

**PROCEEDINGS OF THE AUTHORITY**

**BEFORE BENCH 5**

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

**COMPLAINT NO: CMP/220225/0009053**

**DATED THIS 05<sup>th</sup> DAY OF JANUARY 2024**

COMPLAINANT : Mr. John Thomas  
Sahana, # 77, 1<sup>st</sup> Main Road,  
7<sup>th</sup> Cross, Vijaya Bank Narmada  
Colony, Banaswadi,  
Bangalore : 560 043  
  
(Party in person)

RESPONDENT / : M/s. Allam Infinite India Pvt Ltd.  
PROMOTER # 44/1, Azeem Pearl, Dickenson  
Road, Yellappa Garden  
Bangalore : 560 042  
  
(Ms. Vaidhei, Advocate)

PROJECT NAME & : GM NORTH ENCLAVE  
REGISTRATION NO. PRIM/KA/RERA/1251/309/PR/  
190410/002520

**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 **GM NORTH ENCLAVE** praying for a direction to Refund the booking amount paid with Interest.

**BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-**

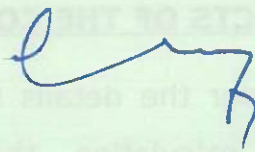
1. As per the details furnished by the Complainant in the memo of calculation, the complainant has paid a sum of



Rs.14,52,500/- (Rupees Fourteen Lakhs Fifty Two Thousand Five hundred only) towards purchase of apartments in the project known as **GM NORTH ENCLAVE** on various dates. After entering into agreement, the complainant has not received any update on the construction of the apartment from the Respondent. When the complainant visited the site found that the work has been completely stopped and some legal cases have been filed on the builder. There is no response or communication from the Respondent. Though the project completion date is 2024, the complainant after seeing the stoppage of construction work decided to cancel and requested for refund of the amount paid. The Respondent assured refund of the amount through their email but not refunded the amount so far. Hence, the complainant has 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 complainant and respondent to appear before the Authority on 21.09.2023. Complainant has appeared before the Authority and filed MOC together with supporting documents and was directed by the Authority to serve the same on the respondent. The respondent filed vakalath through its counsel and opportunity was given to the respondent to file statement of objections, if any. The hearing was adjourned to 06.12.2023.



3. During the hearing on 06.12.2023, the complainant filed MOC with supporting documents and submitted email acknowledgement for having served the same on the respondent. The Respondent was absent and did not file any statement of objections in spite of availing sufficient time. From the information furnished by the Complainant 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.

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

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

5. Findings on the above points are as under:

- a) In the affirmative
- b) As per the final order as per the following findings:

**FINDINGS:**

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 the complainant has paid the advance sale consideration and are entitled to get their amount paid along with interest as per the memo of calculation submitted by the Complainant. The complainant has submitted copies of allotment letter, agreement of sale, email communications, receipts for having paid the amount and received by the respondent in support of his contention. The Promoter-Respondent has not submitted any memo of calculation or filed objections to the MOC filed by the complainant. The respondent also not filed any statement of objections or produced any document and contested the case.

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 16.06.2023**

<b>Principle amount (A) Rs.</b>	<b>Interest (B) As on 16.06.2023 Rs.</b>	<b>Refund from Promoter (C) Rs.</b>	<b>Total Balance Amount (A+B) Rs.</b>
<b>14,52,500</b>	<b>3,05,719</b>		<b>17,58,219</b>

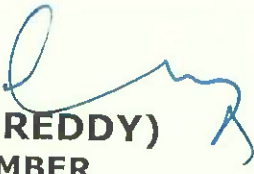
Accordingly, the **point (a)** raised above is answered in the affirmative.



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/220225/0009053** is hereby allowed.
2. Respondent is directed to refund a sum of **Rs. 17,58,219/- (Rupees Seventeen lakhs fifty eight thousand two hundred nineteen 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 16.06.2023. The interest due from 17.06.2023 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**

