

**KARNATAKA REAL ESTATE REGULATORY AUTHORITY,
BENGALURU**

FIFTH ADDITIONAL BENCH

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

COMPLAINT NO.CMP/200729/0006227

DATED THIS 29TH DAY OF OCTOBER, 2022

COMPLAINANTS : Mr.A.K.Siva Prasad
D.No.27-751, Janakarapalli
Chittoor : 517002, A.P.

RESPONDENT / : M/s.Mantri Developers Pvt Ltd.
PROMOTER Mantri House, # 41, Vittal Mallya Road
Bangalore : 560 001

PROJECT NAME & : MANTRI WEBCITY 2B
REGISTRATION NO. PRM/KA/RERA/1251/310/PR/
171015/000620

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 WEBCITY 2B 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 21.04.2016. The project completion date as per agreement was 30.04.2018. The complainants have paid an amount of Rs.51,65,083/- (Rupees Fiftyone lakhs sixty five thousand eighty three only) to the respondent till date. Since there was delay of more than four years in handing over the

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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 sale agreement, it is seen that the completion date is agreed as 30.04.2018. The promoter-respondent was required to complete the project and hand over possession of the apartment by 30.04.2018. 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 appeared before the Authority through its counsel and filed statement of objection. In the statement of objection filed by the Respondent, there is no mention about the status of the project nor has the respondent communicated to the complainant that the apartment is ready and will handover possession after executing the sale deed. The respondent has not submitted any document to support the delay in completion of the project. On the other hand the complainant has submitted as many as 13 documents in support of his claim including memo calculation for refund with interest.
4. From the information furnished by the Complainant in its memo calculation for refund with interest, it is apparent that the promoter has to deliver the apartment on or before 30.04.2018, but failed to handover possession of the apartment. The Respondent has not submitted in their

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statement of objection the reason for delay in completing and handing over the apartment. 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 return the amount received along with interest.
6. From the averments made in the complaint it is obvious that complainant has 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 19.07.2022

Principle amount (A) Rs.	Interest (B) As on 19.07.2022 Rs.	Refund from Promoter (C)	Total Balance Amount (A+B) Rs.
51,65,083	31,78,825	NIL	83,43,908

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 **No.CMP/200729/0006227** is hereby allowed. Respondent is directed to refund a sum of **Rs. 83,43,908/- (Rupees Eighty three lakhs forty three thousand nine hundred eight only)** towards refund with interest to the complainant within 60 days from the date of this order, calculated from 01/05/2017 till 19.07.2022.

The interest due from 20.07.2022 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