

PROCEEDINGS OF THE AUTHORITY

BEFORE BENCH 5

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO: CMP/00116/2023

DATED THIS 5th DAY OF JANUARY 2024

COMPLAINANTS : 1. Mr.Mukthar Ahmad Parrey
2. Ms.Anjila Parry

Both are residing at No.134,
Lakshmi Layout, ARAKERE
B.G.Road, Bangalore: 76

(Party in person)

RESPONDENT / :1. M/s.Gulam Mustafa Enterprises
Pvt Ltd

No.6, GM Pearl, I Stage, I Phase
BTM Layout, Bangalore: 560068

2. M/s.Patel Engineering Limited
Patel Estate, Jogeshwari (W)
Mumbai : 400 102

3. M/s.Patel Realty (India) Ltd.
No.5, Onyx Centre, 5th Floor
Museum Road, Bangalore:560 001

(None Represented)

PROJECT NAME & : GM GLOBAL TECHIES TOWN TOWER-A
REGISTRATION NO. PRIM/KA/RERA/1251/308/PR/
170928/001304

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 GLOBAL TECHIES TOWN TOWER-A** praying for a direction to direction to pay delay period 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 entered into an agreement of sale on 28.08.2020 for purchase of an Apartment in the project known as **GLOBAL TECHIES TOWN TOWER-C**. The project completion date as per agreement was 18.02.2022. The complainants have paid advance sale consideration amount of Rs.52,24,000/- (Rupees Fifty Two lakhs twenty four thousand only) to the respondents. Since there was a delay in handing over the apartment and the Respondents have not communicated the actual date of handing over or the status of the project, the complainants have filed the above complaint before the Authority praying for delay period interest.

2. As per the information furnished by the Complainants, it is seen that the completion date is agreed as 18.02.2022. The promoter-respondent was required to complete the project and hand over possession of the apartment by 18.02.2022. In cases where the respondent-promoter has failed to complete or unable to handover the possession of the apartment to the allottee as per the agreed delivery date, the Complainant is entitled to file a complaint before the Authority and the complaint filed by the Complainants is admissible for relief in accordance with Section 18 of the Act.

3. After registration of the complaint, notice was sent to both complainants and respondents to appear before the authority. In response to the Notice, the complainants and Respondent appeared before the Authority on 12.12.2023. Complainants filed memo of calculation for delay period interest along with supporting documents and served the same to the Respondents. The Respondents have undertaken to file vakalath and prayed for time to file statement of objections. Since the complainants have already served the copy of the memo of calculation with supporting documents, the Respondent is given time till 18.12.2023 to file statement of objections, thereafter the matter will be posted for orders. The Respondents in spite of availing opportunity for filing statement of objections, failed to file any statement of objections.

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

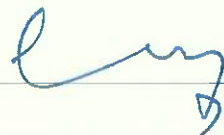
- a) Whether the Complainants are entitled for the relief claimed?
- b) What order?

5. Findings on the above points are as under:

- a) In the Affirmative
- b) As per final order

FINDINGS:

6. The complainants filed MOC for delay period interest together with supporting documents and the same was served on the respondent. The Complainants in support of its



contention has produced various documents such as Agreement to sell, construction agreement and statement of account.

7. On a perusal of the memo of calculation for delay period interest and other documents submitted by the complainants before the Authority, it is evident that the complainants have paid the substantial amount of sale consideration amount and the Respondent has acknowledged the receipt of the same. Admittedly there is a delay in handing over the apartment as per the agreement. Hence the complainants are entitled for delay period interest u/s 18 of the Act. The Complainants have served MOC for delay period interest along with supporting documents on the Respondents. The Respondents neither filed any MOC nor filed objections to the MOC filed by the Complainants. The Respondent failed to file its statement of objections, in spite of giving sufficient opportunities for the same.

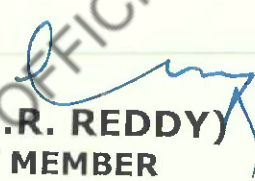
8. Accordingly, the **point (a)** raised above is answered in the affirmative.

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 CMP/00116/2023 is hereby allowed.

2. Respondent is directed to pay interest on delay period at the rate of SBI MCLR + 2 % from 18.08.2022 till the date of handing over possession along with occupancy certificate. The promoter shall pay the interest for the delay period as arrived at by the Complainants amounting to Rs.7,76,389/- (Rupees Seven Lakhs Seventy Six Thousand three hundred eighty nine only) within 60 days from the date of this order. The Promoter-Respondent is also liable to pay delay period interest every month for the subsequent period of delay and up to the date of handing over possession as per the agreement. 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

