

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**
**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
CCP No.57 of 2020**

M. Ranjit

..... Complainant

Vs.

M/s. Amarprakash Developers Private Ltd,
Rep. by its M.D, Aadarsh Surana
(TN/01/Building/0097/2018)

..... Respondent

Complainant : Rep. by Mr. V.Sathish, Advocate.

Respondent : Rep. by Mr.P.Dinesh Kumar, Advocate.

Heard on : 02.09.2021

Delivered on : 17.09.2021

ORDER

The complaint by the above complainant seeking refund of amount paid to the respondent towards purchase of an apartment with interest and cost is filed *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 complainant, in brief, as follows:

(a) On 06.04.2019, the complainant booked a flat in the project of the respondent namely, "The Royal Castle" at Thirumudivakkam Village, Pallavaram Taluk, Kancheepuram District, on payment of booking advance of Rs.1,00,000/-. The total cost of flat is Rs.52,44,413/-. The respondent assured the completion of construction and delivery of flat by September 2019.

(b) Subsequently, on demand by the respondent, on 01.06,2019, the complainant made further payment of Rs.1,50,000/- to the respondent. On the same day, the respondent insisted the complainant to pay a further amount of Rs.9,50,000/-. On 25.07.2019, the complainant paid Rs.9,50,000/-

TRUE COPY

leg
17/09/2021

to the respondent. Thus, in total, the complainant paid Rs.12,00,000/- to the respondent.

(c) In the 3rd week of June 2019, the complainant went to the project site and found no progress of construction. When the complainant enquired about the same, the respondent informed that they would complete the project and handover flat by December 2019. Even thereafter there was no improvement in the project. The respondent informed that the completion date has been postponed to March 2020. Therefore, the complainant preferred to cancel the booking and sought for refund of the amount paid to the respondent. Hence the complainant is entitled for all the reliefs.

3. On receipt of the notice, the respondent appeared through counsel who filed vakalath on their behalf. However, subsequently, the counsel or the respondent has not filed any counter and remained absent.

4. On the side of the complainant, proof affidavit of the complainant was filed and documents were marked.

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

i. Whether the complainant is entitled to get back the amounts paid to the respondent towards purchase of flat with interest, on the ground of failure on the part of the respondent to commence the construction of the work so as to hand over delivery of possession of flat as assured by the respondent to the complainant?

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 on 06.04.2019, the complainant booked a flat in the project of the respondent and on receipt

TRUE COPY

17/09/2024

of detailed quotation, the complainant paid Rs.1,00,000/- as booking advance and the respondent assured to complete the construction and deliver possession of flat by September 2019 and demanded and received further amounts of Rs1,50,000/- and subsequently Rs.9,50,000/- and was postponing the completion date and on visit to the project site, the complainant found that there was no progress of any construction and cancelled the booking and sought refund of the amount and the respondent failed to make any refund and the complainant is entitled for all the reliefs.

(b) The complainant examined himself as CW-1 and filed his proof affidavit and produced and marked Ex.A1 to Ex.A5 documents to prove his claim. Ex.A1 is the quotation with rough sketch of flat issued by the respondent in the name of the complainant. Ex.A2 (series) are payment receipts issued by the respondent for the total sum of Rs.12,00,000/-. Ex.A3 is the statement of account issued by the HDFC Bank. Ex.A4 is the e-mail sent by the respondent, informing the complainant that the handing over will be March 2020. Ex.A5 is the e-mail sent by the complainant to the respondent seeking refund of the amount on cancellation of the booking. By his evidence and documents, the complainant proved his claim against the respondent.

(c) In the above circumstances, it is held that the complainant is entitled for refund of the amounts paid to the respondent together with interest. Thus, the point is answered accordingly.

7. Answer for Point No. (ii)

(a) It is not in dispute that the complainant paid a sum of Rs.12,00,000/- in total towards the purchase of flat to the respondent. Therefore, the complainant is entitled for refund of the said amount with interest.

TRUE COPY

leg
17/09/2021

(b) As per Rule 18 of the TNRERA Rules, the rate of interest payable shall be the current highest marginal cost of lending rate of interest of State Bank of India (SBI) plus 2% per annum. Hence, the complainant is entitled for the interest at the rate of 8.15% per annum which was currently the highest marginal cost of lending rate of interest of SBI at the time of filing of the complaint plus 2% per annum i.e., 10.15% p.a for the entire amount paid from the dates of respective payments till repayment by the respondent.

(c) Apart from the above, considering the facts and circumstances of the case, a sum of Rs.25,000/- towards legal expenses is fixed. 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 complainant the amounts at the interest rate, as per the findings in the answer for Point No.(ii), Para 7 of this order, within 30 days from the date of issue of this order.
- (2) The charge of the aforesaid amount shall be on the flat booked by the complainant till the repayment.

Sd/- 17.09.2021
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI

TRUE COPY

leg
17/09/2021

LIST OF WITNESS

CW-1--- M.Ranjit

LIST OF DOCUMENTS FILED BY THE COMPLAINANT

Ex.Nos	Date	Documents Name
Ex.A1	06.04.2019	Quotation with rough sketch
Ex.A2	...	Payment receipts (series)
Ex.A3	06.02.2020	Statement of account
Ex.A4	25.07.2019	E-mail from respondent
Ex.A5	16.12.2019	E-mail from complainant

Sd/- 17.09.2021
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.

CERTIFIED TO BE TRUE COPY

~~27/9/2021~~
LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY