

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**
Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
CCP Nos. 010 of 2019

K. P. Sasikala ... COMPLAINANT

Vs.

M/s. Sheltrex Developers Pvt Ltd.,
Rep. by Managing Director,
(Regn. No.TN/01/Building/0238/2017) RESPONDENT

Complainant : Represented by N. Chakravarthi, PoA

Respondent : Remained absent.

Heard on : 22.01.2019

Delivered on: 28.02.2019

ORDER

The above complaint by the complainant claiming the refund of the amounts paid to the respondent towards the purchase and construction of the flat booked with the respondent together with interest, compensation and costs is filed under section 31 read with Section 71 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as RERA Act).

2. **Averments of the complaint in brief as follows:**

(a) The complainant booked a flat with the respondent in their project namely "SHEL TREX, MARAIMALAI" on 20.04.2013 and paid booking amount of Rs.3,83,785/-.

(b) The respondent allotted a flat and promised construction and delivery of the flat in time. There was no progress at the project site. On

TRUE COPY

28/2/2019



02.04.2014, the complainant received intimation about shifting of the project site to Oragadam and arrangement of a meeting at the site.

(c) The complainant attended the meeting and she was promised interest for the amount already paid till 31.03.2014 at Rs.65,296/- and was offered a flat in the new project. The interest was added to the amount already paid by the complainant and thereby out of the total price of the new flat of Rs.22,20338.50, the booking advance amount of Rs.4,49,081/- was given credit by the respondent.

(d) The respondent also allotted flat at Enclave A –Block A1-Flat No.107 and also promised delivery and possession of flat by December 2015. There was no progress of construction at the site.

(e) On 16.06.2015, the respondent sent a mail demanding further amounts and complainant lost confidence with the respondent. Hence, the complainant requested to refund the amount on cancellation of the flat booked by letter dated 29.01.2015. Till date, the respondent has not returned the amount. As per the provisions of RERA Act, the respondent is liable to return the amount with interest and costs to the complainant. Hence the complaint.

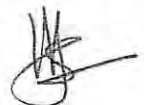
3. In spite of the service of notice, the respondent remained absent.

4. In evidence to prove her claim, the complainant filed proof affidavit with documents.

5. On the basis of the contentions of the complainant, the following points arise for determination.

TRUE COPY


28/2/2019





- i. Whether the complainant is entitled to get back the amounts paid to the respondent with interest and compensation on the ground of failure on the part of the respondent to give possession of the apartment booked by her in accordance with the date and terms agreed by the respondent?
- ii. Whether the complainant is entitled for all the reliefs as prayed for?

6. **Answer for Point No: (i)**

The power of attorney of the complainant submitted that the complainant booked a flat with Sheltrex for the project site at Maraimalai Nagar on payment of booking advance amount of Rs.3,83,785/- on 20.04.2013 and subsequently, there was no progress of construction and the complainant received email letter from the Chairman of the Sheltrex Company on 02.04.2014 expressing their inability to continue development in their project site and moving the project to Oragadam and asked the complainant to attend the meeting convened by them and in the meeting the respondent promised a flat in the new project by December 2015 and also gave credit of advance amount together with interest till 31.03.2014 and allotment of the flat was made by the respondent and again there was no progress in the new site but respondent demanded further amounts and the complainant lost confidence in them and the respondent was unable to deliver the flat as promised by them and the complainant sought refund of the amount and the respondent failed to return the amount and therefore the complainant is entitled to return of the amount with interest and compensation.

TRUE COPY


28/21 2019



7. The complainant examined herself as CW1 and marked Ex.A1 to A6 documents in support of her claim. Ex.A1 is the allotment letter and also receipt for Rs.3,83,785/- issued by Sheltrex Housing Pvt Ltd., for their Marai Malai Project. Ex.A2 is the letter from the Chairman of the Sheltrex Group of Companies dated 02.04.2014 stating their inability to continue construction on the project site and also offering flat in new project at Oragadam and also calling for a meeting of the customers. Ex.A3 is the letter from the respondent confirming the allotment of new flat at Sheltrex Oragadam giving credit of the total amount received as Rs.4,49,081/-. Ex.A4 and A5 are the letters from the respondent giving assurance to deliver the flat by December 2015. Ex.A6 is the letter of the complainant requesting for cancellation of allotment and refund of the amount. By evidence, the complainant proved that the respondent failed to start construction of the project to give delivery and possession of the flat booked by her in accordance to the date and terms agreed by them. In the above circumstances, it is held that the complainant is entitled to get back the amount paid to the respondent with interest and compensation on the ground of failure on the part of the respondent to give possession of the apartment booked by her in accordance with the terms and conditions. Thus the point is answered accordingly.

8. Answer for Point No: (ii)

As per Ex.A3, the total amount received by the respondent is Rs.4,49,081/- on behalf of the complainant. In view of the answer for Point No.(i), the complainant is entitled to refund of Rs.4,49,081/- from the respondent. As per Rule 18 of the TNRERA Rules, the complainant is

TRUE COPY


28/2/2019



entitled to interest at the SBI highest marginal cost of lending rate plus 2% from the respective dates of payment till repayment by the respondent. Hence, the complainant is entitled of interest on Rs.4,49,081/- at the interest rate of 8.70%, which is currently highest marginal cost of lending rate of interest of SBI plus 2% from 01.04.2014. Apart from the above, the complainant is entitled for compensation of Rs.50,000/- towards mental agony and inconvenience and a sum of Rs.20,000/- towards litigation expenses. Thus, the point is answered accordingly.


In the result, the respondent is directed as follows:

1. The respondent shall pay the complainant the amounts at the interest rate, compensation and cost as per the findings in the answer for Point No.(ii) Para 8 of this order within 30 days from the date of issue of this order.
2. The charge of the aforesaid amount shall be on the flat booked by the complainant till the repayment.


G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI

CERTIFIED TO BE TRUE COPY


ADMINISTRATIVE OFFICER
TN REAL ESTATE REGULATORY AUTHORITY


28/2/2019