

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

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,  
CCP Nos. 150 of 2019**

R. Thenmozhi AND S. Sriram ... **COMPLAINANTS**

**Vs.**

M/s. New Chennai Township Pvt Ltd.,  
Rep. by its Director, Gorreppa Ramkrishna Reddy, ... **RESPONDENT**

Complainants : Mr. S. Shinu, Advocate

Respondent : Remained absent

Heard on : 01.10.2019

Delivered on : 17.10.2019

**ORDER**

The above named complainants filed the complaint claiming refund of the amounts paid to the respondent towards lease and construction of flat with interest, compensation and costs 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) On 02.02.2011, the complainants booked a residential flat with the respondent in their project namely "*UTSAV*" at Vellur Village, Cheyyur Taluk, Kancheepuram District, and paid advance amount and further amounts.

(b) On 17.02.2012, the respondent executed a lease deed in favour of the complainants for lease of the apartment for a period of 99 years for the residential flat to be constructed by the respondent. The total lease consideration is Rs.16,69,000/-. The complainants paid a total sum of Rs.12,82,650/-. In the lease deed, the delivery of the flat was fixed within three months from the date of receipt of the entire lease amount. Till date,

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the construction was not commenced for handing over the flat as per the terms of the lease deed.

(c) As per the provisions of the RERA Act, the respondent is liable to return the amount with interest and compensation to the complainants. Hence, the complainants withdraw from the project and seek full refund of the amount with interest, compensation and costs.

3. On service of notice to the respondent, the respondent was present but remained absent subsequently.

4. On the side of the complainants, the complainants filed evidence on affidavit and documents.

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


i. Whether the complainants are entitled for refund of the amount paid to the respondent with interest, compensation and costs on the ground of delay on the part of the respondent to commence and complete the flat for handing over the flat in accordance with the date and terms of the lease deed?

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

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

(a) The learned counsel for the complainants submitted that the total consideration for the lease of the apartment to be constructed was fixed at Rs.16,69,000/- and the complainants paid on various dates in total a sum of Rs.12,82,650/-, which is almost 80% of the total consideration of the lease

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rental value of the apartment and the respondent has neither commenced the construction nor handed over possession of the apartment till date and the complainants also issued a notice dated 18.04.2016 to cancel the lease deed and refund the entire amount with interest but the respondent failed to repay the amount and the complainants availed bank loan to pay respondent and the complainants are entitled for all the reliefs as prayed by them.

(b) Ex.A-4 is the lease deed entered on 17.02.2012 between the complainants and the respondent, in which, the respondent undertook to hand over the possession of the apartment within three months from the date of receipt of the entire amount of Rs.16,69,000/-. As per Ex.A-5 payment report of the respondent, the respondent received Rs.12,82,650/- from the complainants. Ex.A-6 is the legal notice issued by the complainants to the Managing Director of the respondent and the Authorized Signatory seeking refund of the entire amount paid by them with interest on the ground that the construction of the apartment has not even commenced and there is no possibility to complete the same in the near future.

(c) Ex.A-8 and Ex.A-9 are the postal receipt and acknowledgement of the receipt of the legal notice by the respondent. In her proof affidavit, the 1<sup>st</sup> complainant stated that the construction of the project has not yet commenced and there is no possibility of completing the project in the near future. Through the evidence, the complainants proved that the respondent failed to commence the construction in order to hand over the completed apartment to the complainants as per the terms of the lease deed. Therefore, it is held that the complainants are entitled for refund of

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the amount with interest, compensation and costs from the respondent. Thus the point is answered accordingly.

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


(a) In view of the answer for Point No.(i) , the complainants are entitled for refund of the amount paid by them to the respondent. As per Ex.A-5, payment report, the respondent received a total sum of Rs.12,82,650/-. Therefore, the complainants are entitled for refund of Rs.12,82,650/- with interest, compensation and costs.

(b) As per Rule 18 of the TNRERA Rules, the rate of interest payable shall be the current highest marginal cost of lending rate of interest of State Bank of India (SBI) plus 2% per annum. Hence, the complainants are entitled for the interest at the rate of 8.15% per annum which is currently the highest marginal cost of lending rate of interest of SBI plus 2% per annum i.e., 10.15% p.a for the entire amount paid from the date of respective payment till repayment by the respondent. Considering the facts and circumstances of the case, a sum of Rs.1,00,000/- is fixed as compensation towards mental agony and inconvenience caused to the complainants by the respondent. Towards registration expenses, a sum of Rs.16,790/- and towards litigation a sum of Rs.20,000/- are fixed. The complainants are entitled for reliefs as detailed above. Thus, the point is answered accordingly.

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

- (1) The respondent shall pay the complainants the amounts at the interest rate, compensation and costs as per the

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findings in the answer for Point No.(ii), Para 7 of this order within 60 days from the date of issue of this order.

- (2) The charge of the aforesaid amount shall be on the flat booked by the complainants till the repayment.
- (3) The complainants shall execute the cancellation of lease deed on satisfaction of their claims at the costs of the respondent.

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Sd/-17.10.2019  
**G. SARAVANAN**  
**ADJUDICATING OFFICER**  
**TNRERA, CHENNAI**

*N. Saravanan*  
**ADMINISTRATIVE OFFICER**  
**TN REAL ESTATE REGULATORY AUTHORITY**

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