

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

FIFTH ADDITIONAL BENCH

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**SHRI.D.VISHNUVARDHANA REDDY
HON'BLE MEMBER-1**

COMPLAINT NO.CMP/211028/0008496

DATED THIS 15TH DAY OF OCTOBER, 2022

COMPLAINANTS : Mr.Anand,H.P &
Mrs.Archana M.D
No.105/3, 5th Cross, Vinayaka Layout
1st Stage, Hebbar, Kempapura
Bangalore : 560 024

RESPONDENT / : M/s.Mantri Technology Constellations Pvt. Ltd.
Mantri House, No.41, Vittal Mallya
Road, Bangalore : 560 001

PROJECT NAME & : MANTRI MANYATA ENERGIA
REGISTRATION NO. PRM/KA/RERA/1251/309/PR/
171014/000439

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 MANTRI MANYATA ENERGIA praying for a direction to Refund the amount paid with Interest.

BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. The complainants have entered into an agreement of sale and construction agreement on 08-01-2016. As per the agreement, the project completion date is 31.12.2018. The complainants have paid an

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amount of Rs.74,67,555/- (Rupees Seventy four lakhs sixty seven thousand five hundred fifty five only) to the respondent till date. Since there was more than 3 years delay in handing over the apartment, the complainants have filed the above complaint before the Authority praying for refund of the amount paid together with interest.

2. On a perusal of the construction agreement, it is seen that the completion date is agreed as 24 months. Accordingly the promoter-respondent was required to complete the project and hand over possession of the apartment by 31.12.2018. Since the respondent-promoter has failed to complete or unable to handover the possession of the apartment to the allottee, this complaint is admissible for relief in accordance with Section 18 of the Act.
3. After registration of the complaint, in pursuance of the notice, the respondent has not appeared before the Authority and submitted any statement of objections. The complainants have submitted their memo of calculation for refund with interest.
4. In support of their claim, the complainants have produced in all 13 documents such as copies of Agreement for Sale, Payment Receipts, Construction Agreement, RERA registration certificate and memo of calculation for refund with interest.
5. From the materials placed on record by the complainants, it is apparent that the promoter has not completed the construction and there is a delay of more than 4 years and hence the complainants have filed this complaint seeking refund of the amount with interest. agreed to refund the amount vide their email communication dated 22.10.2019 but failed to refund the amount with interest as on date.

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6. 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.
7. Therefore, as per Section 18 of the Act, the promoter is liable to return the amount received along with interest.
8. From the averments made in the complaint and the copies documents produced by the complainants, it is obvious that complainants have paid the advance sale consideration 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.
9. 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 02-07-2022

Principle amount (A) Rs.	Interest (B) As on 02.07.2022 Rs.	Refund from Promoter (C)	Total Balance Amount (A+B) Rs.
74,67,555	42,74,545	NIL	1,17,42,100

And accordingly the Authority passes the following:

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ORDER

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/211028/0008496** is hereby allowed. Respondent is directed to pay a sum of **Rs. 1,17,42,100/- (Rupees One crore seventeen lakhs fortytwo thousand one hundred only)** towards refund with interest to the complainants within 60 days from the date of this order, calculated from 04.12.2014 till 02-07-2022.

The interest due from 03.07.2022 up to the date of final payment will be calculated likewise and paid to the complainants. 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.


(D. VISHNUVARDHANA REDDY)
MEMBER-1
FIFTH ADDITIONAL BENCH
K-RERA