

PROCEEDINGS OF THE AUTHORITY

BEFORE BENCH 5

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO: CMP/220222/0009036

DATED THIS 04th DAY OF JANUARY, 2024

COMPLAINANTS : 1. Mr.Tanmay Basu
2. Ms.Lovely Deb

Both are residing at Flat No.T-68
F Block, PSR Aster, Sy.No.49
Sarjapur Road, Chambenahalli
Bengaluru : 562125

(Mr.Goutam Basu, Advocate)

RESPONDENT /
PROMOTER : M/s.Azeem Infinite Dwelling India
Pvt Ltd., # 44/1, Azeem Pearl
Dickenson Road, Yellappa Garden
Yellappa Chetty Layout,
Bangalore : 560 042

(B.Archana, Advocates)

PROJECT NAME &
REGISTRATION NO. : G.M.ELEGANCE TOWER PHASE-2
PRM/KA/RERA/1251/308/PR
180627/001932

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 **G.M.ELEGANCE TOWER PHASE-2** praying



for a direction to Refund the booking amount paid with Interest.

BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. As per the details furnished by the Complainant in the memo of calculation, the complainants have paid a sum of Rs.70,000/- (Rupees Seventy thousand only) towards purchase of an apartment in the project known as **G.M.ELEGANCE TOWER PHASE-2** on 21.09.2019 and entered into an agreement for sale on 23.09.2019. The complainants have hand over documents to the bank for home loan. The bank has not processed the loan saying that the unit proposed to be purchased by the complainants were not in the plan. The complainants have addressed several emails but the respondent did not respond. After several emails the respondent replied saying that they are offering another unit which is costing around Rs.30.0 lakhs whereas the unit booked by the complainants was Rs.18.0 lakhs. Complainants submit that they are not happy with the Respondent in not communicating on the status of the project booked by the complainants and not clarified on the documents produced before the bank. 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 BOOKING AMOUNT WITH INTEREST

2. After registration of the complaint, notice was sent to both the complainants and respondent to appear before the



Authority on 27.09.2023. 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 has entered appearance by filing vakalath and pleaded for short time to file statement of objections and the case is adjourned to 14.12.2023. On 14.12.2023 the Respondent did not file any statement of objections nor filed objections to the MOC filed by the complainants.

3. Hearing was conducted on 27.09.2023 and 14.12.2023. On both the hearings the Respondent was present and sufficient time was granted for filing statement of objections, the respondent did not file any statement of objections.

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:

3. From the information furnished by the Complainants in its memo of calculation for refund with interest, it is apparent that the complainants have paid the booking amount and the respondent has received the same. The complainants have produced copies of Email correspondence, receipts for having paid the booking amount in support of her contention.



4. 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.

5. From the averments made in the complaint it is evident that complainants have paid the advance booking 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.

6. 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 26.06.2023

Principle amount (A) Rs.	Interest (B) As on 26.06.2023 Rs.	Refund from Promoter (C) Rs.	Total Balance Amount (A+B) Rs.
70,000	27,314		97,314

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/220222/0009036 is hereby allowed.
2. Respondent is directed to refund a sum of **Rs. 97,314/- (Rupees Ninety seven thousand three hundred fourteen 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 26.06.2023. The interest due from 27.06.2023 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