

KARNATAKA REAL ESTATE REGULATORY AUTHORITY, BENGALURU

FIFTH ADDITIONAL BENCH

PRESENT

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

COMPLAINT NO.CMP/220314/0009121

DATED THIS 24th DAY OF JANUARY 2023

COMPLAINANTS : Mrs.Meena Mohapatra &
Mr.Manish Mahapatra
House No.26, Lane NO.2, Opp.
JRC Home for Handicapped,
Udheywala, Bohri, Jammu Tawi
Pin : 180 002

Party in Person

RESPONDENT / : M/s.Allam Infinite India Pvt Ltd.
PROMOTER No.44/1, Azeem Pearl, Dickenson Road
Yellappa Garden, Bangalore:560 042

By Ms.Vaidehi, Advocate

PROJECT NAME & : GM AMBITIOUS ENCLAVE
REGISTRATION NO. PRM/KA/RERA/1251/308/PR/
180406/001467

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 AMBITIOUS ENCLAVE 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 01.09.2018 and have paid an amount of Rs.21,71,500/- (Rupees Twenty one lakhs seventy one thousand five hundred only) to the respondent till date with project completion date as 01-04-2022. All obligations as per agreement have been completed by the complainant and the promoter has not complied with the agreement even on the date of this complaint and prayed before this Authority to direct the respondent to refund of the amounts paid along with interest.
2. After registration of the complaint, the respondent has appeared before the Authority on the first hearing and subsequently the respondent has not appeared. Again on the hearing of 13.12.2022 one Archana, Advocate appeared on behalf of the Respondent and undertook to file vakalath after obtaining NOC from the previous Advocate and sought for short adjournment. On 18.01.2023, the Advocate for Respondent filed statement of objections. In the statement of objection the Respondent has admitted that the complainant has sent an email cancelling their booking and requested for refund of their amount. The respondent has submitted in their statement of objection that the Representative involved in the project of the Respondent has replied to the email of cancellation stating that the cancellation is in process and that the refund for the same shall be made once the unit is sold. Further, the respondent also submitted before the Authority in their statement of objection that the respondent is ready and willing to refund the advance amount to the complainant once it is resold. Since the project completion date is 01.04.2022 and the respondent has not submitted any details about the progress of the project and the expected date of completion in its

objection statement. Hence, the complainant seeks full refund of the amount paid with interest. The complainants have produced Agreement of sale, construction agreement, details of payments made to Respondent, Receipts for payment of the amount, Checklist and memo of calculation for refund with interest in support of their claim. On the other hand, the Respondent has not produced any documents to support its objection. The Promoter-Respondent has not submitted any memo of calculation.

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. Therefore, as per Section 18 of the Act, the promoter is liable to refund the amount received along with interest.
4. 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 18-11-2022

Principle amount (A) Rs.	Interest (B) As on 18.11.2022 Rs.	Refund from Promoter (C)	Total Balance Amount (A+B) Rs.
21,71,500	8,96,255	NIL	30,67,755

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/220314/0009121** is hereby allowed. Respondent is directed to refund a sum of **Rs. 30,67,755/- (Rupees Thirty lakhs Sixty seven thousand seven hundred seventy five only)** towards refund with interest to the complainants within 60 days from the date of this order, calculated from 01/05/2017 till 18.11.2022.

The interest due from 19.01.2022 up to the date of final payment will be calculated likewise and paid to the complainants. The complainants are 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