

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

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
CCP Nos. 346 AND 347 of 2019**

(1) K.Usha	CCP No.346 /2019
(2) Dr.P.Venkatram	CCP No.347/2019
	COMPLAINANTS

Vs

Canara Bank Officers Union
Rep. by its President M.A. Srinivasan
(Regn No.TN/11/Building/0245/2018)

RESPONDENT

Complainants	:	In person
Respondent	:	Remained absent

**Heard on : 30.07.2020
Delivered on : 31.07.2020**

ORDER

Both the above complaints by the complainants claiming refund of entire amount paid by them to the respondent towards purchase of the flats booked by them with interest, compensation and costs is filed u/s 31 read with Section 71 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as RERA Act).


2. Since both the complaints are relating to same project of the respondent, both the complaints were heard together and disposed of by a common order.

3. **Averments of the complainants in brief as follows:**

(a) The complainants booked flats with the respondent in their project, namely, "**GRAND HILLS APARTMENTS/CBOU ENCLAVE**", Madukkarai Village, Coimbatore District and paid advance amount and further amounts.

(b) The flats allotted to the complainants, the agreed price, the amounts paid by the complainants and the due date for delivery of the constructed flat to the respective complainants are as follows:-

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Complainants Name	CCP No	Allotted Flat No	Price Agreed Rs.	Amount Paid Rs.	Due Date for delivery of the Flat
(1)	(2)	(3)	(4)	(5)	(6)
K. Usha	346/2019	E-204	30,40,300	14,50,000	Sep-Oct 2015
Dr.P. Venkatram	347/2019	E-302	29,38,660	13,87,987	Sep-Oct 2015

The complainant in CCP.No. 347/2019 entered into agreement of construction on 13.11.2015 with the respondent. The respondent also executed sale deed of the UDS land in favour of the complainant. As per the agreement, the respondent undertook to complete the construction and hand over the apartment within 24 months from the date of the agreement. Till date, the flats were not handed over to the complainants.

(c) The complainants availed bank loan for purchase of the flats from the respondent. Due to delay, the complainants were put to loss and hardship. As per the provisions of RERA Act, the complainants are entitled for refund of the amount paid with interest, compensation and cost. Hence the complaints.

4. In spite of service of notice, the respondent remained absent.

5. The complainants filed their respective evidence with documents.

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

- i. Whether the complainants are entitled to refund of the amounts paid to the respondent with interest and compensation and cost on the ground of failure on the part of the respondent to complete the construction and to give possession of the flats booked by them in accordance with the terms and conditions of the agreement?

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ii. What are the reliefs the complainants are entitled to?

7. Answer for Point No. (i)

(a) The complainants submitted that they booked flats in the project in the year 2014 and the allotment of the flat by the respondent was made and in CCP.No.347/2019, the agreement for construction was entered on 13.11.2015 and respondent also executed sale deed for the UDS, but till date has not handed over the flats and they have been put to loss and hardship as they were availing bank loan for purchase of the flats and therefore they are entitled for refund of the amounts paid with interest, compensation and costs.

(b) Under clause 15 of the agreement for construction, the respondent undertook to complete the construction and hand over the apartments within 24 months from the date of the agreement, which was entered on 13.11.2015. The due date for handing over possession expired and there is no progress of construction.

(c) In their proof affidavit, the complainants stated that the flats were not handed over even after 4 years, till date, as agreed by the respondent and they are entitled for the refund of the amounts paid with interest, compensation and costs.

(d) In the said circumstances, it is held that the complainants are entitled for refund of the amounts paid to the respondent with interest, compensation and costs on the ground of failure on the part of respondent to complete construction and hand over possession flats to the complainants. Thus, the point is answered accordingly.

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

a) In view of the answer for Point No.(i), the complainants are entitled for refund of the amounts paid to the respondent with interest, compensation and costs in the following manner.

b) **CCP No. 346 of 2019**

The complainant has paid in total amount of a sum of Rs.14,50,000/- to the respondent towards purchase of the flat. The complainant has produced documents for payment of Rs. 14,50,000/- to the respondent. Therefore, the complainant is entitled for refund of the amount of Rs.14,50,000/- from the respondent with interest, compensation and costs. 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 complainant is 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. Apart from the above the complainant is entitled for compensation of Rs.1,00,000/- towards mental agony and inconvenience to her and a sum of Rs.25,000/- towards litigation expenses.

c) **CCP No. 347 of 2019**

Even though the complainant claimed to have paid RS.14,87,987/- in the proof affidavit and argument notes, as per the complaint, he has paid total amount of a sum of Rs. 13,87,987/- to the respondent towards purchase of the flat. The complainant has produced documents only for payment of Rs.13,87,987/- with regards to the allotted flat no E.302 to the respondent. Therefore, the complainant is entitled for refund of the amount of Rs.13,87,987/- from the respondent with interest, compensation and costs.

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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 complainant is 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. Apart from the above the complainant is entitled for compensation of Rs.1,00,000/- towards mental agony and inconvenience to him and a sum of Rs.25,000/- towards litigation expenses.

d) 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 amounts at the interest rate, compensation and litigation cost as per the findings in answer for Point No.(ii), Para No.8 of this order within 30 days of issue of this order.
2. The charge of the aforesaid amount as encumbrance shall be on the flats booked by the complainant till repayment of the claim as per this order.
3. On repayment of the claim as per the order, the complainants shall execute the cancellation of the construction agreement and sale deed, as the case may be at the expense of the respondent.

**G. SARAVANAN
ADJUDICATING OFFICER**

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CP.NO. 346 of 2019**LIST OF WITNESSES****CW-1 --- Usha****LIST OF DOCUMENTS FILED BY THE COMPLAINANT**

Ex.Nos	Date	Documents Name
Ex.A1	03.03.2014	Allotment Letter
Ex.A2	03.03.2014	Payment schedule
Ex.A3	03.09.2014	Letter sent to respondent
Ex.A4	13.09.2014	Payment receipt for Rs.4,50,000/-
Ex.A5	29.10.2015	Payment request letter
Ex.A6	17.04.2018	Letter from respondent
Ex.A7	27.04.2018	Copy of the Cheque for Rs. 8,00,000/-
Ex.A8	04.05.2018	Payment receipt for Rs. 8,00,000/-
Ex.A9	15.11.2019	Email to respondent
Ex.A10	----	Copy of Aadhar card

CCP.NO. 347 of 2019**LIST OF WITNESSES****CW-1 --- Dr. P.Venkatram****LIST OF DOCUMENTS FILED BY THE COMPLAINANT**

Ex.Nos	Date	Documents Name
Ex.A1	15.05.2014	Allotment Letter
Ex.A2	15.05.2014	Payment schedule
Ex.A3	01.08.2014	Payment receipt of Rs. 4,40,800/-
Ex.A4	05.05.2015	Payment receipt for Rs.8,47,187/-
Ex.A5	13.11.2015	Construction Agreement
Ex.A6	13.11.2015	Sale deed
Ex.A7	15.11.2019	Email to respondent
Ex.A8	14.11.2019	Letter from Andhra Bank
Ex.A9	----	Copy of Aadhar card

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G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI

(For) ADMINISTRATIVE OFFICER
 TN REAL ESTATE REGULATORY AUTHORITY
 31.07.2020