

**KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU**

**FIFTH ADDITIONAL BENCH**

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

**COMPLAINT NO.CMP/200928/0004220**

**DATED THIS 18<sup>TH</sup> DAY OF OCTOBER, 2022**

COMPLAINANTS : Mr.Sanjay Pal  
4062, Prestige Misty Waters  
Hebbal, Kempapura  
Bengaluru : 560 024

RESPONDENT / : M/s.Fortuna Buildcon India Pvt Ltd.,  
PROMOTER No.390, New NO.7, 13<sup>th</sup> Cross,  
Sadashivanagar, Bengaluru:560 080

PROJECT NAME & : FORTUNA VIVA  
REGISTRATION NO. PRM/KA/RERA/1251/309/PR/  
181215/002215

**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 FORTUNA VIVA 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 on 06.01.2014 and have paid an amount of Rs.30,00,000/- (Rupees thirty lakhs only ) to the respondent till date. Since there was delay of more than 04 years in handing over the apartment, the complainants have

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filed the above complaint before the Authority praying for refund of the amount paid together with interest.

2. The Respondent has not appeared on all the dates of hearing and failed to respond to the notices issued by the Authority. Therefore complainant has exercised the option of exiting from the project and sought for refund of the amounts paid with interest payable as per the provisions of the Act and Rules. The complaint filed by the complainant is admissible for relief in accordance with Section 18 of the Act. The complainants have submitted their memo of calculation for refund with interest.
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 return the amount received along with interest.
5. From the averments made in the complaint, 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.

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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 05-08-2022**

Principle amount (A) Rs.	Interest (B) As on 05.08.2022 Rs.	Refund from Promoter (C)	Total Balance Amount (A+B) Rs.
30,00,000	24,98,489	NIL	54,98,489

And accordingly the Authority passes the following:

**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 **No.CMP/200928/0004220** is hereby allowed. Respondent is directed to refund a sum of **Rs. 54,98,489/- (Rupees fifty four lakhs ninety eight thousand four hundred eighty nine only)** towards refund with interest to the complainant within 60 days from the date of this order, calculated from 01/05/2017 till 05.08.2022.

The interest due from 06.08.2022 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.

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