

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
CCP Nos. 111 AND 112 of 2019**

- | | |
|--|-----------------|
| (1) K.S. Muralitharan | CCP No.111/2019 |
| (2) M. Varunkumar
Rep. by its PoA S. Muralidharan | CCP No.112/2019 |

COMPLAINANTS

Vs

Canara Bank Officers Union
Rep. by its General Secretary M.A. Srinivasan
(Regn No.TN/11/Building/0245/2018)

RESPONDENTS

Complainants : In person
Respondent : Remained absent

Heard on : 23.09.2019
Delivered on : 15.10.2019

ORDER

Both the above complaints by the complainants claiming compensation for the delay in handing over of the flats booked by them with the respondent is filed u/s 31 read with Section 71 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as RERA Act).


2. Since both the complaints are relating to same project of the respondent, both the complaints were heard together and disposed of by a common order.

3. **Averments of the complainants in brief as follows:**

(a) The complainants booked flats with the respondent in their project, namely, "**GRAND HILLS APARTMENTS/CBOU ENCLAVE**", Madukkarai Village, Coimbatore District and paid advance amount and further amounts.

(b) The flats allotted to the complainants, the agreed price, the amounts paid by the complainants and the due date for delivery of the constructed flat to the respective complainants are as follows:-

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Complainants Name	CCP No	Allotted Flat No	Price Agreed Rs.	Amount Paid Rs.	Due Date for delivery of the Flat
(1)	(2)	(3)	(4)	(5)	(6)
K.S.Muralitharan	111/2019	C-105, C-Block	23,60,821	23,60,821	01.08.2015
M. Varunkumar	112/2019	C-102, C-Block	24,75,953	24,75,953	01.08.2015

The complainants entered into agreements of sale and construction separately on 01.08.2013 with the respondent. The respondent also executed sale deed of the UDS land in favour of the complainants. As per the agreements, the respondent undertook to complete the construction and hand over the apartment within 24 months from the date of the agreements. Till date, the flats were not handed over to the complainants.

(c) The complainants availed bank loan for purchase of the flats from the respondent. Due to delay, the complainants were put to loss and hardship. As per the provisions of RERA Act, the complainants are entitled for compensation for the delay in completing and handing over of the possession of the flats to them. Hence the complaints.

4. After service of notices to the respondent, Mr. M.A. Srinivasan, of the respondent union appeared in person and subsequently remained absent.

5. The complainants filed their respective evidence with documents.

6. On the basis of the contentions of the complainants, the following points arise for determination.

- i. Whether the complainants are entitled to get compensation for the delay in completing and handing over possession of the flats booked by them from the respondent in accordance with the terms and conditions of the agreement?

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ii. What are the reliefs the complainants are entitled to?

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

(a) The complainants submitted that the project was started in the year 2012 and the allotment of the flat by the respondent was made and the agreements for construction were entered on 01.08.2013 and respondent also executed sale deed for the UDS, but till date has not handed over the flats and they have been put to loss and hardship as they were availing bank loan for purchase of the flats and therefore they are entitled for compensation for the delay.

(b) Under clause 15 of the agreement for construction, the respondent undertook to complete the construction and hand over the apartments within 24 months from the date of the agreements, which were entered on 01.08.2013. The due date for handing over possession expired by 31.07.2015.

(c) In their proof affidavit, the complainants stated that the flats were not handed over even after 4 years, till date, as agreed by the respondent. Under clause 41 of the agreements, it is agreed that the party, who commits default will be liable for damages that may be sustained by the other party.

(d) In the said circumstances, it is held that the complainants are entitled for compensation for the delay in completion and handing over of the respective flats by the respondent. Thus, the point is answered accordingly.

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

In view of the answer for Point No.(i), the complainants are entitled for compensation for the delay by the respondent in handing over completed flats to them. The complainants submitted that there is substantial loss of

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rental income at the rate of Rs.15,000/- per month. They restricted their claim for 4 years and each of the complainant claimed Rs.7,20,000/- as compensation. Considering the facts and circumstances of the case, the claims of compensation by the complainants are found reasonable. The complainants are entitled for the reliefs as detailed above.

CCP No. 111 of 2019

The complainant is entitled for compensation of Rs.7,20,000/- and litigation expenses of Rs.20,000/- from the respondent.

CCP No. 112 of 2019

The complainant is entitled for compensation of Rs.7,20,000/- and litigation expenses of Rs.20,000/- from the respondent.

As discussed and found above, both the complainants are entitled for the reliefs. Thus, the point is answered accordingly.

In the result, the respondent is directed as follows:

- (1) The respondent shall pay the complainants the amount of compensation and cost as per the findings in Answer for Point No.(ii), Para 8 of this order within 30 days from the date of issue of this order.
- (2) If the compensation is not paid within 30 days of the date of issue of this order, the amount will carry interest @ 9% per annum from the date of the order till the payment of the amount to the complainants by the respondent.

Sd/- 15.10.2019

CERTIFIED TO BE TRUE COPY

**G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI**

N. [Signature]
15/10/19
**ADMINISTRATIVE OFFICER
TN REAL ESTATE REGULATORY AUTHORITY**

[Signature]
15/10/2019