

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

PRESIDED BY HON'BLE MEMBER G.R. REDDY

BEFORE BENCH 5

COMPLAINT NO: CMP/443/2024

DATED THIS 17th DAY OF JANUARY, 2025

COMPLAINANTS

- : 1. Mr.Yermal Chandrashekar
2. Ms.Malati C Yermal

Both are residing at
Barkha CHS Ltd., A Wing, Flat No.203,
Sector 20D, Shani Mandir Road
Airoli, Navi Mumbai, Thane:400708

(By Mr.Akash R Bantia, Advocate)

RESPONDENT /
PROMOTER

- : 1. M/s.Ozone Urbana Infra Developers
Pvt Ltd.
No.38, Ulsoor Road
Bangalore : 560 042

(Deepak Bhaskar & Associates, Advocates)

PROJECT NAME &
REGISTRATION NO.

- : OZONE URBANA
PRM/KA/RERA/1251/303/PR/
171019/000287

J U D G E M E N T

This complaint is filed under Sec-12 & 18 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the project **OZONE URBANA** 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 10.07.2018. Subsequently since the complainant was diagnosed with Cancer and she was the sole agreement holder, the husband of the complainant requested to include his name also in the agreement of sale. Accordingly, the agreement of sale was entered into between the parties by including the husband of the complainant on 25.10.2021 for purchase of an Apartment in the project known as **OZONE URBANA**. The project completion date as agreed in the first agreement as December, 2022 and subsequently without the consent of the complainant the possession date is changed from December 2022 to September 2023 in the second agreement of sale. The complainants have paid an amount of Rs.38,00,998/- (Rupees Thirty Eight Lakhs Nine Hundred Ninety Eight only) to the respondent. Since the respondent did not adhere to the terms of the agreement in completing and handing over of the apartment, the complainants wanted to cancel the booking made and seek for refund of the amount paid along with interest and the complainants filed the above complaint seeking for refund of the amount paid with interest and the same is admissible for relief in accordance with Section 18 of the Act.

2. After registration of the complaint, notice was issued to both complainants and respondent to appear before the authority on 02.12.2024. On 02.12.2024 both Complainants and Respondent were Present. Complainants filed MOC together with supporting

documents and served the same on the Respondent and produced copy of the acknowledgement for having served on the respondent. Respondent filed vakalath and prayed for time to file statement of objections and the hearing was adjourned to 6.1.2025.

3. On 6.1.2025, both the advocates for complainants and respondent were present. Advocate for complainants submitted that they have filed all the documents and served the same on the respondent. Respondent did not file any statement of objections and again prayed for time to file objections. Since, the complaint filed by the complainants is for refund of the money and no useful purpose will be served again in adjourning the case. However, on the request of the Respondent, time is granted till 08.01.2025 to file objection statement / written submissions. The Respondent filed written submission as directed by the Authority on 08.01.2025 along with copy of the sale agreement and the same is taken on record. The Respondent has not filed any MOC except stating that the MOC be rejected on the ground that the complainant has calculated interest from 01.05.2018 instead of October, 2023. Since the prayer of the complainants is for refund with interest and not for delay in handing over possession to consider the objection raised by the Respondent. Admittedly, the Respondent has not produced any document to show the status of the project completion. Hence, the MOC filed by the complainants is taken on record and considered the same for awarding refund with interest.

4. The complainants in support of their claim produced various documents such as copy of the agreement, payment receipts in support of their prayer for refund of the amount and served the same



on the respondent and acknowledgement is produced for having served on the respondent.

5. From the above averments, the following points would arise for my consideration:

- a) Whether the complainants are entitled for the relief claimed?
- b) What order?

6. My findings on the above points are as under:

- a) In the affirmative
- b) As per the final order

FINDINGS ON THE ABOVE POINTS

7. From the information furnished by the Complainants in their memo calculation for refund with interest, it is apparent that the complainants have paid the amount and the respondent has acknowledged receipt of the amount paid by the complainants. As per Section 18 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 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.

8. Further, the respondent appeared before the Authority and has not filed any memo of calculation/statement of objections. The respondent filed only written submissions enclosing the copy of the agreement of sale. No other document was produced by the Respondent to show the status of the project completion and hence

the MOC filed by the complainants is taken on record and considered for passing an award.

9. 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 Complainants as on 01.12.2024

Principle amount (A) Rs.	Interest (B) As on 01.12.2024 Rs.	Refund from Promoter (C) Rs.	Total Balance Amount (A+B) Rs.
38,00,998	23,59,640	--	61,60,638

10. Accordingly, the **point (a)** raised above is answered in the affirmative.

11. **Findings on Point No.b**: In view of the above observations, I conclude that this complaint deserves to be allowed and accordingly, I proceed to pass the following:

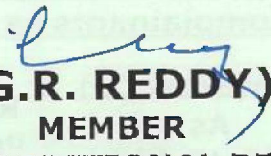
ORDER

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/0443/2024 is hereby allowed.

2. Respondent is directed to refund a sum of **Rs.61,60,638/- (Rupees Sixty one Lakhs Twenty Sixty thousand Six hundred thirty eight only)** towards refund with interest as per the calculation submitted by the Complainants, within 60 days from the date of this order, calculated from 01/05/2017 till 01.12.2024. The interest due from 02.12.2024 up to the date of final payment will be calculated likewise and paid to the complainants.


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3. 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

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