

**BEFORE THE  
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,  
CHENNAI**  
**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,  
CCP No. 103 of 2019**

1. Sridhar Srinivasan  
2. Subhasree Nangamangalam ... **COMPLAINANTS**

**Vs.**

M/s. A.R.R.R. Constructions Chennai (P) Ltd.  
Rep. by MD, R.S. Rajan @ Ramaswamy Rajan ... **RESPONDENT**  
**(Project not registered)**

Complainants : Rep. by Mr. V. Balamurugane, Advoate

Respondent : Rep. by Ms. Sujatha Venugopalan, Advocate

**Heard on : 12.12.2019**

**Delivered on : 31.12.2019**

**ORDER**

The above complaint is filed by the complainants claiming compensation for the delay in construction and handing over the completed flat by the respondent 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 complainants in brief as follows:**

a) The complainants booked a flat / pent house with the respondent in their project at Plot No.C-44, 40<sup>th</sup> Street, Nanganallur, Chennai for a total consideration of Rs.1,40,00,000/-.

b) On 08.07.2013, the complainants entered in to an agreement of sale and construction of flat with the respondent. The complainants paid a total sum of Rs.1,36,95,000/-.

c) As per the terms of the agreement, the respondent undertook to complete the construction and hand over possession of the flat within 12 months from the date of getting the building plan approval. The payments

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were made by the complainants as per the schedule in the agreement without any delay.

d) In July 2015, the respondent promised to hand over the completed flat within 6 months. Subsequently, in January, 2017, the respondent made further promise for delivery of possession of the flat by April 2017. In April 2017, when there was no progress, the respondent assured that the complainants would be compensated with Rs.20,000/- per month till the handing over possession of the flat. But, the construction was not completed as promised by the respondent.

e) Subsequently, the complainants sent a legal notice through their counsel on 18.08.2017. There was no response. The complainants are entitled for the compensation for the delay caused by the respondent. Hence the complaint.

3. **Counter averments of the respondent, in brief, as follows:**

a) The project is developed in land which is less than 500 sq.mts. The apartments developed also are not exceeding eight in number. The registration of the project under the RERA Act is not required. Therefore, this Forum has no jurisdiction to entertain the complaint.

b) The work in the project is completed 95%. The complainants are liable to pay Rs.7,30,000/-. The respondent was accepting payment only after completion of the work. For electricity connection the respondent paid the caution deposit, CC charges and development charges to the Electricity Department in the name of the complainants in the year 2016.

c) The respondent was waiting for completion certificate form CMDA and also an order from Corporation of Chennai. The respondent was requesting

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all the flat purchasers to release 50% of their balance amount. But they are evading. The Corporation is demanding payment for issue of the order.

d) The real estate business is under severe downfall. The respondent is very much ready and willing to complete the minor works within two or three months provided all the purchasers cooperate with them. The complaint is liable to be dismissed.

4. An attempt to settle the matter amicably has failed.

5. On the side of the complainants, evidence on affidavit was filed and documents were marked. On the side of the respondent, the documents were produced, but not marked on evidence.

6. On the basis of the rival contentions of the parties, the following points arise for determination:

i. Whether the complainants are entitled for compensation for the delay in completion and delivery of the possession of the completed flat / pent house by the respondent as per the terms of the agreement?

ii. What are the reliefs, the complainants are entitled for?

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

a) The learned counsel for the complainants submitted that as per the terms of the agreement, the total cost of the flat / pent house is Rs.1,40,00,000/- and the complainants paid a total sum of Rs.1,36,95,000/- and the respondent undertook to handover and deliver the constructed flat within 12 months from the date of getting building plan approval and there was delay in completing the construction of the flat and the respondent

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was demanding the further amounts without the completion of the construction of flat and the complainants are entitled for compensation.

b) As per the Ex.A1 agreement for sale and construction of flat dated 08.07.2013, the cost of the flat / pent house is Rs.1,40,00,000/-. Under clause 5 of the sale agreement, the respondent undertook to complete the construction of the flat even 12 month from the date of obtaining approved plan. Admittedly, as on the date of the filing of the counter by the respondent on 24.06.2019, the construction of the flat was not completed and not handed over the flat to the complainants.

c) It is the specific averment of the complainants in the complaint that during April 2017 when the construction was not progressing, the complainant contacted the respondent and the respondent assured that they would compensate Rs.20,000/- per month till handing over of the possession of the flat. In the counter filed by the respondent, there is no specific denial of the averments of the complainant regarding compensation for the delay on the part of the respondent.

d) The respondent contended in their counter that the project land area does not exceeding 500 sq.mts. and the number of apartments also does not exceeding 8 in number and therefore the project need not be registered with the TNRERA and this Forum has no jurisdiction to entertain the complainant. No doubt, the project falls under section 3(2)(a) of the RERA Act and does not require registration with the TNRERA. Nowhere, in the RERA Act, it is mentioned that the Act is applicable only for registered projects. The RERA Act provides certain categories of projects as not required to be registered but those projects are within the ambit of the Act.

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Those projects mentioned under section 3(2) have been taken out of registration requirement, but not out of the purview of the other provisions of the Act.

e) In the above circumstances, it is held that the respondent is liable to pay compensation to the complainants on the ground of delay in construction and hand over the completed flat/Pent House to the complainants. Thus the point is answered accordingly.

**8. Answer for point No.(ii)**

a) In view of the answer for Point No.(i) , the complainants are entitled for compensation for the delay in completion of construction and handing over of the completed flat / pent house to the complainants. The complainants restricted their claim of compensation from the date of CMDA approval on 04.10.2013 till the date of filing of the complaint at Rs.10,000/- per month for 53 months at Rs.5,30,000/-.

b) Considering the circumstances of the case it is held that the claim of compensation for a sum of Rs.5,30,000/- for the delay on the part of the respondent by the complainants found reasonable. Hence, complainants are entitled for compensation for a sum of Rs.5,30,000/- from the respondent towards as compensation for the delay. Towards litigation cost a sum of R.20,000/- is fixed. The complainants are entitled for the reliefs as detailed above. Thus the point is answered accordingly.

**In the result, it is directed as follows:-**

The respondent shall pay the complainants the amounts of compensation and litigation cost as detailed in the answer for Point No.(ii), Para 8 of the order within 30 days from this

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order. In case of adjustment of the amount towards due from the complainants the balance amount shall be payable by the respective party.

Sd/-31.12.2019  
G. SARAVANAN  
ADJUDICATING OFFICER

**LIST OF WITNESSES**

CW-1 --- Sridhar Srinivasan

**List of documents filed by the complainants**

Ex.Nos.	Date	Documents Name
Ex.A1	08.07.2013	Agreement for Sale and construction
Ex.A2	--	Receipts
Ex.A3	11.08.2017	Legal Notice to respondent
Ex.A4	08.07.2013	Memorandum of understanding

Sd/-31.12.2019  
G. SARAVANAN  
ADJUDICATING OFFICER  
TNRERA, CHENNAI

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*N. Arumugam*  
21/12/2019  
Administrative Officer