

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/1362/2024

DATED THIS 01st DAY OF JULY, 2025

COMPLAINANTS

- : 1. Ms.Divya Balasubramaniam
2. Mr.V.Saivisweswaran

Both are residing at 114
6th Main Road, Postal Colony
Sanjay Nagar, Bangalore:560094

(By Parties in Person)

RESPONDENT /
PROMOTER

- : 1. M/s.Ozone Infra Developers Pvt Ltd.
No.51/7-1, Rathna Avenue, Off
Richmond Road, Civil Station
Bangalore : 560 025

(Deepak Bhaskar & Associates, Advocates)

PROJECT NAME &
REGISTRATION NO.

- : **OZONE URBANA PRIME**
PRM/KA/RERA/1251/309/PR/
180217/002477

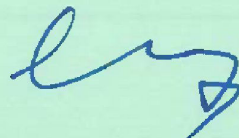
J U D G E M E N T

This complaint is filed under Sec-19 of the Real Estate (Regulation and Development) Act, 2016 before this Authority against the project **OZONE URBANA PRIME** 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 05.09.2018 for purchase of an Apartment in the project known as **OZONE URBANA PRIME**. The project completion date as agreed and mentioned in the Memo of calculation was 01.06.2021. The complainant have paid an amount of Rs.51,39,093/- (Rupees Fifty One Lakhs thirty nine thousand Ninety three only) to the respondent after availing loan from the financial institution. Since the respondent did not adhere to the terms of the agreement and the project is stalled and the validity of the license for development has expired. The complainant submit that it has been over 3 years after the completion date agreed, the respondent has not communicated with the complainant on the status of the project nor refunded the amount paid by the complainants. Hence, 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. The



hearings were conducted on 23.04.2025 and 03.06.2025, Both complainants and the advocate for Respondent were present. During the course of hearing, the Complainants have submitted agreement to sell, proof of payments, bank statements, tripartite agreement and MOC and served the same on the respondent. Advocate for Respondent was present on the dates of hearing and prayed for time to file objections. Time was granted to the Respondent to file objections up to 6.6.2025. In spite of availing sufficient time, the Respondent did not file its objection nor objections to the MOC filed by the Complainants. Hence the Respondent is placed ex-parte and the MOC filed by the Complainants is taken up for consideration.

3. 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?

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

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

FINDINGS ON THE ABOVE POINTS

5. **My Answer to Point No.1:** It is undisputed fact that the respondent has failed to handover possession of the flat to the complainants as per the timeline prescribed in the agreement of



sale and tripartite agreement. The Respondent has not produced any documentary proof to show the status of the project as on date and filed only written submissions and the same is taken on record.

6. As per the agreement of sale, having accepted and acknowledged the substantial amount towards sale consideration and failure to keep up promise to handover possession of the flat, certainly entitles the complainants herein for refund with interest as per Section 18 of the Act.

7. The Authority perused the documents produced by the complainants. The agreement of sale is a key instrument which binds the parties in all contractual relations so as to be properly enforced in accordance with law and hence, it is necessary that it shall be free from any ambiguity and vagueness. Here, in this case, the respondents have not complied with the terms of the said agreement for sale.

8. The complainants have produced proof of payments and bank statements evidencing that complainants have paid the advance sale consideration after availing loan from the financial institution and are entitled to get their amount paid along with interest as per the memo of calculation submitted by the complainants.

9. At this juncture, my attention is drawn towards the decision of Hon'ble Supreme Court in appeal No.6750-

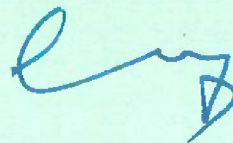


57/2021, M/S Newtech Promoters v/s The State Of Uttar Pradesh it is held as under:

Section 18(1) of the Act spells out the consequences if the promoter fails to complete or is unable to give possession of an apartment, plot or building either in terms of the agreement for sale or to complete the project by the date specified therein or on account of discontinuance of his business as a developer either on account of suspension or revocation of the registration under the Act or for any other reason, the allottee/home buyer holds an unqualified right to seek refund of the amount with interest at such rate as may be prescribed in this behalf.

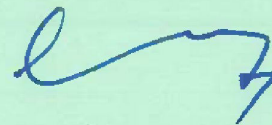
10. Further, the judgement reported in Civil Appeal No.3581-3590 of 2020 at para No.23 between M/s. Imperia Structures Ltd., V/s. Anil Patni and another by the Hon'ble Supreme court it is held that,

“ 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 case of Himanshu Giri came under the letter category. The RERA Act thus definitely provides a remedy to an allottee who wishes to withdraw from the project or claim return on his investment."

11. In case the allottee wishes to withdraw from the project, the promoter is liable without prejudice to any other remedy available,



Act, 2016, the complaint Bearing No. CMP/1362/2024 is hereby allowed.

2. Respondents are directed to refund a sum of **Rs. 70,33,424/- (Rupees Seventy lakhs thirty three thousand four hundred twenty four only)** to the complainants 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 26.06.2025. The interest due from 27.05.2025 up to the date of final payment will be calculated likewise and paid to the complainants.

3. The complainants are at liberty to initiate action for recovery in accordance with law if the respondents fails to pay the amount as per the order of this Authority.


(G.R. REDDY)
MEMBER
FIFTH ADDITIONAL BENCH
K-RERA

to return the amount received by them in respect of that apartment, flat, 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(1), the respondents are liable to return the amount received along with interest.

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

Memo of Calculation for Refund with Interest submitted by the Complainants as on 26.06.2025

Principle amount (A) Rs.	Interest (B) As on 26.06.2025 Rs.	Refund from Promoter (C) Rs.	Total Balance Amount (A+B) Rs.
51,28,677	19,04,747	--	70,33,424

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

14. **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 31 of the Real Estate (Regulation and Development)

