

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

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,  
CCP No. 185 of 2020**

1. K.Balaji  
2. G.Sridevi

.... COMPLAINANTS

**Vs.**

M/s. G.D.Engineers & Builders  
Rep. by its partner, G.Raghavan  
(Project not registered)

.... RESPONDENT

Complainants : Rep. by Mrs.A.Lakshmi Raj Rathinam, Advocate  
Respondent : Remained absent

**Heard on : 07.12.2021  
Delivered on: 23.12.2021**

**ORDER**

The complainants filed the complaint claiming compensation for the delay in handing over possession of the flat and other reliefs 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 02.05.2016, the complainants and the respondent entered into a construction agreement for construction of a residential flat in the plot of the respondent. The total sale consideration was fixed at Rs.54,00,000/-. The complainants paid Rs.1,12,500/-through cheque and the balance amount as per the agreement to the respondent.

(b) Under the construction agreement, the respondent undertook to complete the construction of flat in 8 months with a grace period of 3 months from the date of the agreement and the respondent also agreed to pay 12% p.a. for the delay in completion of the flat. The complainants also entered into an agreement for amenities with the respondent on the same

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day. The respondent did not bother to complete the construction within the agreed period.

(c) When the complainants approached the respondent, the respondent stated that the construction work was completed and the flat is ready. On a visit to the site, the complainants found that the project was not complete and issued a legal notice to the respondent dated 02.07.2017, for which the respondent also issued a reply dated 22.07.2017. The respondent gave the flat in a partially completed condition in November 2017. Even after handing over of the unfinished flat, other works are incomplete. Subsequently, the complainants engaged another promoter for amenities and entered into an agreement with him, after obtaining no objection from the respondent. The complainants were put to hardship and mental agony. Hence, the complainants are entitled for all the reliefs.

3. In spite of service of notice, the respondent remained absent.
4. On the side of the complainants, the complainants filed proof affidavit and marked Ex.A1 to Ex.A6 documents.
5. On the basis of the averments of the complainants, the following points arise for consideration:-

- i. Whether the Complainants are entitled for compensation for the delay in construction and delivery of possession of the flat, compensation for mental agony and cost of litigation?
- ii. What are the reliefs, the complainants are entitled to?

**6. Answer for Point Nos.(i)**

a) The learned counsel for the complainants submitted that on 02.05.2016, the complainants and the respondent entered into an agreement for construction of flat and the respondent undertook to complete the

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construction work in 8 months, with a grace period of 3 months, from the date of the agreement and the respondent has not completed the construction work within the agreed period and the respondent gave false reasons and handed over the flat in a partially completed condition in November 2017 and the amenities were not properly completed and there were many cracks developed in and around the building and the complainants requested the respondent to complete all the pending works and pointed out the super structure constructed in deviation of the original plan of the Corporation and to create habitable condition for the complainants in the property and the respondent ignored the request made by the complainants and the complainants are entitled for all the reliefs.

(b) The first complainant filed the proof affidavit and examined himself as CW-1. Ex.A1 is the construction agreement dated 02.05.2016 entered between the complainants and the respondent. Under clause-5 of the agreement, the respondent undertook to complete the construction within 8 months with 3 months grace period from the date of the agreement and also undertook to pay interest at 12% on any delay in completion and handing over the flat after the end of the grace period to the complainants. The time limit expired by March 2017. Ex.A3 is the series of letter correspondence between the complainants and the respondent and also the legal notice and the reply notice, wherein the complainants had pointed out the deficiencies in the construction and the amenities provided by the respondent.

(c) Through proof affidavit of the first complainant and the documents, it is proved that the respondent completed the construction and handed over the constructed flat with delay and also incomplete works and deficiencies.

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Therefore, it is held that the complainants are entitled for compensation and other reliefs. Thus the point is answered accordingly..

**7. Answer for Point Nos.(ii)**

a) In view of the answer for point no.(i), the complainants are entitled for compensation by way of interest for every month of delay, till the handing over possession at such rate as may be prescribed. As per Ex.A1, construction agreement, the total cost of the flat is Rs.54,00,000/-. As per Ex.A1, construction agreement, the due date for delivery of the constructed flat is 8 months from the date of agreement i.e 02.05.2016 with a grace period of 3 months. Therefore, the complainants are entitled for compensation by way of interest for every month from April, 2017, till the date of handing over of possession of the constructed flat.

(b) As per Rule 18 of the TNRERA Rules, the rate payable by the promoter to the allottee shall be the highest marginal cost of lending rate of SBI plus 2% . Therefore, the complainants are entitled for interest @ 7.30%, which was the highest marginal cost of lending rate of S.B.I. at the time of filing the complaint, plus 2% per annum i.e,9.30% p.a. for the amount of Rs.54,00,000/- from April, 2017 till delivery of possession of the constructed flat by the respondent.

(c) Apart from the above, the complainants are entitled for compensation of Rs.2,00,000/- towards mental agony and inconvenience caused to the complainants and Rs.25,000/- towards litigation expenses. The complainants are entitled for the reliefs as detailed above. Thus, the point is answered accordingly.

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

The respondent shall pay the compensation for delay, mental agony, and litigation cost as per the findings in answer for Point No.(ii), Para No.7 of this order, within 30 days of issue of this order.

Sd/- 23.12.2021  
G. SARAVANAN  
ADJUDICATING OFFICER

**LIST OF WITNESS**  
CW-1 – K.Balaji

**LIST OF DOCUMENTS FILED BY THE COMPLAINANTS**

Ex.Nos	Date	Documents Name
Ex.A1	02.05.2016	Construction agreement
Ex.A2	02.05.2016	Sale deed
Ex.A3(series)	...	Letter correspondence
Ex.A4	19.07.2019	Rejoinder to respondent
Ex.A5	...	Layout and approved plans
Ex.A6	...	ID proof of the complainant

Sd/- 23.12.2021  
G. SARAVANAN  
ADJUDICATING OFFICER  
TNRERA, CHENNAI

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23.12.2021  
**LAW OFFICER**  
THE REAL ESTATE REGULATORY AUTHORITY