

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

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,  
CCP No. 193 of 2019**

K. NARESH

.... COMPLAINANT

**Vs.**

M/s. Sheltrex Developers Pvt. Limited  
Rep. by Managing Director  
(Regn. No.TN/01/Building/0238/2017)

.... RESPONDENT

Complainant : In Person

Respondent : Rep. by Mr. S.B. Viswanathan, Advocate

Heard on : 09.01.2020

Delivered on: 24.01.2020

**ORDER**

The above complainant filed the complaint claiming the refund of the amounts paid to the respondent towards the purchase and construction of the flat booked with the respondent together 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 complainant in brief as follows:**

(a) The complainant booked a flat in the project namely Sheltrex, Maraimalai Nagar on 15.04.2013 and paid a sum of Rs.3,29,821/- to M/s. Sheltrex Housing Pvt. Ltd. The said company issued allotment letter dated 10.05.2013 for allotment of a flat in the project and the date of possession as December 2015.

(b) Subsequently, there was no progress at the project site. On 02.04.2014, the complainant received intimation about the shifting of the project site to Oragadam and arrangement of a meeting at the site. The complainant

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attended the meeting arranged by the respondent company, which is also group company of Sheltrex. The complainant was promised interest for the amount already paid to Sheltrex Housing Pvt. Ltd., till 31.03.2014 at Rs.54,448/- and was also offered a flat in the new project at Oragadam launched by the respondent.

(c) On 16.06.2015, the complainant received allotment letter from the respondent allotting a flat in their Oragadam Project for a cost of Rs.17,22,289/- giving credit to the amount already received with interest to Rs.3,84,309/-. Subsequently, there was no progress of construction in the site. However, the complainant received demand for further amounts from the respondent. The complainant cancelled the booking and sought refund of the amount. As per the provisions of RERA Act, the respondent is liable to return the balance amount with interest and cost. Hence the complaint.

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

(a) The complaint is not maintainable in law or on facts. All the allegations except admitted specifically are denied. The respondent came to know about disputes relating to title of land in Maraimalai Project of M/s. Sheltrex Housing Pvt. Ltd., which was stalled. The name of the promoter of the respondent company was used by M/s. Sheltrex Housing Pvt. Ltd., for marketing and sales activities. The complainant approached the respondent for help.

(b) Due to pressure of the complainant and other customers of the said company, the promoter of the respondent company arranged for a meeting and he was forced to offer transfer of booking to respondent company in their project. There was no transfer of money received from the complainant to respondent company. The respondent is a separate legal

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entity. There was no agreement between the complainant and the respondent.

(c) The complainant cannot seek refund of any amount from the respondent. Only on humanitarian grounds, the respondent sent allotment letter to the complainant. The project is progressing. However the complainant cancelled the allotment and claimed refund paid to M/s. Sheltrex Housing Pvt. Ltd. Hence the respondent prays for the dismissal of the complaint without cost.

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

5. Both the parties have filed their respective evidence on affidavit with documents.

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

i. Whether the complainant is entitled to get back the amount paid to M/s. Sheltrex Housing Pvt. Ltd., from the respondent with interest on the ground of failure on the part of the respondent to commence and complete the project in accordance with the date agreed by the respondent?

ii. To what reliefs, the complainant is entitled to?

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

(a) The complainant submitted that he booked a flat with M/s. Sheltrex Housing Pvt. Ltd., in their project at Maraimalai Nagar and paid a sum of Rs.3,29,821/- as initial payment and subsequently received intimation from the said company that they were unable to continue development of the project and they are shifting to new project at Oragadam and he was asked

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to take a flat in the Oragadam project of the respondent and the respondent also issued letter allotting a flat in the new project and confirming the receipt of the amount and as there was no progress of construction, the complainant cancelled the booking seeking refund of the amount and the complainant is entitled for refund of the amount with interest and compensation.

(b) The learned counsel for the respondent contended that the complaint is not maintainable and the complainant never paid any amount to the respondent and the amount was paid to M/s. Sheltrex Housing Pvt. Ltd., and due to some dispute, the project was stalled and the name of the promoter of the respondent company was used by M/s. Sheltrex Housing Pvt. Ltd., and due to pressure, the respondent offered to transfer the booking of the complainant to their project at Oragadam and there was no transfer of money received by M/s. Sheltrex Housing Pvt. Ltd., from the complainant to the respondent and there was no agreement between the complainant and the respondent and the complainant cannot seek any refund from the respondent and the complaint is liable to be dismissed with costs.

(c) As per Ex.A-1 receipt, Ex.A-2 allotment letter and the evidence of the complainant, he paid Rs.3,29,821/- to M/s. Sheltrex Housing Pvt. Ltd., towards the purchase of a flat in their project at Maraimalai Nagar and subsequently he was informed about the inability of the said company to continue the project and there was change of location of the project to a new area and was offered a flat in the project namely Sheltrex Oragadam and the same was accepted by the complainant. In Ex.A4 allotment letter,

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the respondent confirmed the allotment of specific flat in their project and also admitted the amount paid at Rs.3,29,821/- and thereby acknowledged receipt of the amount. All the above documents filed by the complainant are not disputed by the respondent.

(d) In their Counter, the respondent stated that the complainant approached the respondent and one Mr. Rajesh Krishnan, who was the promoter of the respondent company was forced to offer transfer of booking of the complainant to their project and the transfer was made on humanitarian basis and there was no transfer of actual money from the complainant to the respondent and there was no agreement between the complainant and the respondent. But the evidence proves contrary. From Ex.A-3 letter, it is clear that the said Rajesh Krishnan, is the Chairman of the Sheltrex group companies including the respondent company and he made the offer of transfer of apartment in the new project as the Chairman of the group of companies.

(e) Admittedly, the respondent company is incorporated under the Companies Act, 1956 as a private limited company which is bound by the provisions of the Companies. Act. As a legal entity, the respondent company was under no obligation to take the responsibilities and liability of another company, namely M/s. Sheltrex Housing Pvt. Ltd., on the grounds alleged by the respondent. The respondent produced Ex.B2 certificate of change of name of M/s. Sheltrex Housing Pvt. Ltd., as MMN Housing Pvt Ltd., with effect from the date of certificate i.e., 09.03.2016. Ex.B3 is the certificate of incorporation of the respondent company. The respondent has not filed any documents to show who are all the directors of both the companies and chairman of group of companies. The respondent has

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never disputed their liability in the email correspondence with the complainant. The respondent cannot deny their liability to pay the amount to the complainant. Considering all the above circumstances, it is held that the respondent is liable for the amounts paid by the complainant. Thus the point is answered accordingly.

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

(a) As per the Ex.A2 allotment letter of the Sheltrex Housing Pvt. Ltd. the amount paid by the complainant is Rs.3,29,821/-. The complainant claimed that he got allotment letter for Oragadam site from the respondent giving credit to already amount paid ie. Rs.3,29,821/- with interest of Rs.54,448/- and thereby the total amount paid to the respondent is Rs.3,84,309/-. As per Ex.A4 letter of the respondent, the amount paid by the complainant till date of the letter is mentioned as Rs.3,29,821/-. No document is filed by the complainant for giving credit of the interest amount till them as claimed by the complainant. However, as per the Ex. A1, the complainant paid Rs.1,50,000/- as on 15.04.2013 and the balance amount on 10.05.2013. Therefore, the complainant is entitled for refund of the amount of Rs.3,29,821/- from the respective date of payment with interest as per this order.

(b) As per Rule 18 of the TNRERA, the rate of interest payable by the promoter to the allottees is to be State Bank of India's highest marginal cost of lending rate plus 2% per annum. The present rate of highest marginal cost of lending rate of interest of SBI is 8.20% p.a. The complainant is entitled for interest on the amount of Rs.3,29,821/- at the

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rate of 10.20% per annum (8.20% +2%) from the date of respective payment till repayment by the respondent.

(c) The complainant claimed Rs.1,00,000/- as compensation for stress and mental agony suffered by him. Considering the facts and circumstances of the case, a sum of Rs.50,000/- is fixed as compensation towards stress and mental agony suffered by the complainant. Towards cost of litigation, a sum of Rs.10,000/- is fixed. The complainant is entitled for the amount detailed above from the respondent. Thus, the point is answered accordingly.

In the result, the respondent is directed as follows:

- i. The respondent shall pay the complainant the amounts at the interest rate and cost as per the findings in the answer for Point No.(ii), Para 8 of this order within 30 days from the date of issue of this order.
- ii. The charge of the aforesaid amount shall be on the flat booked by the complainant till the repayment.

Sd/-24.01.2020  
G. SARAVANAN  
ADJUDICATING OFFICER  
TNRERA, CHENNAI

**LIST OF WITNESSES**

CW-1 --- K. NARESH  
RW-1 --- P. RAJESH KUMAR

**LIST OF DOCUMENTS FILED BY THE COMPLAINANT**

Ex.Nos	Date	Documents Name
Ex.A1	15.04.2013	Receipt
Ex.A2	10.05.2013	Allotment letter

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Ex.A3	02.04.2014	Email Communication
Ex.A4	15.04.2013	Letter communication
Ex.A5	--	Email Communication
Ex.A6	--	Letter communication
Ex.A7	15.09.2015	Email Communication
Ex.A8	03.06.2016	Email Communication
Ex.A9	--	Break – up of claim work sheet

**LIST OF DOCUMENTS FILED BY THE RESPONDENT**

<b>Ex.Nos</b>	<b>Date</b>	<b>Documents Name</b>
Ex.B1	07.02.2013	Certificate of incorporation
Ex.B2	09.03.2016	Certificate of incorporation
Ex.B3	24.03.2014	Certificate of incorporation
Ex.B4	15.11.2018	Certificate of incorporation

Sd/-24.01.2020  
G. SARAVANAN  
ADJUDICATING OFFICER  
TNRERA, CHENNAI

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N. V. [Signature]  
Administrative Officer