

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

# 1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,  
3rd Cross, Mission Road, Bengaluru-560027

**PROCEEDINGS OF THE AUTHORITY BEFORE BENCH-4**

**PRESIDED BY MR. H.C. KISHORE CHANDRA, HON'BLE CHAIRMAN**

**DATED 8<sup>th</sup> March 2023**

**COMPLAINT NO. CMP/200823/0006405**

**COMPLAINANT:**

**Mahesh Veershetty**

Flat No. 407, D-Block, Balaji  
Prestine Apartments  
# 5/2, Whitefield  
Bengaluru-560 066.

(By Sri. Venkatapathy,  
Advocate)

V/s

**RESPONDENTS...**

**M/s Manar Developers  
Private Limited**

1090/1, 18<sup>th</sup> Cross Road, HSR  
Layout, Sector-3, Opp: to Mc  
Donald Service Road  
Bengaluru-560 102.

(ex-parte)

**PROJECT NAME &**

**MANAR PURE EARTH**

**REGISTRATION NO.**

**PRM/KA/RERA/1251/308  
PR/171215/001584**



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**JUDGEMENT**

1. This complaint is filed under section 31 of the RERA Act against the project "**Manar Pure Earth**" developed by "**M/s Manar Developers Private Limited**" for the relief of refund of the amount paid along with interest.
2. **Brief facts of the complaint are as under:** M/s Manar Developers Private Limited are developing the immovable property being land measuring 13 acres 28.5 guntas forming part of Sy.nos.5,6,7/1,8, 102/1, 106, 107, 12/1 of Sarjapura Village, Sarjapura Hobli, Anekal Taluk, Bengaluru Urban District into residential plots and villas under the name and style of "**CASA GREENS**" project erstwhile known as "**Manar Pure Earth**". As per the agreement for sale, in all there are 30 landowners and M/s Manar Developers Private Limited is one among them and parties at Sl.No. 1 to 29 are represented by their GPA holder M/s Manar Developers Private Limited, a registered company incorporated under the provisions of Indian Companies Act 1956. M/s Citrus Ventures Private Limited, a registered company incorporated under the provisions of Indian companies Act, 1956, hereinafter referred to as the "Confirming Party". The developer M/s Manar Developers Private Limited had requested M/s Citrus Ventures Private Limited to act as the development manager of the Developer in view of its established expertise and vast experience in design, executing marketing and selling projects similar to the development.
3. The complainant has booked a residential independent villa bearing No.20 in the project "**Manar Pure Earth**" of the respondent by entering into an agreement of sale and simultaneously construction agreement both dated **15.5.2015** for construction of the aforesaid villa. Out of

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the sale consideration of Rs. **1,00,05,310** (Rs. One crore five thousand three hundred and ten only), the complainant has paid a sum of Rs. **54,37,900/-** (Rs. Fifty four lakhs thirty seven thousand nine hundred only) to the respondent/builder. As per the agreed terms, the respondent was required to complete the project and hand over the villa unit on or before **18 months** with a grace period of 3 months i.e. by **15.2.2017** as per construction agreement. Despite the substantial sale consideration has been paid to the respondent, the respondent has failed to hand over the possession of the said villa within the stipulated timeline and thus failed to abide by the terms and conditions of the sale and construction agreement. The complainant submits that all his efforts for getting update or progress in construction went in vain as the respondent was not reachable through all modes of communication. Further, the respondent's office in HSR layout no longer exists. Having lost confidence with the respondent-builder, the complainant decided to exit from the project and sought for the relief of refund of entire amount paid to the respondent along with interest due to enormous delay caused by the respondent. Hence, this complaint.

4. After registration of the complaint, in pursuance of notice, the respondent has neither appeared before the Authority during the hearings held on 5.8.2022, 19.8.2022, 16.9.2022, 10.10.2022 nor contested the matter by filing objections and producing documents on its behalf and continuously remained absent. Hence he has been placed as ex-parte.
5. In support of his claim, the complainant has produced documents such as (1) copy of agreement of sale and construction both dated 15.5.2015



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(2) payment details for villa no.20 (3) receipts/acknowledgement from  
Manar Developers Private Limited (4) memo of calculation.

6. Heard the complainant.

7. On the above averments, the following points would arise for my  
consideration.

8. 1) Whether the complainant is entitled for the relief claimed?  
2) What order?

11. **My answer to the above points is as under:**

- 1) In the Affirmative  
2) As per final order for the following:

**FINDINGS**

12. **My findings on point no.1:** From the materials available, it is  
apparent that in spite of entering into an sale and construction  
agreement to hand over the possession of a villa, the respondent-  
promoter has not completed the project as per agreement and has  
delayed the project. Hence, the builder has failed to abide by the terms  
of the sale agreement dated 15.5.2015. There seems to be no  
possibility of completing the project or handing over possession in near  
future.

13. The judgement of the Hon'ble Supreme Court of India in CIVIL APPEAL  
NO(S). 3581-359 2022, Civil Appeal Diary No: 9796/2019 between M/s  
Imperia Structures Limited vs. Anil Patni & others, it is held as under:

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*"23. In terms of Section 18 of the RERA Act, if a promoter fails to complete or is unable to give possession of an apartment duly completed by the date specified in the agreement, the Promoter would be liable, on demand, to return the amount received by him in respect of that apartment if the allottee wishes to withdraw from the Project. Such right of an allottee is specifically made "without prejudice to any other remedy available to him". The right so given to the allottee is unqualified and if availed, the money deposited by the allottee has to be refunded with interest at such rate as may be prescribed. The proviso to Section 18(1) contemplates a situation where the allottee does not intend to withdraw from the Project. In that case he is entitled to and must be paid interest for every month of delay till the handing over of the possession. It is upto the allottee to proceed either under Section 18(1) or under proviso to Section 18(1)..... The RERA Act thus definitely provides a remedy to an allottee who wishes to withdraw from the Project or claim return on his investment.*

14. Therefore, as per section 18(1) of the Act, the promoter is liable to return the amount received along with interest and compensation only if the promoter fails to complete or provide possession of an apartment etc., in accordance with sale agreement.
15. From the averments made in the complaint, it is obvious that the complainant has paid the substantial sale consideration and is entitled to get his amount paid along with interest as per the memo of calculation submitted by the complainant. The promoter-respondent has not submitted any memo of calculation in spite of sufficient opportunity given to him
16. Despite several notices and summons sent to the given address, the respondent failed to appear before the Authority and continuously remained absent from the hearings. In the absence of any resistance by the respondent and considering the claim of the complainant which is corroborated with documentary evidence, there is no option left to this Authority except to accept the claim of the complainant which is



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cogent with documentary evidence. Considering all these facts, this Authority concludes that the complainant is entitled for the relief claimed.

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

Memo of Calculation submitted by the complainant as on 28.8.2022

PRINCIPLE AMOUNT ( A )	INTEREST ( B = I1 + I2 + I3 ) AS ON 28.8.2022	REFUND FROM PROMOTER ( C )	TOTAL BALANCE AMOUNT ( A + B - C )
54,37,900	30,40,419	0	84,78,319

Accordingly, the point raised above is answered in the Affirmative.

18. **My findings on point no.2:** In view of the above discussion, the complaint deserves 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/200823/0006405 is hereby allowed.

1. The respondent is hereby directed to pay a sum of Rs. Rs.84,78,319/-/- (Rs. Eighty four lakhs seventy eight thousand three hundred nineteen only) towards refund along with interest to the complainant **within 60 days** from the date of this order calculated at the rate of 9% per cent from **15.2.2017** till **30.4.2017**. Further, at the rate of **SBI MCLR +2 %** from **1.5.2017** till **28.8.2022**.

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2. Further, interest due from **29.8.2022** will be calculated likewise till the final payment made to the complainant.
3. The complainant is at liberty to enforce the said order in accordance with law if the respondent fails to comply with the above order.

No order as to costs.

(H.C. Kishore Chandra)  
Chairman  
K-RERA

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