

PROCEEDINGS OF THE AUTHORITY
BEFORE BENCH 5

PRESIDED BY HON'BLE MEMBER G.R. REDDY

COMPLAINT NO: CMP/200601/0005948

DATED THIS 28th DAY OF JULY, 2023

COMPLAINANTS : Mr.Dheeraj Kumar
30101 Tower # 1st floor Nikoo
Homes 1 Bhartiya City, Thanisandra
Main Road, Bangalore : 560 064

(Mr.Nagendra Babu, Advocate)

RESPONDENT / : 1. M/s.Allam Infinite India Pvt Ltd
PROMOTER Azeem Pearl, 44/1, Dickenson Road
Civil Station, Bangalore : 560008

2. Mr.Sukesh Jain
Allam Infinite India Pvt Ltd.
GM Pearl, NO.06, BTM Layout
1st Stage, 1st Phase,
Bangalore : 560 068

PROJECT NAME & : G.M.INFINITE 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-18 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the project G.M.INFINITE NORTH ENCLAVE praying for a direction to Refund the amount paid with Interest.

1. The complainant has entered into an agreement of sale on 27.05.2019 for purchase of an Apartment bearing Flat No.N0310

with the Respondents. The project completion date as agreed and mentioned in the Memo of calculation and agreement for sale was 31.10.2023. The complainant has paid an amount of Rs.19,51,800/- (Rupees Nineteen lakhs fifty one thousand eight hundred only) to the respondents till date of complaint. The complainant submits that even after completing more than a year from the date of agreement, the complainant found that there is no progress in the construction work carried out by the Respondent. There is no information or update from the Respondents as to when the construction will be completed. Hence, owing to the financial difficulties faced by the complainant due to the foreseeable delay and payment of interest on the money borrowed from the financial institutions, the complainant approached the Respondent several times and made telephonic calls and messages, there is no response from the respondents. In addition the complainant is burdened with paying interest on the money borrowed from the financial institutions. The respondents have neither replied nor sent any communications to the complainant. Since there was delay of more than one year in starting the construction work and the complainant has seen no progress in the construction work in commencing the construction activities. Having left with no other choice, the complainant has filed the above complaint before the Authority praying for the following reliefs:

Refund of the amount paid by cancelling the booking

2. As per the memo of calculation and agreement of sale it is seen that the completion date agreed as 31.10.2023. The promoter-respondent was required to complete the project and hand over possession of the apartment by 31.10.2023. Since the

respondent-promoter has failed to start the construction activities even after completion of one year from the date of agreement and there is no communication from the respondent as to when the construction will be completed. Hence the complainant has filed the present complaint for cancelling the booking and prayed for refund of the money together with interest.

3. After registration of the complaint, notice was issued to both complainant and respondent to appear before the authority. Hearing was conducted on 14.03.2023, 30.03.2023, 31.05.2023, 22.06.2023 and 13.07.2023. Complainant has appeared through his counsel and filed memo of calculation for refund with interest together with various documents such as agreement of sale, Tripartite agreement, payment details and acknowledgment receipt issued by the respondent in support of their prayer for refund of the amount. Opportunities were given to the respondent on all five dates of hearing to file their statement of objections. The respondent has not filed any statement of objections. The advocate appearing for the complainant has submitted that the Respondent is given sufficient opportunities for filing their objections and no more opportunity should be given and prayed for passing an order. The complainant has served the MOC on the respondent together with all the supporting documents. The respondents have not disputed the MOC filed by the complainant.

4. From the information furnished by the Complainants in its memo calculation for refund with interest, it is apparent that the promoter has received the advance sale consideration but failed to initiate any construction activities even after one year from the

date of agreement. 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 return the amount received along with interest.

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

Memo of Calculation for Refund with Interest submitted by the Complainant as on 11.03.2023

Principle amount (A) Rs.	Interest (B) As on 11.03.2023 Rs.	Refund from Promoter (C) Rs.	Total Balance Amount (A+B) Rs.
19,51,800	7,68,473	—	27,20,273

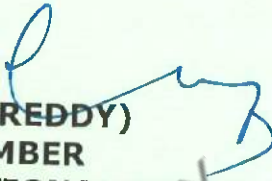
And accordingly the Authority passes the following:

ORDER

1. In exercise of the powers conferred under Section 18 read with section 18 of the Real Estate (Regulation and Development) Act, 2016, the complaint Bearing No. CMP/200601/0005948 is hereby allowed.

2. Respondent is directed to refund a sum of **Rs. 27,20,273/- (Rupees Twenty seven lakhs Twenty thousand two hundred seventy three only)** towards refund with interest to the complainant as per the calculation submitted by the Complainant, within 60 days from the date of this order,

calculated from 01/05/2017 till 11.03.2023. The interest due from 12.03.2023 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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