

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

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,  
CCP No. 50 of 2020**

P.Rajasekhar ..... Complainant

**Vs.**

M/S. Provident Housing Limited  
Rep by its Managing Director, V.Madhu ..... Respondent  
**(PROJECT NOT REGISTERED)**

Complainant : Represented by Mr.V.S.SenthilKumar, Advocate  
Respondent : Remained absent

**Heard on** : 14.10.2020

**Delivered on** : 29.10.2020

**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 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 27.05.2014, the complainant booked a flat with the respondent in their project, namely "Provident Green Park" at Coimbatore and entered into a construction agreement with the respondent. The cost of the apartment including deposits and other charges is Rs.13,55,560/- and the cost of the UDS land is Rs. 5,71,160/-.The complainant paid in total a sum of Rs.18,06,447/- to the respondent.

b. As per the terms of the agreement, the respondent undertook to complete construction and deliver the flat on or before 31.08.2016 with a grace period of 6 months. However on 15.03.2017 the respondent sent an



email informing to send a revised schedule for delivery of the apartment. The sale deed for the UDS land was executed on 14.11.2014.

c. The respondent failed to complete construction and deliver the apartment within the time limit prescribed under the agreement. The complaint was put to loss and hardship. As per the provisions of the RERA Act the complainant is entitled for refund of the amount paid to the respondent with interest, compensation and cost.

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

4. In evidence to prove his claim, the complainant filed 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 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 to handover possession 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 Learned counsel for the complainant submitted that the complainant booked flat in the project of the respondent and paid in total a sum of Rs.18,06,447/- and on 27.05.2014, the complainant entered in to an agreement for construction with the respondent and subsequently sale deed for UDS land was executed on 14.11.2014 and the respondent



undertook to complete and handover the apartment on or before 31.08.2016 with a grace period of 6 months and the complainant also entered into a memorandum of deposits of title deeds with the Canara Bank for availing the loan for purchase of the flat and the respondent failed to complete the construction and deliver the flat as agreed by them and therefore, the complainant is entitled to refund of the amount with interest, compensation and cost.

(b) The complainant filed the proof affidavit and examined himself as CW1. Ex.A1 is the registered construction agreement dated 27.05.2014 between the respondent and complainant. As per the clause V(1), the respondent undertook to deliver the constructed apartment to the complainant on or before 31.08.2016 with a grace period of 6 months. Ex.A2 is the sale deed dated 14.11.2014 for the UDS land in favour of the complainant executed by the respondent as the power of attorney of the land owner. Ex.A3, are series of payment receipts. Ex.A4 is the statement of account issued by the respondent. Ex.A9 is the legal notice issued by the complainant on 17.07.2019 to the respondent.

(c) Through documents and by proof affidavit of the complainant, it is proved that the respondent failed to complete the construction of the booked flat and to give possession of flat as agreed by them. 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 by him i.e., a sum of Rs.18,06,477/- 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 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.

c) The complainant claimed a sum of Rs. 8,08,431/- towards actual interest paid on loan. Since, the refund of the amount paid is ordered to be paid with SBI interest plus 2%, the claim as actual interest paid is rejected.

d) The complainant claimed Rs.39,990/- towards cost of the registration of the UDS land. The certificate under the Stamp Act in Ex.A2,sale deed reveals that the complainant incurred Rs. 39,990/- towards stamp duty. Therefore, the complainant is entitled for Rs. 39,990/- towards cost of the registration of the sale deed.

(e) Considering the facts and circumstances of the case, a sum of Rs.50,000/- is fixed as compensation towards mental agony, loss and hardship caused to the complainant. Towards litigation expenses of a sum of Rs.25,000/-. 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 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 complainant 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.
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 --- P.Rajasekhar**

**LIST OF DOCUMENTS FILED BY THE COMPLAINANT**

<b>Ex.Nos</b>	<b>Date</b>	<b>Documents Name</b>
Ex.A1	27.05.2014	Construction Agreement
Ex.A2	14.11.2014	Sale Deed
Ex.A3	-----	Payment receipts
Ex.A4	08.01.2016	Statement of Account
Ex.A5	30.01.2015	Memorandum of Deposit of title deed



Ex.A6	09.12.2016	Email communication
Ex.A7	15.03.2017	Email communication
Ex.A8	08.05.2015	Email communication
Ex.A9	17.07.2019	Notice issued by the complainant
Ex.A10	----	Interest working sheet

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