

**PROCEEDINGS OF THE AUTHORITY BEFORE BENCH 5**

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

**Dated 16<sup>th</sup> November 2023**

**COMPLAINT NO: 00969/2023**

**COMPLAINANT:**

**1. Ramakrishna Mondal  
2. Rina Mondal  
No. 26/10, Mangala Enclave,  
2<sup>nd</sup> Main Road, Sultanpalya,  
Bangalore-560032**

**(Party in person)**

**Vs**

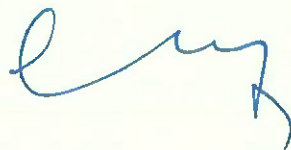
**RESPONDENT:**

**M/s Allam Infinite India Private  
Limited, No.44/1, Azeem Pearl,  
Dickenson Road, Yellappa Garden,  
Yellappa Chetty Layout,  
Bangalore-560042**

**(None represented)**

**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-08-10, Tower-N an apartment in the project developed by the respondent namely “GM NORTH ENCLAVE” and the complainant had paid an amount of Rs. 19,21,500/- (Rupees Nineteen lakhs Twenty one thousand Five hundred only) and entered into Agreement of Sale on 17<sup>th</sup> March, 2021.

5. The Respondent had issued a Cheque bearing No. 003170 dated 29-03-2023 drawn on Karur Vysya Bank, Halasuru Branch, Bangalore for an amount of Rs.22,52,787/- (Rupees Twenty two lakhs Fifty two thousand Seven hundred eighty seven only) including interest at the rate of 8.5% on the advance amount received by the Respondent till 9<sup>th</sup> January, 2023.

6. It is further alleged by the complainant that, the cheque issued by the respondent was presented to HDFC Bank, RT Nagar, Bangalore for encasement on 1<sup>st</sup> June, 2023 and the cheque returned with a reason that the account blocked and there was no sufficient balance in the account.

7. After registration of the complaint, notice was 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 respondent remained absent, hence placed exparte.

8. In support of his claim, the complainant has produced documents such as Memo of Calculation date 11-09-2023, Sale agreement, Cancellation Agreement copies of receipts e-mail correspondence letters and acknowledgement for having served on the respondents. This matter is heard on 21-09-2023.

9. 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?

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

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

**REASONS**

**11. My answer to Point No.1:-** From the materials available on record, it is apparent that the respondent had received an amount of Rs. 19,21,500/- (Rupees Nineteen lakhs Twenty one thousand Five hundred only) on various dates and the respondent had also acknowledged the same. It is clearly shown on the documents available on records that the respondent had received total amount of Rs. 19,21,500/- from the Complainant.

12. The respondent failed to complete the project as per agreement executed in favour of the complainant. Hence, the complainant has decided to exist from the project and demanded to refund the amount with interest @ the rate of 8.5% p.a.

13. On the demand of the Complainant the respondent had issued cheque bearing No. 003170 dated 29-03-2023 of Karur Vysya Bank Ltd. Halasur Br. Bangalore, for an amount of Rs.22,52,787/- in favour of complainant. The complainant has presented the cheque to his Bank, but the cheque issued by the Respondent bounced due to Account blocked.

14. The complainant has filed Memo of Calculation, copies of Sale Agreement, Receipts, cheque, Bank endorsement and other relevant documents in support his claim. On the other hand the respondent neither appeared before the Authority nor filed any written submissions / objections.



15. 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.

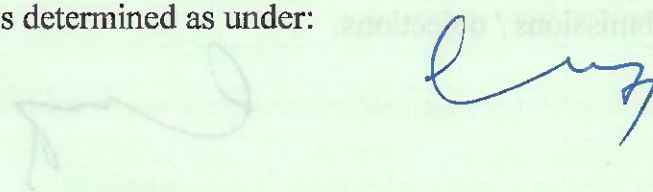
16. Therefore, as per section 18(1) of the Act, the promoter is liable to return the amount received along with interest and compensation only if the promoter fails to complete or provide possession of an apartment etc., in accordance with sale agreement.

17. From the averments of the complaint and the documents submitted by the complainant, it is evident that the complainant has paid an amount of 19,21,500/- (Rupees Nineteen lakhs Twenty one thousand Five hundred only) and the respondent had also accepted the same.

18. The complainant has filed his memo of calculation as on 11-09-2023 claiming a refund of Rs.23,65,236/- (Rupees Twenty three lakhs Sixty five thousand Two hundred 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.

19. Having regard to all these aspects as mentioned above, this Authority concludes that the complainant is entitled for refund with interest as claimed vide his memo of calculation dated 11-9-2023.

20. 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 11-09-2023.**

| 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                       | 2324       | 11-09-2023      | 8.15             | 10.15 as on 01-05-2017 | 0              |
| 2    | 07-03-2021           | 75,000                  | 918        | 11-09-2023      | 7.3              | 9.3 as on 10-02-2021   | 17,542         |
| 3    | 16-03-2021           | 6,00,000                | 909        | 11-09-2023      | 7.3              | 9.3 as on 10-03-2021   | 1,38,964       |
| 4    | 16-03-2021           | 4,23,000                | 909        | 11-09-2023      | 7.3              | 9.3 as on 10-03-2021   | 97,970         |
| 5    | 23-03-2021           | 8,23,500                | 902        | 11-09-2023      | 7.3              | 9.3 as on 10-03-2021   | 1,89,260       |
| 6    | TOTAL AMOUNT         | 19,21,500               |            |                 |                  | TOTAL INTEREST (2)     | 4,43,736       |

**MEMO OF CALCULATION**

| PRINCIPLE AMOUNT (A) | INTEREST (B) 12+13 AS ON 11-09-2023 | REFUND FROM PROMOTER | TOTAL BALANCE AMOUNT (A+B+C) |
|----------------------|-------------------------------------|----------------------|------------------------------|
| 19,21,500            | 4,43,736                            | 0                    | 23,65,236                    |

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

22. 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**

23. In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CMP/00969/2023** 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/00969/2023** hereby allowed. Respondent is directed to pay a sum of **Rs. 23,65,236/- (Rupees Twenty three lakhs sixty five thousand Two hundred thirty six only)** towards refund with interest to the complainant within 60 days from the date of this order, calculated at MCLR + 2% till 11-09-2023.

2. The interest due from 12-09-2023 up to the date of final payment will be calculated likewise and paid to the complainant.

The complainant is at liberty to initiate action 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**