

PROCEEDINGS OF THE AUTHORITY BEFORE BENCH 5

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

Dated: 8TH JANUARY, 2024

COMPLAINT NO: 00112/2023

COMPLAINANT:

- 1. MRS. MALA RAMACHANDRA
W/O HEMANT RAMACHANDRA**
- 2. MR. HEMANT RAMACHANDRA
S/O KRISHNAMURTI RAMACHANDRA**

**Both residing at
Sindhu Advocate, No.4
Pamadi Towers, 1st Floor,
1st Main Road, Gandhi Nagar,
BENGALURU-560009.**

(Parties in person)

Vs

RESPONDENT:

- 1. M/S MANTRI CASTLES
PRIVATE LIMITED
Mantri House, # 41, Vittal
Mallya Road,
BENGALURU-560001**
- 2. GOKULAM SHELTERS
PRIVATE LIMITED
Gokulam Complex, 8th Mile,
Doddakallasandra Post,
Vasanthapura Main Road,
BENGALURU-560062**

**(By Tapasya Law Chambers
For Respoendent No.1 and
Mr. A. Sanath Kumar, Advocate
For Repondent No.2)**

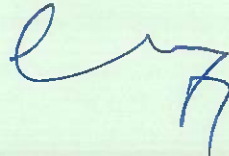


JUDGEMENT

1. This complaint is filed under section 31 of the RERA Act against the project "MANTRI MANYATA ENERGIA" developed by M/s Mantri Technology Constellations Pvt. Ltd. for the relief of refund with interest.
2. This project has been registered with RERA vide registration No. PRM/KA/RERA/1251/310/PR/171019/0000504.
3. This project is situated at, Kanakapura Road, 1.7 kms from Metro Cash & Carry, Bengaluru South, Bangalore Urban.

Brief facts of the complaint are as under:

4. The complainants have booked Flat No. Q-2701 Tower-H an apartment in the project developed by the respondent No.1 namely "MANTRI MANYATA ENERGIA" and the complainants have paid an amount of Rs. 50,40,667/- (Rupees Fifty lakhs Forty thousand Six hundred Sixty Seven only) against the total sale consideration of Rs.1,73,60,000/- (Rupees One Crore Seventy three lakhs Sixty thousand only).
5. The Respondent No.1 had received the amount of Rs.50,40,667/- (Rupees Fifty lakhs Forty thousand Six hundred sixty seven only) and also issued receipt bearing No. CR/SERNB(5)/2357 dated 30th Jan. 2017 for an amount of Rs. 1,00,000/- (Rupees One lakh only), receipt bearing No. CR/SERNB(5)/2542 dated 26th May, 2017 for an amount of Rs. 7,00,000/- (Rupees Seven lakhs only) and receipt bearing No. CR/SERNB(5)/2541 for an amount of Rs. 2,08,133/- (Rupees Two lakhs Eight thousand One hundred thirty three only) for having received the amount by the Complainants. The complainants have produced Bank statement it shows an amount of Rs. 40,32,534/- (Rupees Forty lakhs Thirty two thousand Five hundred Thirty four only) released to the builder/respondent.



6. It is further alleged by the complainants that, the respondents have received approximately 30% of the sale consideration amount received. But, respondents have failed to inform to the complainants about the stages of the constructions. The complainants alleged that they were put in dark for years together. Hence this complaint.

7. After registration of the complaint, notice was issued to both complainants and respondents to appear before the Authority. The complainants appeared before the Authority and submitted documents in respect of their claim. The copies of the documents also sent to the respondent through e-mail. The respondent No.1 filed vakalath, but not filed its written submission and documents. The Respondent No.2 filed its written submissions together with supporting documents.

8. In support of their claim, the complainants have produced documents such as Memo of Calculation date 27-07-2023, Sale agreement, Cancellation Agreement copies of receipts e-mail correspondence letters and acknowledgement for having served on the respondents. This matter is heard on 03-08-2023 and on 23-11-2023.

9. **On the above averments, the following points would arise for my consideration:-**

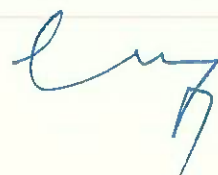
1. Whether the complainant is entitled for the relief claimed?
2. What order?

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. 50,40,667/- (Rupees



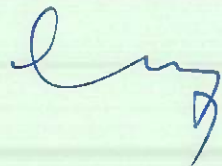
Fifty lakhs Forty thousand Six hundred sixty seven only) on various dates and the respondent had also acknowledged the same. It is clearly shown on the documents available on records that the respondent had received total amount of Rs. 50,40,667/- (Rupees Fifty lakhs Forty thousand Six hundred sixty seven only) from the Complainants.

12. The respondents failed to complete the project as per agreement executed in favour of the complainants. Hence, the complainants have decided to exist from the project and demanded to refund the entire amount with interest. In spite of several request the respondents have not refunded the amount which was paid by the Complainants.

13. The complainants have filed Memo of Calculation, copies of Sale Agreement, Receipts, Bank statement and postal receipt for having sent the documents to the respondent and other relevant documents in support of his claim. On the other hand the respondent No.1 not filed any documents to before this Authority to defend its claim.

14. The respondent No.2 filed its written submission along with documents. The respondent No.2 in its written submission stated that, respondent No.2 entered into a Joint Development Agreement dated 29-09-2010 with the respondent No.1. Subsequently respondent No.2 executed General Power of Attorney dated 29-09-2010 in favour of Respondent No.1 to effectuate the terms and conditions of the Joint Development Agreement.

15. The respondent No.2 further submitted in its written submission that, The respondent No.2 and respondent No.1 entered into Joint Development Agreement dated 29-09-2010 on principle to principle basis wherein the respondent No.1 got all the rights in the project land to develop and sale etc. The respondent No.1 is acting for his own interest, benefits under the said JDA by entering into said construction agreement and further agreement for sale of undivided share with the



Home Buyers upon the agreed terms and conditions, which are binding upon the parties of the agreement. Hence, the respondent No.2 has no control whatsoever on the respondent No.1 who is developing and selling the flats of the project developed under the JDA. Thereby, the respondent No.2 prayed this Authority to dismiss the complaint against the respondent No.2

16. 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.

17. 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.

18. From the averments of the complaint and the documents submitted by the complainants, it is evident that the complainants have paid an amount of Rs. 50,40,667/- (Rupees Fifty lakhs Forty thousand Six hundred sixty seven only) and the respondents have acknowledged the same.

19. The complainants have filed their memo of calculation as on 27-07-2023 claiming a refund of Rs. 50,40,667/- (Rupees Fifty lakhs Forty thousand Six hundred sixty seven only) including interest. The respondents have not resisted the said memo of calculation filed by the complainants and they have not submitted their Memo of calculation in spite of providing sufficient opportunity. On verification of the memo of calculation filed by the complainants it reveals that complainants claim is genuine.



20. Having regard to all these aspects as mentioned above, this Authority concludes that the complainants are entitled for refund with interest as claimed vide his memo of calculation dated 27-07-2023.

21. 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
Complainants as on 27-7-2023.**

SL. NO	DATE	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	INTEREST @9%
1	29-01-2017	1,00,000/-	91	30-04-2017	2,243
2				TOTAL INTEREST (1)	2,243

Interest Calculation From 01/05/2017 (After RERA)

SL. 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	1,00,000	2278	27-07-2023	8.15	10.15 as on 01-05-2017	63,347
2	26-05-2017	7,00,000	2253	27-07-2023	8.15	10.15 as on 01-05-2017	4,38,563
3	26-05-2017	2,08,133	2253	27-07-2023	8.15	10.15 as on 01-05-2017	1,30,399
4	31-05-2017	40,32,534	2248	27-07-2023	8.15	10.15 as on 01-05-2017	25,20,853
5	TOTAL AMOUNT	50,40,667				TOTAL INTEREST (2)	31,53,162

MEMO OF CALCULATION

PRINCIPLE AMOUNT (A)	INTEREST (B) 12+13 AS ON 27-07-2023	REFUND FROM PROMOTER	TOTAL BALANCE AMOUNT (A+B+C)
50,40,667	31,55,405	0	81,96,072

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


23. **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

24. In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. **CMP/00112/2023** hereby allowed.

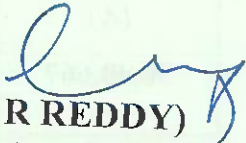
1. Respondents are directed to pay a sum of **Rs. 81,96,072/- Rupees Eighty one lakhs Ninety six thousand seventy two only** till 27-07-2023 as per MCLR + 2 towards refund with interest to the complainants within 60 days from the date of this order.

2. The interest due from 28-07-2023 up to the date of final payment will be calculated likewise and paid to the complainants.



The complainants are at liberty to initiate action in accordance with law, if the respondents fails to comply with this order.

No order as to the costs.


(G R REDDY)
Member, K-RERA

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