

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

FIFTH ADDITIONAL BENCH

PRESENT

**SHRI.G.R. REDDY
HON'BLE MEMBER**

COMPLAINT NO.CMP/220516/0009463

DATED THIS 16TH DAY OF JANUARY, 2023

COMPLAINANTS : Ms.Anibha & Mr.Neeraj
4086, Casa Serenita, Sobha City
Thanisandra Main Road
Bengaluru : 560 077

Party in Person

RESPONDENT / : M/s.Allam Infinite (India) Pvt Ltd.
44/1, Azeem Pearl, Dickenson Road
Yellappa Garden, Yellappa Chetty Layout
Bengaluru : 560 042

Ms.Vaidehi, Advocate

PROJECT NAME & : GM NORTH ENCLAVE
REGISTRATION NO. PRM/KA/RERA/1251/309/PR/
190410/002520

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 **GM NORTH ENCLAVE** praying for a direction to Refund the amount paid with Interest.

BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:-

1. The complainant has entered into an agreement of sale agreement on 30.03.2019. As per the agreement, the project completion date is 31.10.2023. The complainant has paid an amount of Rs.34,03,400/- (Rupees Thirtyfour lakhs three thousand four hundred only) to the

respondent till date. The Complainants have submitted in their complaint that the project is stalled and the promoter has informed the complainants that they are not going ahead with the construction and the money paid by the complainants will be refunded with interest. Hence, the complainants have filed the above complaint before the Authority praying for refund of the amount paid together with interest and submitted the Memo of calculation for refund with interest.

2. After registration of the complaint notices were issued to both the parties to appear before the Authority. On 13.12.2022, Ms.Archana, Advocate appearing on behalf of the Respondent undertook to file vakalath on behalf of Respondent after taking NOC from the previous advocate. The matter was adjourned to 10.01.2023. On 10.01.2023 Ms.Vaidehi, Advocate appeared on behalf of the Respondent filed Vakalath after obtaining NOC from the previous Advocate and submitted before the Authority that the Promoter has agreed to settle the claims of the Complainants.
3. 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.
4. Therefore, as per Section 18 of the Act, the promoter is liable to refund the amount received along with interest.
5. From the averments made in the complaint, it is obvious that complainants have paid the advance sale consideration amount and are entitled to get his 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.

6. 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 29.09.2022

Principle amount (A) Rs.	Interest (B) As on 29.09.2022 Rs.	Refund from Promoter (C)	Total Balance Amount (A+B) Rs.
34,03,400	4,75,207	NIL	38,78,607

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/220516/0009463** is hereby allowed. Respondent is directed to refund a sum of **Rs. 38,78,607/- (Rupees Thirty eight lakhs seventy eight thousand six hundred seven only)** towards refund with interest to the complainant within 60 days from the date of this order, calculated from 30.03.2021 till 29.09.2022.

The interest due from 30.09.2022 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.


(G.R. REDDY)
MEMBER
FIFTH ADDITIONAL BENCH
K-RERA

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