

PROCEEDINGS OF THE AUTHORITY

BEFORE BENCH 5

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO: CMP/221115/0010328

DATED THIS 23rd DAY OF NOVEMBER, 2023

COMPLAINANT : Mr.Sairam Dharmaraju
F-301, BPTP Freedom Park Life
Apartment, Sector-57, Gurugram
Haryana : 122011

(By Mr.Akash Bantia, Advocate)

RESPONDENT / : M/s.Mantri Developers Pvt Ltd.
PROMOTER Mantri House, # 41, Vittal Mallya Road
Bangalore : 560 001

(By M/s.TAPASYA Law Chambers
Advocates)

PROJECT NAME & : MANTRI WEBCITY 2A
REGISTRATION NO. PRM/KA/RERA/1251/310/PR/
171015/000608

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 MANTRI WEBCITY 2A** praying for a direction to Refund the amount paid with Interest and for other reliefs.



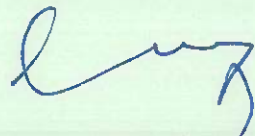
BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. As per the details furnished by the Complainant, the complainant has entered into an agreement of sale on 12.08.2014 for purchase of an apartment from the Respondent in the project known as **MANTRI WEBCITY 2A**. The project completion date as per agreement was 31.03.2017. The complainant has paid an amount of Rs.85,42,897/- (Rupees Eightyfive Lakhs Forty two thousand eight hundred Ninety seven only) to the Respondent. Since there was delay of more than five years in handing over the apartment, the complainant has filed the above complaint before the Authority praying for following reliefs:

Direct the Respondents to refund the amount with assured returns and cancellation of the loan

2. As per the agreement, it is seen that the completion date is agreed as 31.03.2017. The promoter-respondent was required to complete the project and hand over possession of the apartment by 31.03.2017. Since the respondent-promoter has failed to complete or unable to handover the possession of the apartment to the allottee, 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 the complainant and respondent to appear before the Authority on 27.04.2023. Complainant has appeared before the Authority through his counsel and the Respondent was absent. During the hearing on 27.4.2023, the Complainant requested for providing link for filing Memo of Calculation for refund with interest. The matter was adjourned to 01.06.2023 and the hearing was



postponed due to administrative reasons on 18.7.2023. During the hearing on 18.7.2023, the advocate for Respondent entered appearance and filed vakalath and prayed for time to file statement of objections and the matter was adjourned to 14.09.2023. On 14.09.2023, the complainant filed MOC with supporting documents and served on the respondent. In spite of availing three opportunities and undertaking to file the statement of objections, the respondent has not filed any statement of objections nor produced any documents and contested the case.

4. The complainant has submitted in his complaint that the complainant has entered into buyback agreement with guaranteed returns with a tripartite subvention scheme. As per the terms of the agreement the respondent was to pay PRE-EMI till possession or completion of buyback period. The Respondent has stopped paying PRE-EMI and neither has paid the deposited amount nor the buyback amount. The Respondent has not complied with the terms of the agreement and hence approached this Authority paying for a direction to the respondent to refund of the amount with assured returns and cancellation of the loan.

5. From the information furnished by the Complainant in its memo of calculation for refund with interest, it is apparent that the complainant has paid advance sale consideration and the respondent-promoter has acknowledged the receipt of the said amount but failed to handover possession of the apartment. Since the respondent-promoter has failed to complete or unable to handover the possession of the apartment to the allottee, this complaint is admissible for relief in accordance with Section 18 of



Page 3 of 5

the Act and the respondent is liable to refund the amount with interest.

6. 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.

7. From the averments made in the complaint it is evident that complainant has paid the advance sale consideration amount and are entitled to get their amount paid along with interest as per the memo of calculation submitted by the Complainant. The complainant has served the Memo of calculation on the respondent, The Promoter-Respondent has not submitted any memo of calculation or disputed the claim made by the complainant in his memo of calculation.

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 Complainant as on 12.09.2023

Principle amount (A) Rs.	Interest (B) As on 12.09.2023 Rs.	Refund from Promoter (C) Rs.	Total Balance Amount (A+B) Rs.
85,42,897	75,77,497	--	1,61,20,394

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/221115/0010328** is hereby partly allowed.
2. Respondent is directed to refund a sum of **Rs. 1,61,20,394/- (Rupees One crore sixtyone lakhs twenty thousand three hundred ninety four 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 12.09.2023. The interest due from 13.09.2023 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