

PROCEEDINGS OF THE AUTHORITY BEFORE BENCH 5

Dated 6th MARCH 2023

PRESIDED BY HON'BLE MEMBER SRI. G.R. REDDY, IRS.

COMPLAINTS NO: CMP/220915/00010020
AND CMP/220915/00010021

COMPLAINANTS ...

1. MOHAN PULLAIAH
2. YAMINIRATHNAM VUKKADALA
D-704, NAGARJUNA GREENRIDGE
APARTMENT, 27TH CROSS, HSR
SECTOR 2, BANGALORE-560102
STATE: KARNATAKA
(COMMON COMPLAINANT IN BOTH
COMPLAINTS)

(BY SRI AKASH R BANTIA, ADVOCATE)

Vs

RESPONDENT ...

MANTRI DEVELOPERS PRIVATE LTD.
MANTRI HOUSE, #41, VITTAL MALLYA
ROAD, BANGALORE-560001.

(BY TAPASHYA LAW CHAMBERS,
ADVOCATE)

JUDGMENT

1. This complaints are filed by two complainants under section 18 of the RERA Act against the project "MANTRI WEBCITY2A" developed by M/s Mantri Developers Private Limited for the relief of refund with interest.

2. Both these complaints are taken up together for disposal as they are arising out of the same project and for convenience sake.

Contd...2



3. The project has been registered under RERA vide Registration No. PRM/KA/RERA/1251/310/PR/171015/000608.

4. This project is situated at Mantri Webcity2A, Hennur Main Road, Near Southern Asian Bible College, Bengaluru South, Bengaluru urban

Brief facts of the complaints are as under:-

5. The complainants have purchased an apartments bearing No. K-603 and M-802 in the project of the respondent namely "Mantri Webcity2A " and entered into an agreement of sale on 27/05/2014 and 10/07/2014 for a sale consideration of Rs. 63,46,320/- (Rupees Sixty three lakhs Forty six thousand Three hundred twenty only) and Rs. 60,63,668/- (Rupees Sixty lakhs Sixty three thousand Six hundred sixty eight only) respectively. At the time of entering into said AOS, the complainants have paid total sum of Rs. 63,46,320/- for flat No. K-603 and Rs. 60,63,668/- for flat No.M-802 and also are paying regular EMI's to respective flats. The Punjab Housing Finance Limited has disbursed an amount of Rs. 52,33,371/- to flat No.K-603 and Rs.49,25,372 to flat No. M-802 respectively. The respondent was supposed to handover possession of the said flat to the complainants on or before March, 2017 with a grace period of six months. Further, the respondent had assured them that, getting double of the initial deposit in terms of the buy back scheme. The builder has stopped paying PreEMI and neither he had paid complainants deposited amount nor buy back amount. Hence, this complaint.

6. After registration of the complaint, in pursuance of the notice issued both the parties appeared before the Authority. The respondent has appeared before

Contd...3



the Authority through an advocate, but the respondent has not filed its written submission in spite of sufficient time is granted.

7. In support of their claim, the complainants have produced documents such as copies receipts, statement of account of Punjab Housing Finance Limited, and memo of calculation as on 17/02/2023 in both the complaints.

8. Heard arguments.

9. On the above averments, the following points would arise for my consideration:-

1. Whether the complainants are entitled for the relief claimed?

2. What order?

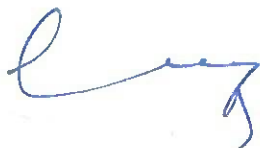
10. My answer to the above points are as under:-

1. In the Affirmative.

2. As per final order for the following

REASONS

11. My answer to Point No.1:- From the materials placed on record, it is apparent that inspite of entering into an agreement of sale on 27/05/2014 and 10/04/2014 to handover the possession of the apartment to the complainants within March, 2017 of obtaining the commencement certificate with a grace period of six months, the builder has not completed the project as per agreement and has delayed the project, and failed to handover the units in favour of the complainants till date. Hence, the builder has failed to abide by the terms of the agreement for sale executed with the complainants.



Contd...4

12. Due to this enormous delay the complainants are facing financial burden. The promoter has failed to hand over the possession of the flat No. K-603 and M-802 as per agreement of sale entered with the complainants. There seems to be no possibility of completing the project or handing over the possession in near future.

13. As per section 18(1) of RERA Act, in case the allottees wishes to withdraw from the project the promoter is liable without prejudice to any other remedy available, to return the entire 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.

14. Therefore, as per section 18(1) of the Act, the promoter is liable to return the amount received from the complainants along with interest and compensation only if the promoter fails to complete or provide possession of an apartment etc., in accordance with sale agreements.

15. From the averments of the complaint and the copies of agreements between the parties, it is obvious that the complainants have already paid substantial sale consideration amount. Having accepted the said sale consideration amount and failure to keep up promise to handover possession of the apartment certainly entitles the complainants herein for refund with interest. The complainants have filed their memo of calculation as on 17/02/2023 claiming an amount of Rs.1,32,25,174/- (Rupees One Crore Thirty two lakhs Twenty five thousand One hundred seventy four only) in respect of flat No. K-603 and Rs. 1,25,42,883/- (Rupees One Crore twenty five lakhs Forty two

Contd...5



thousand Eight hundred eighty three only) in respect of flast No. M-802 as refund with interest. Despite opportunities were given, the respondent has not filed its memo of calculation.

16. Having regard to all these aspects, this Authority concludes that the complainants are entitled for refund with interest as submitted vide their memo of calculation as on 17/02/2023 in both the complaints.

17. Therefore, it is incumbent upon the respondent to refund the amount with interest which is determined as under: –

MEMO OF CALCULATION

COMPLAINT NO. CMP/220915/10020

Sl. No.	DATE	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	INTEREST @9%
1	28-05-14	1,215,250	1068	30-04-17	3,20,026/-
2	24-06-14	5,13,070	1041	30-04-17	13,17,068/-
3				TOTAL INTEREST (1)	16,37,094/-

S.NO	DATE FROM 01/05/2017	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	MCLR INTEREST X%	INTEREST RATE X+2%	INTEREST @X+2%
1	01-05-17	6,346,320	2118	17-02-23	8.15	10.15 as on 01-05-2017	3,737,843
2	10-04-18	44,702	1774	17-02-23	8.35	10.35 as on 01-04-2018	22,486
3	10-05-18	45,138	1744	17-02-23	8.35	10.35 as on 01-05-2018	22,322

Contd...6

4	11-06-18	45,138	1713	17-02-23	8.45	10.45 as on 01-06-2018	22,137
5	10-07-18	45,138	1683	17-02-23	8.45	10.45 as on 01-07-2018	21,749
6	10-08-18	45,138	1652	17-02-23	8.45	10.45 as on 01-08-2018	21,348
7	10-09-18	45,138	1621	17-02-23	8.65	10.65 as on 01-09-2018	21,349
8	10-10-18	45,138	1591	17-02-23	8.7	10.7 as on 01-10-2018	21,052
9	12-11-18	46,011	1558	17-02-23	8.7	10.7 as on 01-11-2018	21,014
10	10-12-18	46,011	1530	17-02-23	8.75	10.75 as on 10-12-2018	20,733
11	10-01-19	46,011	1499	17-02-23	8.75	10.75 as on 10-01-2019	20,313
12	11-02-19	46,011	1203	17-02-23	8.25	10.25 as on 10-10-2019	15,543
13	11-03-19	46,316	1439	17-02-23	8.75	10.75 as on 10-03-2019	19,629
14	10-04-19	46,316	1409	17-02-23	8.7	10.7 as on 10-04-2019	19,130
15	10-05-19	46,316	1379	17-02-23	8.65	10.65 as on 10-05-2019	18,635
16	10-06-19	46,316	1348	17-02-23	8.65	10.65 as on 10-06-2019	18,217
17	10-07-19	46,316	1318	17-02-23	8.6	10.6 as on 10-07-2019	17,727
18	12-08-19	46,316	1285	17-02-23	8.45	10.45 as on 10-08-2019	17,039
19	10-09-19	46,316	1256	17-02-23	8.35	10.35 as on 10-09-2019	16,495

Contd...7

20	10-10-19	46,316	1226	17-02-23	8.25	10.25 as on 10-10-2019	15,946
21	11-11-19	46,316	1194	17-02-23	8.2	10.2 as on 10-11-2019	15,454
22	18-11-19	3,790	1186	17-02-23	8.2	10.2 as on 10-11-2019	1,256
23	10-12-19	40,777	1165	17-02-23	8.2	10.2 as on 10-12-2019	13,275
24	10-01-20	40,777	1134	17-02-23	8.2	10.2 as on 10-01-2020	12,922
25	10-02-20	40,777	1103	17-02-23	8.15	10.15 as on 10-02-2020	12,507
26	11-03-20	40,123	1073	17-02-23	8.05	10.05 as on 10-03-2020	11,854
27	10-09-20	916	890	17-02-23	7.3	9.3 as on 10-09-2020	207
28	TOTAL AMOUNT	7,429,898				TOTAL INTEREST (2)	4,178,182

Memo Calculation			
PRINCIPLE AMOUNT (A)	INTEREST (B = 1 + 2 + 3) AS ON 17-02-2023	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
74,29,898	58,15,276	0	1,32,45,174

Contd...8

COMPLAINT NO. CMP/220915/10021

SL. NO.	DATE	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	INTEREST @9%
1	30-06-14	100,000	1035	30-04-17	25,520
2	31-07-14	500,000	1004	30-04-17	123,780
3	07-08-14	562,674	997	30-04-17	138,325
4	22-08-14	4,825,994	982	30-04-17	1,168,551
5	22-08-14	75,000	982	30-04-17	18,160
6				TOTAL INTEREST (1)	1,474,336

S.L. NO	DATE FROM 01/05/2017	AMOUNT PAID BY CUSTOMER	NO OF DAYS	NO OF DAYS TILL	MCLR INTEREST X%	INTEREST RATE X+2%	INTEREST @X+2%
1	01-05-17	6,063,668	2118	17-02-23	8.15	10.15 as on 01-05-2017	3,571,367
2	10-04-18	42,074	1774	17-02-23	8.35	10.35 as on 01-04-2018	21,164
3	10-05-18	42,953	1744	17-02-23	8.35	10.35 as on 01-05-2018	21,241
4	11-06-18	42,953	1712	17-02-23	8.45	10.45 as on 01-06-2018	21,053
5	10-07-18	42,953	1683	17-02-23	8.45	10.45 as on 01-07-2018	20,696
6	10-08-18	42,953	1652	17-02-23	8.45	10.45 as on 01-08-2018	20,315
7	10-09-18	42,953	1621	17-02-23	8.65	10.65 as on 01-09-2018	20,315
8	10-10-18	42,953	1591	17-02-23	8.7	10.7 as on 01-10-2018	20,033

Contd...9

Handwritten signature

9	12-10-18	43,726	1589	17-02-23	8.7	10.7 as on 01-10-2018	20,368
10	12-11-18	43,726	1558	17-02-23	8.7	10.7 as on 01-11-2018	19,970
11	10-01-19	43,726	1499	17-02-23	8.75	10.75 as on 10-01-2019	19,304
12	11-02-19	43,726	1467	17-02-23	8.75	10.75 as on 10-02-2019	18,892
13	11-03-19	43,726	1439	17-02-23	8.75	10.75 as on 10-03-2019	18,531
14	10-04-19	43,726	1409	17-02-23	8.7	10.7 as on 10-04-2019	18,060
15	10-05-19	43,726	1379	17-02-23	8.65	10.65 as on 10-05-2019	17,593
16	10-06-19	43,726	1348	17-02-23	8.65	10.65 as on 10-06-2019	17,198
17	10-07-19	43,726	1318	17-02-23	8.6	10.6 as on 10-07-2019	16,736
18	12-08-19	43,726	1285	17-02-23	8.45	10.45 as on 10-08-2019	16,086
19	10-09-19	43,726	1256	17-02-23	8.35	10.35 as on 10-09-2019	15,573
20	10-10-19	43,726	1226	17-02-23	8.25	10.25 as on 10-10-2019	15,054
21	10-11-19	3,790	1195	17-02-23	8.2	10.2 as on 10-11-2019	1,265
22	10-12-19	38,091	1165	17-02-23	8.2	10.2 as on 10-12-2019	12,400
23	10-01-20	38,091	1134	17-02-23	8.2	10.2 as on 10-01-2020	12,070
24	10-02-20	38,091	1103	17-02-23	8.15	10.15 as on 10-02-2020	11,683

Contd...10

[Handwritten signature]

25	11-03-20	37,481	1073	17-02-23	8.05	10.05 as on 10-03-2020	11,073
26	10-10-20	38,381	860	17-02-23	7.3	9.3 as on 10-10-2020	8,410
27	TOTAL AMOUNT	7,082,097				TOTAL INTEREST (I2)	3,986,450

Memo Calculation			
PRINCIPLE AMOUNT (A)	INTEREST (B = 1 + 2 + 3) AS ON 17-02-2023	REFUND FROM PROMOTER (C)	TOTAL BALANCE AMOUNT (A + B - C)
70,82,097	54,60,786	0	1,25,42,883

Accordingly the point raised above is answered in the Affirmative.

18. My answer to point No.2:- In view of the above discussion, I am of the opinion that these complaints deserve to be allowed. Hence, I proceed to pass 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/220915/10020 AND COMPLAINT NO. CMP/220915/10021** are hereby allowed. Respondent is directed to pay a sum of **Rs.1,32,45,174/- (Rupees One Crore Thirty two lakhs Forty five thousand One hundred Seventy four only)** in respect of **CMP/220915/10020** and **Rs. 1,25,42,883/- (Rupees One Crore Twenty five lakhs Forty two thousand Eight hundred**

Contd...11

Eighty three only) in respect of **CMP/220915/10021** as on 17/02/2023 towards refund with interest to the complainants within 60 days from the date of this order in both the complaints.

The interest due from 18/02/2023 is to be calculated as per MCLR + 2 up to the date of final payment 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.

The Original Judgment is kept in complaint No. CMP/220915/00010020 and copy of the same is kept in complaint No. CMP/220915/00010021.

No order as to costs.


(G R REDDY, IRS)
Member, K-RERA

NOT AN OFFICIAL COPY