

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/712/2024

DATED THIS 27th DAY OF MARCH, 2025

COMPLAINANT

: **Mr. Anant Ramachandran,**
Son of Mr. R A Subramani,
Tulip Block, Purva Park Apartments,
Jeevanahalli Main Road, Behind
ITC Infotech Park, Cox Town,
Bangalore - 560 005

(By Advocate, Mr. M D Rajkumar)

RESPONDENT /
PROMOTER

: **M/s.Mantri Developers Pvt Ltd.**
#14, Mantri House,
Vittal Mallya Road.
Bengaluru - 560001

(Mr.Harsha D Joshi, Advocate)

PROJECT NAME &
REGISTRATION NO.

: **MANTRI WEBCITY 2A**
PRM/KA/RERA/1251/310/PR/
17105/000608

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 **MANTRI WEBCITY 2A** praying for a direction to Refund the amount paid with Interest and for other reliefs.

BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:

1. As per the details furnished by the Complainant, the Complainant had entered into Pre-EMI Scheme, wherein They paid 20%-25% of sale consideration, i.e., Rs. 15,56,872.00 and 75%-80% of sale consideration, i.e., Rs. 65,65,776.00 was availed as bank loan, in order to purchase apartment unit bearing No. J 407, situated at 4th Floor, Tower J in Project "**MANTRI WEBCITY**".
2. The Complainant submitted that the Possession date was 31/03/2017 as per agreement and the Respondent even after more than 5 years from the completion date, the possession was not handed over to the Complainant. The Developer constantly kept on postponing the possession date. As such, the Complainant withdrew by virtue of delayed handover of possession from the purchase and the respondent accepted the cancellation of the booking and sent confirmation of withdrawal from Developer vide Email dated 18/01/2017, as per the terms and conditions mentioned in the Pre-EMI scheme and the same was acknowledged by the Developer vide Email dated 23/04/2017.
3. The Developer has failed to provide refund and interest as agreed under the Pre-EMI Scheme, and failed to close loan



outstanding as agreed under Letter of undertaking. Complainant has paid several Pre-EMIs to PNBHFL despite the Developer's liability to make such payment. Hence this complaint praying for the following reliefs and the same is admissible for relief in accordance with Section 18 of the Act.

(a) Refund entire sale consideration paid by Complainant, with 2x as per Pre-EMI Scheme.

(b) Direct Developer to foreclose Complainant's loan with PNBHFL, and refund PRE-EMIS paid by Complainant

4. In pursuance to the complaint being filed, the notice was issued by the authority to both the parties and both the Complainant and the Respondent appeared through their counsels on 20.11.2024 . On 20.11.2024, Complainant Advocate filed Vakalath and MOC with supporting documents and served the same on the respondent. Advocate for Respondent present and sought for time to file vakalath and objections and accordingly the hearing was adjourned to 27.01.2025 with a direction to the Respondent to file objections.


5. On 27.01.2025, both the Advocates present and Advocate for Respondent filed objections and served the same on the Complainant. Complainant prayed for time to file rejoinder. As a final opportunity the hearing was adjourned to 26.02.2025. The hearing scheduled on 26.02.2025 is postponed and final hearing was held on 07.03.2025. The complainant did not file rejoinder and requested to finalize the order since they have nothing to say. Respondent advocate also pleaded the same.



6. It is the case of the Complainant that the Respondent Developer in order to attract customers/home buyers offered a pre-EMI Scheme i.e., pre-sanctioned loans in order to purchase the apartment unit/s in their project. The Complainant herein interested in the said scheme, after survey of the site for the project, located at Hennur Road, Bengaluru booked their apartment unit bearing No. **J 407**, situated at 4th Floor, Tower J, in the aforementioned project on 30/03/2014.

7. The Complainant further submitted that in pursuance to the booking of the apartment unit, the Complainant signed off on Pre-EMI Scheme with the Respondent Developer wherein the Respondent Developer stated that the only method of purchasing the apartment unit was by opting for this Scheme, wherein the purchaser would mandatorily avail a loan solely from Axis Bank, to the extent of 75-80% of the sale consideration amount and the Complainant would only have to contribute 20-25% of the sale consideration amount. Under this Pre-EMI Scheme, the Respondent Developer assured that until March 2017 (31/03/2017), the Respondent Developer would discharge the EMI to the financial institute, i.e., PNB Housing Finance Limited. In furtherance to the Pre-EMI Scheme, the Complainant entered into a construction agreement dated 24/04/2014 and a sale agreement dated 24/04/2014 with respect to purchase of apartment.


8. That prior to the sanction of loan to the Complainant, the Complainant along with the PNB Housing Finance Limited, the financial institute issued a Letter of undertaking dated 26/05/2014 which is in the nature of a



Tripartite Agreement and the Respondent Developer had mutually agreed that the disbursement of loan to the Petitioner for the purpose of purchase of the apartment unit will be subject to the terms and conditions agreed upon by all three parties. Accordingly, the entire loan will be disbursed to the Respondent Developer, as such PNB Housing Finance Limited has disbursed the sanctioned loan directly to the Respondent Developer. In furtherance thereto, the Respondent Developer had also undertaken in the Letter of undertaking dated 26/05/2014 that the Respondent Developer shall repay the entire loan outstanding in the event of cancellation of allotment by the Complainant.

9. The Complainant herein have paid a sum of Rs. 15,56,872/- to the Respondent Developer as on April 2014 towards the contribution of the Complainant. It is further submitted that PNB Housing Finance Limited had sanctioned a loan to the tune of Rs. 65,65,776/- on 29/03/2014, and the entire loan sanctioned amount was disbursed in favour of the Respondent Developer. In addition the Complainant has paid several PRE-EMI amounts to PNB Housing Finance Limited as the Respondent Developer failed to pay the same on the Complainant's behalf.

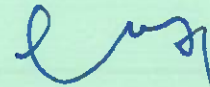
10. It is contractually clear that by virtue of Annexure B-1 to the Construction Agreement dated 24/04/2014, the apartment unit booked by the Complainant would be ready for handover of possession on 31/03/2017. However, the Respondent Developer has neither delivered the possession of the unit nor paid the Pre-EMI amount fully until the possession as agreed and thus, the Complainant on 18/01/2017 issued an E-mail to



the Respondent Developer expressing his intention to withdraw from the project in consonance with the terms agreed upon in the Pre-EMI Scheme. It is submitted that subsequently the Respondent Developer herein acknowledged and accepted the withdrawal vide e-mail dated 23/04/2017.

11. The Complainant submitted that even after withdrawal from the purchase of the Apartment Unit J-407, in the Respondent's project Mantri WebCity, and the same has been accepted by the Respondent Developer, neither Respondent nor PNB Housing Finance Limited discharged the Complainant from repayment of the existing loan as mutually agreed under Letter of Undertaking. Therefore, the complainant had approached the Hon'ble High Court of Karnataka, and the Hon'ble Court vide Order dated 26/07/2024 in WP No. 19774/2024 (GM-RES) had restrained PNB Housing Finance Limited from initiating/continuing any sort of precipitative action including but not limited to any civil or criminal proceedings in order to recover the purported loan outstanding against the Complainant herein with respect to the loan account No. 00196660004270.

12. The Respondent filed its statement of objections, contending that the complaint is not maintainable in law or on the facts and the same is liable to be dismissed. Further, in the statement of objections, the Respondent has admitted that there is delay in completing the project and they could not handover the apartment as per the agreed timeline. The Respondent pleaded in their objection the reason for delay in completion of the project such as Legal and Licensing issues, heavy and continuous rain fall and flooding in the project site, due to demonetization, GST, restrictions imposed on the



working hours, due to curb on sand mining, shortage of skilled labour, steel and other construction materials and also due to Covid-19 and the lockdown imposed by the Government, the Respondent could not complete the project.

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

- a) Whether the Complainant is entitled for the relief claimed?
- b) Whether the Developer can be directed to foreclose Complainant's loan with PNBHFL and whether Complainant is entitled for the relief of refund of Pre-EMI paid?
- c) Whether the Complainant is entitled for the relief of 2x of the contribution amount as per the Pre-EMI Scheme?
- d) What Order?

14. Findings to the above points are as under:-

- a) In the Positive
- b) In the Positive
- c) In the Negative
- d) As per final order

FINDINGS ON THE ABOVE POINTS

15. The grievance of the Complainant is that their apartment was not completed within the promised possession date, i.e., 31/03/2017 and since they were given the option to withdraw from the purchase from the Respondent Developer by signing a Pre-EMI Scheme document at the very conception of the purchase, the Complainant availed the said option of withdrawal. Accordingly, the Complainant withdrew from the



purchase vide email dated 18/01/2017 withdrawing from the purchase and the same was accepted and acknowledged by the Respondent Developer vide Email dated 23/04/2017. In view of the Respondent Developer's admission and acceptance of the complainant's withdrawal and from all available records submitted before this Authority, there has been delay in giving possession, and therefore the Complainant is entitled to the relief of refund of the entire amount paid to the Respondent Developer as contemplated under Section 18 of the Act. **Accordingly, the point No. 1 raised above is answered in the positive.**

16. In view of the Respondent Developer having failed to reimburse all the Pre-EMIs to the Complainant as agreed under the Pre-EMI document and the Letter of Undertaking, which resulted in the Complainant having made payment to the Financial institute where he had availed the loan, I.e., PNB Housing Finance Limited, and on account of the Respondent Developer's failure to give possession on time as promised, which again resulted in the Complainant having continued to pay Pre-EMI till July 2024, and further if the Complainant had not approached the Hon'ble High Court of Karnataka vide WP No. 19774/2024 (GM-RES), he would have had to make payment of Pre-EMI in perpetuity, which all points to the existence of the Respondent's liability to make the payment of Pre-EMI to the Complainant until possession is given to the Complainant. In the instant case, the Complainant has withdrawn on account of no possession being given, and the Respondent Developer has failed to discharge the Complainant from making payment of Pre-EMI by closing the loan account standing in the name of the Complainant with the Financial



Institute as agreed by the Respondent Developer under the Letter of Undertaking which has further led to a financial distress situation for the Complainant. The Complainant is neither beneficiary of the property nor of the loan amount, as both are retained by the Respondent Developer. **Accordingly, the point No. 2 raised above is answered in the positive.**

17. As the matter with respect to the recovery of the loan outstanding is pending adjudication in WP No. 19774/2024 (GM-RES) on the file of the Hon'ble High Court of Karnataka, this Authority has decided not to interfere with the same and has restricted its scope of adjudication to whether the Complainant is entitled to refund of his contribution of the amount to the Developer, and refund Pre-EMIs paid by Complainant.


18. With respect to the aspect of refund of 2x amount to the Complainant, it is notable to mention that the said nature of relief has been provided for in the Pre-EMI scheme Document. However, by virtue of the Apex Court decision in M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT. LTD., Vs. STATE OF UP & ORS. ETC. In Civil Appeal No(s). 6745 - 6749 of 2021 reported in 2021 SCC ONLINE SC 1044, this Authority does not have powers to grant any compensation reliefs, and the same can be granted to the Hon'ble Adjudicating Officer, RERA. As such, the Complainant is at liberty to approach the Hon'ble Adjudicating Officer and file appropriate complaint, in accordance with law for such compensatory claims. **Accordingly, the Point No. 3 raised above is answered in the negative.**



19. The Complainant has produced copies of Allotment letter, construction agreement, sale agreement, payment receipts, tripartite agreement, loan account statement, email communications and the interim order passed by the Hon'ble High Court of Karnataka in support of his contention.

20. The respondent has sought to explain the delay by referring to several issues referred in Para No.12 which are nothing but routine requirements of compliances and construction related issues which are required to be handled by the Promoter of any project who has undertaken to develop the real estate project. None of the reason submitted by the Respondent has any force and legal validity to justify the delay in completion of the project and provide any exception from the application of Section-18 of the Act. Further, one of the contentions raised by the respondent for delay in completing the project is on account of Covid-19. As stated earlier, the delivery and completion of the project is 31.03.2017 and the actual Covid-19 pandemic started during the year 2020 and the respondent cannot plead before the Authority Covid-19 pandemic as the reason for delay in completing the project. Therefore, the reason sought by the Respondent on account of Covid-19 for delay in completing the project is not tenable and the same is not agreed by the Authority. The Respondent could have taken longer time for completion at the time of seeking registration of the project.

21. Admittedly, the Respondent has not produced any document in support of its contention. The Respondent has not produced any documentary evidence on the status of the project as on date nor submitted any documentary evidence to



show that the project is completed. The Respondent has not filed any objections to the MOC filed by the complainant.

22. 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 02.11.2024

Principle amount (A) Rs.	Interest (B) As on 02.11.2024 Rs.	Refund from Promoter (C) Rs.	Total Balance Amount (A+B) Rs.
1,46,15,251	1,27,08,927	--	2,56,47,520

In view of the above observations / findings, 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/712/2024 is hereby partly allowed.

2. Respondent is directed to refund a sum of **Rs. 2,56,47,520/- (Rupees Two Crores Fifty Six Lakhs Forty Seven Thouand Five Hundred Twenty 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 10.04.2014 till 02.11.2024. The interest due from 03.11.2024 up to the date of final payment will be calculated likewise and paid to the complainant.



3. The Respondent is directed to close the loan standing in the name of the Complainant vide Loan Account No. 00196660004270 maintained by PNB Housing Finance Limited.

4. 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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