

**KARNATAKA REAL ESTATE REGULATORY AUTHORITY,
BENGALURU**

FIFTH ADDITIONAL BENCH

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

COMPLAINT NO.CMP/200726/0006236

DATED THIS 2nd DAY OF NOVEMBER, 2022

COMPLAINANTS : Mr. Ravi Tomal Raghavendra
No.44, Kannika Nivas, 2nd Floor, 2nd
Main, 2nd Cross, Near Avalahalli, BDA
Park, Avalahalli, Bengaluru-560026.

RESPONDENT / : M/s.Mantri Technology Constellations
PROMOTER Pvt. Ltd.
Mantri House, No. 41, Vittal Malya Road,
Bangalore-560001.

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 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 08.12.2017. The project completion date as per agreement was 31.12.2019. The complainants have paid an amount of Rs.86,63,550/- (Rupees Eighty Six Lakhs Sixty Three Thousand and Five Hundred and Fifty 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 Respondent to complete the construction of the apartment and hand over the possession of the apartment along with Occupancy certificate with all amenities;
- b. Direct the Respondents to pay PRE-EMI installment until handing over the possession or alternative direct the Respondent Bank to collect the Pre-Emi installment from Respondents.
- c. Direct the Respondents to pay delayed compensation from 31.12.2019 on Rs. 19,13,350/- paid delayed contribution until completion of project and handing over the possession along with Occupancy Certificate and entire amenities alternative if relief No.2 cannot be granted direct the Respondents to pay delayed compensation from 31.12.2019 on entire sum of Rs. 86,63,550/-
- d. Direct the Respondents to reimburse the arrears of PRE-EMI instalment till July 2020 and also future pre-emi along with interest of the arrears until repayment of arrears delayed interest.
- e. Direct the Respondents to reimburse the refund Pre-Emi instalment along with interest from the date of payment until reimbursement.
- f. Direct the Respondents to set off the compensation awarded from any money legally payable by the Complainant to Respondent.
- g. Direct the Respondents builder to provide account of Service Tax, VAT and GST and return the excess receipts of the Service Tax, VAT and GST along with interest.

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- h. Direct the respondent to pay Rs.5.0 lakhs towards compensation for mental agony.
 - i. Direct the Respondent to pay Rs.5.0 lakhs towards unfair trade practice; and
 - j. 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 08.12.2017 for a total consideration of Rs.86,63,550/-. It is submitted by the complainant that about Rs.81,93,950/- was paid which accounted to 94% 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 complainant 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/200726/0006236 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.
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.

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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.

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