 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.

12. Therefore, as per section 18(1) of the Act, the promoter is liable to return the amount received along with interest and compensation only if the promoter fails to complete or provide possession of an apartment etc., in accordance with sale agreement.

13. From the averments of the complaint and the documents submitted by the complainant, the complainant has paid an amount of Rs. 50,000/- (Rupees fifty thousand only) and the respondent had also accepted the same.

14. The complainant has filed his memo of calculation as on 28-07-2023 claiming a refund of Rs.61,185/- (Rupees Sixty one thousand One hundred eighty five only) including interest. The respondent has not resisted the said memo of calculation filed by the complainant and he has not submitted his Memo of calculation in spite of providing sufficient opportunity. On verification of the memo of calculation filed by the complainant reveals that his claim is genuine.



15. Having regard to all these aspects as ment-ioned above, this Authority concludes that the complainant is entitled for refund with interest as claimed vide his memo of calculation dated 28-07-2023.

16. 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 28-07-2023**

Interest Calculation till 30/04/2017 (Before RERA)

S.NO	DATE	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	INTEREST @9%
1	30-04-2017	0	0	30-04-2017	0
2		0		TOTAL INTEREST (1)	0

Interest Calculation From 01/05/2017 (After RERA)

S.NO	DATE FROM 01/05/2017	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	MCLR INTEREST X%	INTEREST RATE X+2%	INTEREST @X+2%
1	01-05-2017	0	2279	28-07-2023	8.15	10.15 as on 01-05-2017	0
2	02-03-2021	50,000	878	28-07-2023	7.3	9.3 as on 10-02-2021	11,185
3	TOTAL AMOUNT	50,000				TOTAL INTEREST (2)	11,185

Memo Calculation

PRINCIPLE AMOUNT (A)	INTEREST (B = 1 + 2 + 3) AS ON 28-07-2023	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
50,000	11,185	0	61,185

17. Accordingly the point raised above is answered in the Affirmative.



18. My answer to point No.2:- In view of the above discussion, I am of the opinion that this complaint deserves to be allowed. Hence, I proceed to pass the following:

ORDER

19. In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CMP/220623/0009662** is hereby allowed as under.

1. In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CMP/220623/0009662** is hereby allowed. Respondent is directed to pay a sum of **Rs. 61,185/- (Rupees Sixty one thousand One hundred eighty five 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 as per MCLR + 2% till 28-07-2023

2. The interest due from 29-07-2023 up to the date of final payment will be calculated likewise and paid to the complainant.

The complainant is at liberty to initiate action in accordance with law, if the respondent fails to comply with this order.

No order as to the costs.


(G. R. REDDY)
Member, K-RERA