

**KARNATAKA REAL ESTATE REGULATORY AUTHORITY,  
BENGALURU**

**FIFTH ADDITIONAL BENCH**

**CORUM**

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

**COMPLAINT NO.CMP/200918/0006540**

**DATED THIS 9<sup>th</sup> DAY OF NOVEMBER, 2022**

COMPLAINANTS : Himanshu Srivastava,  
No.301, Navya Niketan,  
Garudacharpalya,  
Mahadevapura, Bengaluru-  
560048.

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

PROJECT NAME &  
REGISTRATION NO. : MANTRI WEBCITY 2A  
PRM/KA/RERA/1251/310/PR/  
171015/000608

**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 2A 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 20.12.2014. The project completion date as per agreement was 31.07.2014. The complainants have paid an amount of Rs.75,67,877/- (Rupees Seventy Five Lakhs Sixty Seven

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Thousand and Eight Hundred and Seventy Seven 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 within Six months from the date of award;
- b) Direct the Respondents to pay delayed compensation from 31.07.2017 until handing over of possession of Apartment and until Occupancy Certificate on our entire pay of Rs. 75,67,877/-.
- c) Direct the Respondents to set off the compensation awarded from any money legally payable by the Complainant to Respondent.
- d) Due to non completion of the transaction the complaint is unable to get the Income Tax benefit. Hence the respondent is liable to compensation for loss of Income Tax benefit.
- e) Direct the respondent to pay a sum of Rs.30,000/- per month towards the cost of rent expenses/opportunity cost of rental income had the possession handed over from the date of possession.
- f) 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.
- g) Compensation for the Mental Agony, pain and Damages to an extent of Rs.5,00,000/-.
- h) Compensation for unfair Trade practice to an Extent of Rs.5,00,000/-.
- i) Cost of litigation and expense to an Extent of Rs.50,000/-.

2. On a perusal of the sale agreement, it is seen that the completion date is agreed as 20.12.2014. The promoter-respondent was required to complete the project and hand over possession of the apartment by 31.07.2017. 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 20.12.2014 for a total consideration of Rs.83,14,870/-. It is submitted by the complainant that about Rs.75,67,877/- was paid which accounted to 81% 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 31.07.2017. 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/200918/0006540 is hereby partly allowed.

2. Respondent is directed to pay interest on delay period at the rate of SBI MCLR + 2 from 31.07.2017 till the date of handing over possession along with occupancy certificate. The working submitted by the complainant is enclosed to this order as Annexure-A. The promoter shall pay the interest for the delay period as arrived at amounting to Rs.39,61,162/ (Thirty Nine Lakhs Sixtyone thousand One hundred and Sixty Two only) within 60 days from the date of this order. The delay period interest working submitted by the complainant is for the period commencing from 31.07.2017 to 07.11.2022. The Promoter is also liable to pay delay period interest for every month delay for the subsequent period of delay handing over the apartment and by executing the sale deed in favour of the complainant.

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.

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