

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

FIFTH ADDITIONAL BENCH

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

COMPLAINT NO.CMP/220206/008964

DATED THIS 18TH DAY OF OCTOBER, 2022

COMPLAINANTS : Mr.Dayanand Madhu Shetty &
Ms.Satya Dayanand Shetty
No.A1/103, Ascent Residency,
"A" CHS Ltd., Poonam Nagar
Behind ONGC Colony, MUMBAI:93

RESPONDENT / : M/s.Sanchaya Land and Estate Pvt
PROMOTER Ltd.
No.479, HMT Layout, R.T.Nagar
Near R.T.Nagar Bus Stop
Bangalore : 560 032

PROJECT NAME & : THE GREENS PHASE-II
REGISTRATION NO. PRM/KA/RERA/1251/308/PR/
171014/000599

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 THE GREENS PHASE-II 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 08.01.2015 and have paid an amount of Rs.13,00,000/- (Rupees

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Thirteen lakhs only) to the respondent till date with project completion date as 30.09.2015. All obligations as per agreement have been completed by the complainant and the promoter has not complied with the agreement even on the date of this complaint and prayed before this Authority to direct the respondent to register the flat by accepting the balance payment or refund of the amounts paid along with interest.

2. After registration of the complaint, the respondent has not appeared before the Authority either by itself or through its counsel. The Authority has issued summons on 5.7.22 directing the Promoter of the Project to appear in person before the Authority and none of the Directors have appeared before this Authority and filed their statement of objections or offered any explanation. Since, there was no response from the respondent-promoter and the complainant has prayed for refund with interest and submitted their memo of calculation for refund with interest.
3. In support of their claim, the complainants have produced Agreement to Sell, construction agreement, Checklist and memo of calculation for refund with interest.
4. 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.



5. Therefore, as per Section 18 of the Act, the promoter is liable to refund the amount received along with interest.
6. From the averments made in the complaint and the copies of 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.
7. 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 20.10.2022

Principle amount (A) Rs.	Interest (B) As on 20.10.2022 Rs.	Refund from Promoter (C)	Total Balance Amount (A+B) Rs.
13,00,000	10,33,985	NIL	23,33,985

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/220206/0008964** is hereby allowed. Respondent is directed to refund a sum of **Rs. 23,33,985/- (Rupees Twenty three lakhs thirty three thousand nine hundred eighty five only)** towards refund with interest to the complainants within 60 days from the date of this order, calculated from 01/05/2017 till 20.10.2022.

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The interest due from 21.10.2022 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

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