

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

FIFTH ADDITIONAL BENCH

PRESENT

**SHRI.G.R. REDDY
HON'BLE MEMBER**

COMPLAINT NO.CMP/220307/0009082

DATED THIS 16TH DAY OF JANUARY, 2023

COMPLAINANTS : Ms.Arati Behera
At/Po – Danara
Via Dera Colliery, Angul Dist.
Odisha : 759103

Party in Person

RESPONDENT / : M/s.Azeem Infinite Dwelling (India) Pvt Ltd.
No.6, GM Pearl, I Stage, I Phase, BTM
Layout, Bengaluru : 560 068

Ms.Vardehi, Advocate

PROJECT NAME & : GM ELEGANCE TOWER-1 (E-12)
REGISTRATION NO. PRM/KA/RERA/1251/308/PR/
170928/001476

J U D G E M E N T

This complaint is filed under Sec-31 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the project GM ELEGANCE TOWER-1 (E-12) praying for a direction to Refund the amount paid with Interest.

BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. The complainant has entered into an agreement of sale agreement on 30.03.2019. As per the agreement, the project completion date is 30.07.2021. The complainant has paid an amount of Rs.18,62,500/- (Rupees Eighteen lakhs sixty two thousand five hundred only) to the

respondent till date. Since there was more than 1 ½ years delay in handing over the apartment as per completion date of the project, the complainant has filed the above complaint before the Authority praying for refund of the amount paid together with interest.

2. After registration of the complaint, the respondent has not appeared before the Authority either by itself or through its counsel on two hearings. Further, notice was issued for hearing on 13.12.2022. Ms.Archana, Advocate appearing on behalf of the Respondent undertook to file vakalath on behalf of Respondent after taking NOC from the previous advocate. The matter was adjourned to 10.01.2023. On 10.01.2023 Complainant was present and filed Memo of Calculation of refund with interest and prayed for passing an order. Ms.Vaidehi, Advocate appeared on behalf of the Respondent filed Vakalath after obtaining NOC from the previous Advocate and submitted before the Authority to settle the claims of the Complainant and not filed any memo of calculation.
3. 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.
4. Therefore, as per Section 18 of the Act, the promoter is liable to refund the amount received along with interest.
5. From the averments made in the complaint, it is obvious that complainant has paid the advance sale consideration amount and are entitled to get his amount paid along with interest as per the



memo of calculation submitted by the Complainant. 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 by the Complainant as on 07.01.2023

Principle amount (A) Rs.	Interest (B) As on 07.01.2023 Rs.	Refund from Promoter (C)	Total Balance Amount (A+B) Rs.
18,62,500	7,46,454	NIL	26,08,954

And accordingly the Authority passes the following:

ORDER

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint Bearing **No. CMP/220307/0009082** is hereby allowed. Respondent is directed to refund a sum of **Rs. 26,08,954/- (Rupees Twenty Six lakhs eight thousand Nine hundred fifty four only)** towards refund with interest to the complainant within 60 days from the date of this order, calculated from 02.03.2019 till 07.01.2023.

The interest due from 08.01.2023 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

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