KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

FIFTH ADDITIONAL BENCH

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

COMPLAINT NO.CMP/210302/0007712

DATED THIS 2nd DAY OF NOVEMBER, 2022

COMPLAINANTS	: Mr.Narendra Reddy Kotipi Village, Hinupur Mandal, Anantapur District, Andra Pradesh : 515201.
RESPONDENT / PROMOTER	: M/s.Mantri Castles Pvt Ltd. Mantri House, No. 41, Vittal Malya Road, Bangalore-560001.
PROJECT NAME & REGISTRATION NO.	: MANTRI SERENITY 1 PRM/KA/RERA/1251/310/PR/ 171019/000494

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 SERENITY 1 praying for a direction to pay delay period interest and for other reliefs:

BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. The complainants have entered into an agreement of sale on 20.05.2016 The project completion date as per agreement was 31.12.2019. The complainants have paid an amount of Rs.56,88,830/- (Rupees Fifty Six Lakhs Eighty Eight Thousand and Eight Hundred and Thirty only) to the

respondent till date. Since there was delay of more than four years in handing over the apartment, the complainants have filed the above complaint before the Authority praying for the following reliefs:

a) Direct the Respondents to pay delayed compensation and interest from 31.12.2019 on the entire Sale consideration amount of Rs.56,88,830/- until handing over of possession of Apartment by executing Sale Deed or until Occupancy Certificate on our entire sum of Rs.56,88,830/- and the said delay compensation be deducted from the money legally payable to the Respondents at the time of sale deed.

b)Direct the Respondent to compensate by way of reimbursement of all pending PRE-EMI amount of Rs.737,314/- accrued till May 2019.

c) Direct the respondent to pay Rs.25,000/- towards cost of accommodation.

d) Direct the respondent to pay Rs.5.0 lakhs towards compensation for mental agony.

e) Direct the Respondent to pay Rs.5.0 lakhs towards unfair trade practice; and

f) Direct the Respondents to pay Rs.50,000/- towards cost of litigation.

2. On a perusal of the sale agreement, it is seen that the completion date is agreed as 31.12.2019. The promoter-respondent was required to complete the project and hand over possession of the apartment by 31.12.2019. In cases wherein 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.

4. Therefore, as per Section 18 of the Act, the promoter is liable pay the delay period interest.

5. On a perusal of the documents filed and oral submissions made before the Authority, it is evident that complainant has paid an advance sale consideration amount and admittedly there is a delay in handing over the apartment as per the agreement. Hence the complainant is entitled to delay period interest u/s 18 of the Act and accordingly a memo of calculation submitted by the Complainant. The Promoter-Respondent has not submitted any memo of calculation.

6. As regards the relief in the form of cost of accommodation sought by the allottee, the delay period interest admissible u/s 18 of the Act is the appropriate relief available to the allottee. There is no provision under the Act for granting cost of accommodation as an additional relief to the allottee during the completion delay in the project.

7. As regards damages of Rs.5.0 lakhs claimed by the allottee on account of mental agony and pain, the complainant may seek an appropriate relief by filing a complaint before the Adjudicating Officer who is empowered to adjudge the compensation under the provisions of the Act. Similarly as

regards the compensation claimed for unfair trade practice, the complainant is at liberty to seek appropriate relief by filing a complaint before the Adjudicating Officer.

8. The complainant has sought a relief of RS.50,000/- to defray the litigation expenses. It is noted that the complainant has booked the apartment in the year 20.05.2016 for a total consideration of Rs.81,26,900/-. It is submitted by the complainant that about Rs.56,88,830/- was paid which accounted to 70% of the basic cost of the apartment. It is also submitted as per the sale agreement and construction agreement that the completion date was fixed as 31.12.2019. Further submissions of the complainant include that the respondent failed to pay pre EMI instalment as undertaken by the respondent while entering into sale agreement. These facts brought out in the complaint indicate that the complainant was left with no choice but to file a complaint before the Authority and pursue the same. It is evident that the complainant has engaged an advocate and incurred expenditure for pursuing the litigation which has arisen only on account of the defaults committed by the promoter-respondent. Having regard to all the facts the Authority is of the view that the complainant is entitled for some relief in the form of payment of litigation expenses by the promoter-respondent. Accordingly, it is hereby ordered that respondent-promoter shall pay a sum of Rs.20,000/- to the complaint on account of litigation expenses.

And accordingly the Authority orders the following:

ORDER

1. 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/210302/0007712 is hereby partly allowed.

2. Respondent is directed to pay interest on delay period at the rate of SBI MCLR + 2 from 31.12.2019 till the date of handing over possession along with occupancy certificate.

2A. The respondent is directed to pay interest (*)

3. Respondent-Promoter is directed to complete the construction of the project at the earliest with all amenities, obtain occupancy certificate and handover the apartment to the allottees at the earliest.

4. As regards the relief in the form of cost of accommodation sought by the allottee, the delay period interest admissible u/s 18 of the Act is the appropriate relief available to the allottee. There is no provision under the Act for additionally granting cost of accommodation as an additional relief to the allottee during the completion delay in the project. Therefore, this claim is not entertained.

5. As regards damages of Rs.5.0 lakhs claimed by the allottee on account of mental agony and pain, the complainant may seek an appropriate relief by filing a complaint before the Adjudicating Officer who is empowered to adjudge the compensation under the provisions of the Act.

(*) on delay from 31/12/2019 of Rs. 16,62,962/- as on 18/10/2022 and further interest is to be calculated as per MCLR + 2% from 19/10/2022 till handing over the possession along with occupancy certificate.

Para no 2A incorporated as per order dt. 7/9/2023.

G.R. REDDY MEMBER K-RERA

6. Similarly the compensation claimed for unfair trade practice also the complainant is at liberty to seek appropriate relief by filing a complaint before the Adjudicating Officer.

7. As regards the cost of litigation expenses to the extent of Rs.50,000/- claimed, the promoter is directed to pay an amount of Rs.20,000/- to the Allottee towards cost of litigation.

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