

PROCEEDINGS OF THE AUTHORITY

BEFORE BENCH 5

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO: CMP/00113/2023

DATED THIS 27th DAY OF DECEMBER, 2023

COMPLAINANT : 1. Ms.Nandita Gupta Shah
2. Mr.Adetya Gupta

Both are residing at No.423,
Ranka Court Apartment,
Cambridge Layout
Bangalore : 560 008

(Party in Person)

RESPONDENT /
PROMOTER : 1. M/s.Ozone Elegant Developers LLP
No.51/7-1, Rathna Avenue
Off Richmond Road, Civil Station
Bangalore : 560 025

2. Mr.S.Bhaskaran
Ozone Group, 38, Ulsoor Road
Bangalore : 560 042

3. Mr.Vasudevan
Ozone Group, 38, Ulsoor Road
Bangalore : 560 042

(None Represented)

PROJECT NAME &
REGISTRATION NO. : WF 48
PRM/KA/RERA/1251/446/PR
171015/000781



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 **WF 48** 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 paid a sum of Rs.11,49,605/- (Rupees Eleven Lakhs forty nine thousand six hundred five only) towards purchase of an apartment in the project known as **WF48** on various dates. Since the project was not moving, the complainants have cancelled the allotment on 17.08.2017 before entering into any agreement for sale and requested for refund of the amount paid. Since the respondent did not respond nor refunded the amount paid even after more than 5 years from the date of cancellation. The Complainants submit that after cancellation, the Respondents have sold the unit to third party. However, the respondents have not refunded the amount paid by the complainants. Hence, the complainants have filed the above complaint before the Authority praying for following relief and the same is admissible for relief in accordance with Section 18 of the Act.

REFUND OF THE AMOUNT PAID WITH INTEREST

2. After registration of the complaint, notice was sent to both the complainants and respondent to appear before the Authority on 19.09.2023. Complainants have appeared before the Authority filed memo of calculation for refund with interest

together with supporting documents and served the same on the respondent. The respondent did not enter appearance by filing vakalath and did not file any statement of objections. One more opportunity was given to the respondents to file statement of objections and objections to the MOC filed by the complainants and the hearing was adjourned to 21.11.2023 and the respondents were absent even on 21.11.2023.

3. Hearing was conducted on 19.09.2023 and 21.11.2023. On both the hearings the Respondent was absent.

4. From the above averments, the following points would arise for my consideration.

- a) Whether the complainant is entitled for the relief claimed?
- b) What order?

FINDINGS ON THE ABOVE POINTS:

5. From the information furnished by the Complainants in its memo of calculation for refund with interest, it is apparent that the complainant has paid the advance amount and the respondent has received the same. The complainants have produced copies of the Email correspondence, Bank statement, allotment letter, payment receipts for having paid the amount in support of their contention.

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 complainants have paid the advance amount and are entitled to get their amount paid along with interest as per the memo of calculation submitted by the Complainants. The Promoter-Respondent has not submitted any 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 18.06.2023

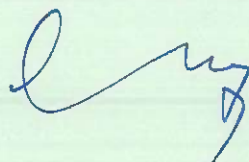
Principle amount (A) Rs.	Interest (B) As on 18.06.2023 Rs.	Refund from Promoter (C) Rs.	Total Balance Amount (A+B) Rs.
11,49,605	8,20,328		19,69,933

Accordingly, the **point (a)** raised above is answered in the affirmative.

9. **Findings on Point No.b** : In view of the above observations, I conclude that, this complaint deserves to be allowed and accordingly, I proceed to pass the following:

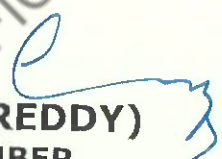
ORDER

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/00113/2023 is hereby allowed.

2. Respondent is directed to refund a sum of **Rs. 19,69,933/- (Rupees Nineteen lakhs sixty nine thousand nine hundred thirty three only)** towards refund with interest to the complainants within 60 days from the date of this order as per the calculation of the Complainants, calculated from 01/05/2017 till 18.06.2023. The interest due from 19.06.2023 up to the date of final payment will be calculated likewise and paid to the complainants. The complainants are 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

