

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

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,  
CCP Nos. 128 of 2019**

B. Vidhya Rathi AND C. Muthu Karuppasamy ... **COMPLAINANTS**

**Vs.**

M/s. Civil Engineering Enterprise,  
Rep. by its Proprietor M.A. Salim,  
(Unregistered Project) ... **RESPONDENT**

Complainants : In person  
Respondent : Remained Absent

Heard on : 19.07.2019  
Delivered on : 31.07.2019

**ORDER**


The above complaint by the complainants claiming the refund of the amounts paid to the respondent towards the purchase and construction of the booked flat, interest, compensation and costs 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. Averments of the complainants in brief as follows:**

(a) The complainants booked a flat with the respondent in their project namely "**Salim's MOUNT ARAVALLI**" at Rajas Garden, Ayyapanthangal, Chennai – 600 077 and paid advance of Rs.10,00,000/- towards the purchase of the flat in the project. By letter dated 01.11.2017, the respondent allotted flat No.F1 in the 1<sup>st</sup> Floor of the project.

(b) The total consideration of the flat is Rs.35,25,000/- . The respondent promised to register agreement for construction and sale of UDS within

**TRUE COPY**

  
31/7/2019

one month from the date of allotment. Further, there was no progress except the receipt of the money from the complainants.

(c) On 31.05.2018, the respondent issued another letter of allotment with change in built up area and total consideration to Rs.35,37,000/-. Subsequently, on 01.06.2018, construction agreement was entered between complainants and the respondent. But, till date, there was no commencement of construction work in the place of project.

(d) The complainants also approached the respondent, who gave only an evasive reply. Therefore, the complainants claimed refund of the amount from the respondent. The respondent undertook to repay the amount with interest at the rate of 12% and also gave four cheques for a total sum of Rs.11,26,574/-. All the cheques returned dis-honoured. The complainants lodged a police complaint. The respondent paid Rs.2,50,000/- as part of the amount and also promised to pay the balance amount subsequently. As per the provisions of RERA Act, the complainants are entitled for refund of the amount with interest. Hence, the petition.

3. The respondent received notice and remained absent.

4. On consideration of pleadings and evidence of the complainants and documents filed by them, the following points are framed for consideration:

- i. Whether the complainants are entitled to get back the balance amount from the respondent with interest and compensation on the ground of failure on the part of the respondent to construct the apartment booked by them in accordance with the terms of the agreement?

**TRUE COPY**

  
31/7/2019

- ii. Whether the complainants are entitled for all the reliefs as prayed for?

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

(a) The complainants examined themselves as CW1 and marked Ex-A1 to Ex.A-8 documents. Ex.A-5 is the construction agreement entered between the complainants and the respondent. In the agreement dated 01.06.2018, the respondent agreed to complete the construction and deliver the flat ready for occupation within six months. The due date for delivery as per the agreement was 01.02.2019. As per the evidence of CW1, the respondent failed to commence the construction of the project to hand over the flat as promised by him.

(b) By Ex.A-1, allotment letter, the respondent acknowledged the receipt of Rs.10,00,000/- from the complainants. Ex.A-6 copy of the cheques and the return memos prove the case of the complainants that the respondent issued four cheques towards the re-payment of the amount paid by the complainants together with interest.

(b) In the above circumstances, it is held that the complainants are entitled for refund of the amount with interest and any other reliefs on the ground of failure on the part of the respondent to commence the construction work to hand over the flat as promised by them in terms of the agreement entered between them. Thus, the point is answered accordingly.

5. **Answer for Point No: (ii)**

(a) As per Ex.A-1 allotment letter and Ex.A-2, account statement of the bank and receipt vouchers, the respondent received a sum of Rs.10,00,000/- from the respondent. Admittedly, the respondent repaid Rs.2,50,000/- from the complainants after police complaint lodged by

**TRUE COPY**

*21/7/2019*

them. Therefore, the complainants are entitled for refund of the balance of amount of Rs.7,50,000/-.

(b) As per Rule 18 of the TNRERA Rules, the rate of interest shall be interest at the highest marginal cost of lending rate of interest of SBI plus 2% per annum. The present rate of highest marginal cost of lending rate of interest of SBI is 8.60% per annum. Therefore, the complainants are entitled for the interest on the amount paid to the respondent at the rate of 10.60% per annum from the date of respective payments till repayment by the respondent.

(c) Considering the facts and circumstances of the case, a sum of Rs.10,000/- is fixed towards compensation for mental agony and inconvenience and a sum of Rs.5,000/- towards litigation cost. The complainants are entitled for reliefs as detailed below. Thus, the point is answered accordingly.


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

- (1) The respondent shall pay the amounts at the interest rate, compensation and litigation cost as per the findings in answer for Point No.(ii), Para No.5 of this order within 30 days of issue of this order.
- (2) The charge of the aforesaid amount shall be on the flat booked by the complainant till the repayment.

**CERTIFIED TO BE TRUE COPY**

Sd/-xxxxx  
**G. SARAVANAN**  
**ADJUDICATING OFFICER**  
**TNRERA, CHENNAI**

  
**ADMINISTRATIVE OFFICER**  
**TN REAL ESTATE REGULATORY AUTHORITY**

  
31/7/2019