

**BEFORE THE  
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,  
CHENNAI**  
**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,  
CCP No. 45 of 2020**

1. Prabha Ganesh Rao,
  2. Ganesh Rao,
  3. Shrinath Ganesh Rao,
- Rep. by POA, Ganesh Rao
- ..... Complainants

Vs

- M/s. Sare Reality Projects Pvt Ltd.,  
Rep. by its directors
1. Chokkalingam Saravanan,
  2. Kaithakulangara Ramakrishnan Ponnappan,
  3. Michael Henry O Sullivan ,
  4. Nalin Agarwal
- .....Respondent

Complainants : Rep. by Ms. A. Smrithi, Advocate  
Respondents : Remained absent

Heard on : 12.01.2021  
Delivered on : 05.02.2021

**ORDER**

The above complaint by the complainants claiming the refund of the amounts paid to the respondent towards the purchase and construction of the booked flat 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. **Averments of the complainants, in brief, as follows:**

(a) The complainants booked an apartment with the respondent in their project namely "MEADOWVILLE PHASE-II", at No.73, Kolathur Village, Chengalpattu Taluk, Kancheepuram District. The total sale consideration of the flat is Rs.72,49,009/-.

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(b) On 28.01.2016, the complainants and the respondent entered into a construction agreement. Under the agreement, the respondent undertook to complete the construction and handover possession of the apartment within a period of 24 months from the date of booking, i.e., 18.12.2015. The period lapsed by June 2018. Even today at the time of filing the complaint, the construction is still pending and there was no sign of development of the property.

(c) The complainants sent a letter to the respondent for the cancellation of the flat and the refund of the amount paid to the respondent. On 25.03.2019, there was no response from the respondent. As per section 18 of the RERA Act, the complainants are entitled for refund of the amount with interest, compensation and costs.

3. On service of notice to the respondent, Mr. G.Sriram, company secretary filed memo of authorization on behalf of the respondent and subsequently the memo was withdrawn by him. The respondent remained absent.

4. In evidence to prove their claim, the complainants filed proof affidavit with documents.

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

- i. Whether the complainants are entitled for 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 handover possession as per the terms and conditions of the agreement?

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- ii. Whether the complainants are entitled for all the reliefs as prayed for?

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

(a) The learned counsel for the complainants submitted that the complainants booked an apartment in the project of the respondent and entered into an agreement for construction of flat on 28.01.2016 with the respondent and the respondent undertook to complete the construction work within a period of 24 months from the date of booking i.e., 18.12.2015 and the complainants also paid a sum of Rs. 7,53,625/- and there was no sign of development in the project and till the filing of the complaint there was no progress of construction in the project site and the complainants are entitled for refund of the amount with all the reliefs.

(b) The second complainant filed the proof affidavit and examined himself as CW1. Ex.A1 is the construction agreement dated 28.01.2016 between the complainants and the respondent. As per the clause 6, the respondent undertook to complete the construction of the flat within a period of 24 months from the date of booking with a grace period of 6 months. The time limit expired by June 2018. Ex.A2 allotment letter and account statement proves the receipt of a total sum of Rs.7, 53,625/- by the respondent.

(c) Through documents and by proof affidavit of the complainants, it is proved that the respondent failed to complete the construction of the booked flat and give possession of the flat as agreed and undertaken by them. Therefore, it is held that the complainants are entitled for return of the amount with interest, compensation and cost. Thus, the point is answered accordingly.

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

(a) In view of the answer for Point No. (i), the complainants are entitled for refund of the amount paid by him i.e., a sum of Rs. 7,53,625/- with interest, compensation and cost from the respondent.

b) 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.

(c) Considering the facts and circumstances of the case, a sum of Rs.50,000/- towards compensation for mental agony, loss and hardship caused to the complainants and Rs.25,000/- towards litigation expenses is fixed. The complainants are entitled for the 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 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.
2. The charge of the aforesaid amount as encumbrance shall be on the flat booked by the complainants till repayment of the claim as per this order. The office of this Forum is directed to intimate the encumbrance created by charge in the order to the Sub-Registrar concerned.

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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**

**List of witnesses**

CW-1 --- N. Ganesh Rao

**List of documents filed by the Complainants**

<b>Ex.Nos</b>	<b>Date</b>	<b>Documents Name</b>
Ex.A1	28.01.2016	Construction and sale agreement
Ex.A2	27.01.2016	Allotment letter
Ex.A3	---	Account statement
Ex.A4	25.03.2019	Cancellation and refund request
Ex.A5	29.11.2019	Legal notice
Ex.A6	24.12.2015	Payment receipt
Ex.A7	----	Interest working sheet
Ex.A8	----	Identity proof of the complainants
Ex.A9	26.12.2012	GPOA

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*5.2.2021*  
**LAW OFFICER**  
**TN REAL ESTATE REGULATORY AUTHORITY**

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