

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

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
CCP No. 345 of 2019**

K.M.A Abdul Rahman

..... Complainant

Vs.

M/s. SVM Constructions
rep by its partner G. Manishankar
(PROJECT NOT REGISTERED)

..... Respondent

Complainant : In person
Respondent : Remained absent

Heard on : 30.07.2020
Delivered on : 31.07.2020

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 complaint in brief as follows:**

(a) On 11.09.2014, the complainant booked a flat with the respondent in their project at Tulip at Jalladampettai, Medavakkam, Kanchipuram District and paid advance amount and further amounts towards part payment and in total Rs.31,00,000/-. On 03.09.2014, agreement for construction was entered between the complainant and respondent. The respondent executed sale deed for the UDS of land on 17-12-2014 and undertook to complete the construction and handover the flat within 18 months from the date of making advance payment. But till date the construction of the

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flat is not completed and the respondent failed to handover possession of the flat as per the terms of the agreement. Hence the complaint.

3. In spite of the steps for service of notice, the respondent remained absent.

4. In evidence to prove his claim, the complainant filed the proof affidavit with documents.

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

i. Whether the complainant is entitled to refund of the amount paid to the respondent with interest, compensation on the ground of failure on the part of the respondent to complete the construction and to handover possession of flat as per the terms and conditions of the agreement?

ii. Whether the complainant is entitled for all the reliefs as prayed for?

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

(a) The complainant submitted that he booked flat and paid amounts to the respondent and the respondent also proposed to start and complete the project and handover the flat within 18 months from the date of making advance payment i.e., 03.09.2014, but the construction is not completed and the flat was not handed over till date and therefore the complainant is entitled for refund of the amount with interest, compensation and cost.

(b) As per Ex.A-3 series of receipts and documents, the complainants paid to the respondent a sum of Rs.31,00,000/- towards the purchase of the flat.

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The documents and the proof affidavit of the complainant prove that there was no progress of the project and the respondent failed to give possession of flat as promised by the respondent. Therefore, it is held that the complainant is entitled for return of the amount with interest, compensation and cost. 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 refund of the amount paid i.e., a sum of Rs. 31,00,000/- with interest, compensation and cost. As per Rule 18 of TNRERA Rules, rate of interest shall be at the highest marginal cost of lending rate of SBI plus 2%. Hence, the complainants are entitled for the interest at the rate of 8.05% per annum which is currently the highest marginal cost of lending rate of interest of SBI plus 2% per annum i.e., 10.05% per annum for the amounts paid from the date of respective payment till repayment by the respondent. The complainant claimed compensation under the head 'income loss from property as rent'. Since the amount paid by the complainant is ordered to be repaid with interest, the claim as income loss is rejected.

b) Considering the facts and circumstances of the case, it is held that the complainant is entitled for compensation of Rs.2,00,000/- towards mental agony and inconvenience to him and a sum of Rs.25,000/- towards litigation expenses. The complainant is 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 amounts at the interest rate, compensation and litigation cost as per the findings in

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answer for Point No.(ii), Para No.7 of this order within 30 days of issue of this order.

2. The charge of the aforesaid amount as encumbrance shall be on the flat booked by the complainant till repayment of the claim as per this order.

3. On repayment of the claim as per the order, the complainant shall execute the cancellation of the construction agreement memorandum of deposit of title deeds and sale deed, as the case may be at the expense of the respondent.

**G. SARAVANAN
ADJUDICATING OFFICER**

LIST OF WITNESSES

CW-1 --- K.M.ABDUL RAHMAN

LIST OF DOCUMENTS FILED BY THE COMPLAINANT

Ex.Nos	Date	Documents Name
Ex.A1	17.12.2014	Sale deed
Ex.A2	03.09.2014	Construction Agreement
Ex.A3	-----	Bank transaction of Funds to respondent
Ex.A4	-----	Bank Statement of Interest paid to H.L
Ex.A5	-----	Photo proofs for building incomplection
Ex.A6	19.12.2014	Copy of MOD
Ex.A7	-----	Building plan and layout
Ex.A8	17.12.2014	Bank credit sanction Advice
Ex.A9	10.04.2019	Bank demand Notice

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(For)
31.07.2020
ADMINISTRATIVE OFFICER
TN REAL ESTATE REGULATORY AUTHORITY

**G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI**