

**BEFORE THE  
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,  
CHENNAI  
Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,  
CCP No. 53 of 2020**

Manikandan Nagarajan

....Complainant

Vs

M/s. Casa Grand Builder Pvt Ltd.,  
Rep. by its managing director, Arun Kumar  
(Regn No.TN/29/Building/0029/2017)

.....Respondent

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

Heard on : 17.12.2020

Delivered on : 30.12.2020

**ORDER**

The above complaint by the complainant claiming compensation for the delay in handing over of the flat booked by him with the respondent 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 complainant, in brief, as follows:**

(a) On 31.07.2015, the complainant booked an apartment with the respondent in their project namely "Casa Grande Monte Carlo" at Mount Road, Adayar village, Guindy, Chennai and paid booking advance amount and further amounts. The total sale consideration of the flat is Rs.1,66,61,350/- which includes the cost of UDS land of Rs. 40,70,920/-.

(b) The complainant and the respondent entered into a construction agreement on 10.11.2017. Subsequently, another construction agreement was entered between them on 24.08.2018, and the same was registered on the file of sub registrar Adayar. Under the second agreement, the respondent undertook to complete the construction of the apartment and to handover delivery of the possession of apartment by November 2018. Even though timely delivery of the possession of apartment is the essence of the agreement, the respondent has not strictly adhered with the terms and conditions of the agreement and there was inordinate delay in

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completion of construction and handing over of possession of the apartment.

(c) The respondent stated that as per the registration with the RERA, the date of completion of the project is only 31.07.2019 and there was no delay as per the terms and condition of the construction agreement. There was delay in launch of the project and the respondent admitting the delay paid a sum of Rs.37,479/- towards compensation. Therefore the complainant is entitled for compensation for the delay in completion and handing over of the apartment by the respondent. As per the terms of the agreement, the date for delivery of the flat was by November 2018, but the respondent handed over possession only on 16.11.2019. Hence, the complainant is entitled for compensation for the delay and mental agony and cost.

3. In spite of service of notice, the respondent remained absent.
4. The complainant filed his evidence 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 compensation for the delay and mental agony on the ground of failure on the part of the respondent to complete the construction and to handover possession of the flat as per the terms and conditions of the agreement?
  - ii. What are the reliefs the complainant is entitled to?

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

(a) The learned counsel for the complainant submitted that the complainant booked the flat in the project of the respondent on 31.07.2015 and also paid the entire sale consideration and as per the terms and conditions of the construction agreement, respondent undertook to complete the construction and hand over possession of the flat by November 2018, but the possession of the flat was given to the complainant only on 16.11.2019 and there was inordinate delay in completion and handover of the apartment to the complainant and the complainant is entitled for the reliefs.

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(b) As per the Ex.A4 construction agreement entered between the complainant and the respondent on 24.08.2018, the respondent undertook to complete the construction of booked apartment and to handover the possession of the apartment to the complainant by November 2018. As per Ex.A7 handing over certificate issued by the respondent, the constructed apartment was delivered to the complainant only on 16.11.2019.

(c) As per clause 5(b)(3) of the construction agreement, the complainant is entitled to be paid by the promoter the interest at the rate of the interest, which shall be the SBI highest marginal cost of lending rate plus 2% as prescribed under TNRERA Rules 2017 for every month of delay till handing over possession of the apartment. By Ex.A6 legal notice dated 18.09.2019, the complainant also called upon the respondent to pay the compensation for the delay as per the undertaking in the agreement. Considering all the above, it is held that the complainant is entitled for compensation for the delay and also mental agony and inconvenience due to the delay and cost of the litigation. 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 compensation as provided under the construction agreement. The total sale consideration of the flat including the cost of the UDS land is Rs.1,66,61,350/-. 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 on the amounts paid, i.e., Rs.1,66,61,350/- from December 2018, till the date of delivery, which is 16.11.2019, by the respondent.

b) Considering the facts and circumstances of the case, it is held that the complainant is entitled for compensation of Rs.1,00,000/- towards mental agony and inconvenience and also a sum of Rs. 25,000/- towards litigation expenses from the respondent.

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(c) The complainant is entitled for reliefs as detailed above. Thus, the point is answered accordingly.

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

The respondent shall pay the complainant the amounts of compensation and cost as per the findings in Answer for Point No.(ii), Para 7 of this order within 30 days from the date of issue of this order.

**G. SARAVANAN  
ADJUDICATING OFFICER**

**List of witness**

CW-1 --- Manikandan Nagarajan

**List of documents filed by the Complainant**

<b>Ex.Nos</b>	<b>Date</b>	<b>Documents Name</b>
Ex.A1	31.07.2015	Booking acknowledgment letter
Ex.A2	16.08.2016	Allotment letter
Ex.A3	10.11.2017	Agreement for sale
Ex.A4	24.08.2018	Construction agreement
Ex.A5	----	E-mail communication
Ex.A6	18.09.2019	Legal notice
Ex.A7	16.11.2019	Handing over certificate

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

  
30.12.2020  
**LAW OFFICER  
TN REAL ESTATE REGULATORY AUTHORITY**