

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

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
CCP No. 295 of 2019**

Suresh Kumar Modi

..... **COMPLAINANT**

Vs.

M/s. Aerens Gold Souk International Ltd.
Rep. by Director Ashok Kumar

..... **RESPONDENT**

(Project not registered)

Complainant : Rep. by M/s. Rank Associates, Advocate
Respondent : Remained absent

Heard on : 20.02.2020

Delivered on: 28.02.2020

ORDER

The above complaint by the complainant claiming refund of the amount paid towards purchase of commercial units with interest and compensation is filed under section 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 booked two commercial shops in the project of the respondent, namely, "THE SOUK" at Vandalur, Chennai and paid Rs.75,00,000/- in two instalments in the name of Suresh Kumar Modi Welfare Trust. The complainant is sole beneficiary of the trust which is dissolved. All its assets of the trust devolved on the beneficiary, the complainant.

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b) The respondent allotted the commercial units, i.e., shops No.GF - 05 & 06 to the said trust. The project has not been completed and till date the respondent has not handed over possession of the shops to the complainant. The complainant came to know that the respondent abandoned the project.

c) As per the provisions of the RERA Act, the respondent is liable to refund the amount received from the trust to the complainant with interest and compensation. Hence, the complaint.

3. On service of notice, regarding the maintainability of the complaint, the respondent appeared through a counsel who undertook to file vakalat on behalf of respondent. However, subsequently there was no representation for the respondent. The respondent was called absent. This Forum passed the order to number the complaint. Subsequently after the complaint is numbered, again notice was served on the respondent but the respondent remained absent.

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

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

i. Whether the complainant is entitled for refund of the amount paid to the respondent towards purchase of commercial units in the project of the respondent with interest and compensation?

ii. What are reliefs, the complainant is entitled to?

6. Answer for Point No: (i)

- a) The learned counsel for the complainant submitted that the respondent launched the project namely "THE SOUK" which is a commercial complex and the trust, namely Suresh Kumar Modi Welfare Trust paid Rs.50,00,000/- on 07.09.2006 and further amount of Rs.25,00,000/- on 27.06.2007 towards purchase of two commercial units in the project and the complainant is the sole beneficiary of the trust on whom the entire assets devolved on dissolution of the trust and the respondent abandoned the project and the complainant is entitled for all the reliefs as prayed for.
- b) The complainant, who was examined as CW1 filed proof affidavit stating that the trust, Suresh Kumar Modi Welfare Trust is a family trust and paid a sum of Rs.75,00,000/- towards purchase of two commercial units in the project of the respondent and the respondent abandoned the project and on dissolution of the trust, all the assets of the trust were devolved on the complainant and he is entitled for the reliefs.
- c) Ex.A1, is the Pay-In-Slip receipt dated 07.09.2006 for payment of Rs.50,00,000/- to the respondent. Ex.A2, is the Pay-In-Slip receipt dated 26.06.2007 for payment of Rs.25,00,000/- to the Respondent. Ex.A4, is the letter requesting for further payment by M/s. Metroline Private Limited with respondent's address. Ex.A5, is the statement of accounts of the current account of the trust showing the transfer of the amounts paid to the respondent.

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d) Ex.A6, is the trust deed dated 11.03.1999. Ex.A7, is the release deed in favour of the complainant transferring all the properties and income of the trust in the name of the complainant. Considering all the above facts and circumstances, it is held that the complainant is entitled for refund of the amounts paid to the respondent with interest and compensation.

7. Answer for Point No.(ii)

a) In view of the answer for point No.(i) it is held that the complainant is entitled for refund of Rs.75,00,000/- with interest, compensation and cost from the respondent.

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 8.15% p.a. The complainant is entitled for interest on the amount of Rs. Rs.75,00,000/- at the rate of 10.15% per annum (8.15% +2%) from the date of respective payment till repayment by the respondent.

c) Considering the facts and circumstances of the case a sum of Rs.1,00,000/- is fixed as compensation towards mental agony, inconvenience and hardship caused to the complainant. Towards litigation cost a sum of 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 60 days from the date of issue of this order.

(2) The charge of the aforesaid amount shall be on the units booked by the complainant till the repayment.

Sd/-28.02.2020
G. SARAVANAN
ADJUDICATING OFFICER

List of witness

CW-1 --- SURESH KUMAR MODI

List of documents filed by the complainant

Ex.Nos	Date	Document
Ex.A1	07.09.2006	Pay – In - Slip
Ex.A2	16.04.2007	Photocopy of Challan Receipt
Ex.A3	26.06.2007	Pay – In - Slip
Ex.A4	03.02.2009	Letter of Respondent
Ex.A5	--	Statement of Accounts
Ex.A6	11.03.1999	Trust Deed
Ex.A7	25.03.2014	Trust Release Deed

Sd/-28.02.2020
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI

CERTIFIED TO BE TRUE COPY

M. Anjany
28/2/2020
Administrative Officer