

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

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,  
CCP No. 147 of 2019**

R. Mithun Chakravarthy  
Rep. by PoA S. Rajappa

..... COMPLAINANT

**Vs.**

M/s. Metroline Promoters Pvt. Ltd  
Rep. by Director Amit Gupta

..... RESPONDENT

**(Project not registered)**

Complainant : Rep. by Mr. V. Manohar, Advocate  
Respondent : Rep. by Ms. Rohini Ravi Kumar, Advocate

**Heard on : 10.12.2019**

**Delivered on : 27.12.2019**

**ORDER**

The complaint is filed by the above complainant claiming compensation and promised return or rent from the respondent on failure to complete the construction of the commercial unit as per the terms of the agreement u/s 31 read with Section 71 of the Real Estate (Regulatory and Development) Act, 2016 (hereinafter referred to as RERA Act).

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

- a) The complainant made application for allotment of commercial unit which is shop in a commercial complex, namely, "**GOLD SOUK GRANDE**" at GST Road, Vandalur, Chegleput Taluk promoted by the respondent and paid the amounts.
- b) The respondent allotted shop bearing no.SF202 in the second floor having super built up area of 420 sq.ft. The total sale consideration is Rs.37,21,000/-. The complainant paid the entire sale consideration to the respondent.
- c) Subsequently on 09.02.2011, unit buyer agreement was entered between the complainant and respondent. As per the agreement, the respondent promised to pay a sum of Rs.31,415/- as monthly return till possession of the unit is handed over and also undertook to complete and hand over the commercial unit on or

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before 31.12.2012 with a grace period of six months. The due date with grace period expired on 30.06.2013. The monthly return or rent was paid only for 3 months and 20 days.

d) In spite of payment of the entire money, since the possession of the shops were not handed over, the complainant and other purchasers approached the District Crime Branch Police, Kancheepuram by way of complaints on 13.10.2016. The company representative attended the enquiry with a proposal to hand over the units and also payment of interest. There was no progress thereafter.

e) As per the provisions of the RERA Act, the respondent is liable to pay the promised return for the amount and compensation to the complainant. Hence the complaint.

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

a) Except admitted, all the averments are denied. The respondent commenced construction and tried best to finish the construction before the due date. Due to certain eventualities, the respondent could not complete the construction before the expiry date of the approval. The respondent applied for renewal of planning permit but the CMDA took nearly 3 years to make the return.

b) The CMDA without any application of mind returned the file advising compliances. Every time the compliances are done and the file was resubmitted, the CMDA once again would come up with a completely new set of advices and thereby causing enormous delay in obtaining the planning permission and completing this project. The delay in completion of the project is only due to non co-operation by CMDA.

c) The respondent was able to obtain planning permit from CMDA on 21.02.2019. The respondent also faced difficulties in getting the building permit due to elections and finally obtained building permit from Urapakkam Panchayat only on 26.05.2019. Thereafter on 26.06.2019 the respondent filed application for registration before this Authority.

d) There is an ongoing arbitration proceedings between the respondent and the land owners, namely VGP housing. Arbitration proceedings are still pending before the arbitrator appointed by Hon'ble High Court.



e) The complainant submitted application for allotment of payment of booking advance on 17.11.2010. Subsequently, a unit buyer agreement and memorandum of understanding were entered between the parties on 09.02.2011 and 08.11.2011 respectively. The total consideration was fixed as Rs.37,21,000/-. The tentative date for completion of the project was 31.12.2012 with a grace period of 6 months.

f) The project could not be completed due to events beyond the control of the respondent. The commercial unit booked by the complainant is ready for possession and the same was informed to the complainant. The complainant refused to take possession on the ground of non renewal of planning permit.

g) The complainant and others preferred a complaint before the police in November, 2016. Due to the police enquiry and joint meetings to settle the dispute, the work in the project could not be continued.

h) The respondent gave a proposal to settle the issue of payment of rent that the rent shall be payable upto 31.12.2013 only, in lieu of unpaid rent till 31.12.2013, extra area in the project will be allotted. Therefore the complainant is not entitled for any rent or compensation. Hence the respondent prays for the dismissal of the complaint.

4. On the side of the complainant, the complainant filed evidence on proof affidavit with documents. No evidence was produced by the respondent.

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

- i. Whether the complainant is entitled for compensation and promised return or rent for the amounts paid to the respondent towards purchase of the constructed shop on the ground of failure on the part of the respondent to give possession of completed shop booked by him in accordance with the date and terms of agreements?
- ii. Whether the complainant is entitled for all the reliefs as prayed for?

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

a) The learned counsel for the complainant submitted that the respondent launched the project namely "GOLD SOUK GRANDE" which is a commercial

complex and invited applications for allotment of units and the complainant submitted application form for allotment of unit in pursuance of which unit buyers agreement entered between the complainant and respondent followed by the memorandum of understanding over the construction of the unit allotted to the complainant and the complainant paid entire amount and subsequently there was no progress and therefore the complainant is entitled for the relief prayed by him.

b) The power agent of the complainant examined as CW1 stated that the complainant made application on 17.11.2010 which is marked as Ex.A1 for allotment of the shop and paid a sum of Rs.37,21,000/- in total and on various dates and Ex.A2 unit buyer agreement was entered on 09.02.2011 and as per A3 memorandum of understanding, the respondent acknowledged the receipt of a sum of Rs.37,21,000/- and promised to pay monthly return for the unit. The date of delivery of completed unit was 31.12.2012. It is the evidence of the complainant that the respondent paid rents for 3 months and 20 days and subsequently, there was no progress. The complainant and other allottees filed a complaint with the District Crime Branch Police, Kancheepuram on 13.10.2016 and the representative of the respondent attended the enquiry and requested time to hand over possession of the unit and till date the unit was not handed over.

c) The evidence of the complainant proved that he paid the amounts to the respondent towards purchase of the constructed commercial unit and the respondent has not completed the construction and handed over the possession of the completed unit to him till date.

d) The complainant claimed the promised return and compensation. Under clause 2 of Ex.A3, Memorandum of agreement, the respondent agreed to pay the assured monthly return amounting to Rs.31,425/- to the allottee with effect from 10.10.2011 till the date of offer of possession. However, in the counter, the respondent stated that the monthly rent or return shall be payable up to 31.12.2013 and in lieu of unpaid rent, extra area will be allotted. The respondent cannot unilaterally alter the undertaking given to the complainant. There cannot be any dispute that the long delay caused mental agony to the complainant.

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e) In the above circumstances, it is held that the complainant is entitled for compensation and promised return or rent for the amount paid by them to respondent towards the purchase of shop till the delivery of the constructed and completed unit on the ground to failure on the part of the respondent to complete and hand over the constructed unit as per the terms of agreement to the complainant. Thus, the point is answered accordingly.

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

a) In view of the answer for point No.(i) the complainant is entitled for promised return or rent for the amounts paid to the respondent and compensation.

b) Towards assured monthly return or rent, the complainant claimed Rs.27,96,825/- at the rate of Rs.31,425/- per month from 10.10.2011. The complainant received the rent for the period of 3 months and 20 days. Therefore, the complainant is entitled for the rent from February, 2012. The complaint is filed in the month June, 2019. From February, 2012 to May, 2019 at the rate of Rs.31,425/- = Rs.27,65,400/- is the rent payable by the respondent to the complainant.

c) Towards mental agony, hardship and inconvenience caused to the complainant a sum of Rs.2,00,000/- is fixed. Towards cost of litigation Rs.20,000/- is fixed.

The complainant is entitled for the relief as detailed above. Thus the point is answered accordingly.

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

- (1) The respondent shall pay the complainant the amounts, compensation and litigation cost as per the findings in the answer for Point No.(ii), Para 7 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 unit booked by the complainant till the repayment.

Sd/-27.12.2019  
G. SARAVANAN  
ADJUDICATING OFFICER

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**List of witness**

CW-1 --- S. Rajappa (PoA)

**List of documents filed by the complainant**

<b>Ex.Nos</b>	<b>Date</b>	<b>Documents Name</b>
Ex.A1	17.11.2010	Application Form
Ex.A2	09.02.2011	Unit Buyer Agreement
Ex.A3	08.11.2011	Memorandum of Understanding
Ex.A4	August,2016	Draft Sale Deed
Ex.A5	26.09.2017	General Power of Attorney
Ex.A6	--	Receipts (3 Nos.)

Sd/-27.12.2019  
G. SARAVANAN  
ADJUDICATING OFFICER  
TNRERA, CHENNAI

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Administrative Officer