

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

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
CCP No. 284 of 2021**

1. Geeta Shekhar
2. Shekhar Murthy
- Complainants

Vs

1. M/s. Serene Senior Living Private Ltd.
Rep. by its Director.
2. M/s.Adinath Srinivasa Foundation LLP
Rep. by its Designated Partner.
(Project not registered)
- Respondents

Complainants : Rep. by Mr.Ralph V.Manohar, Advocate.
Respondents : Remained absent

Heard on : 29.03.2022
Delivered on : 19.04.2022

ORDER

The above complaint by the complainants claiming compensation for the delay in handing over possession of studio villa booked by them with the respondents 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) The complainants booked a studio villa with the respondents in their project namely, "Serene Kshetra", in Nathapettai Village, Kancheepuram

TRUE COPY

19/04/2022

District and paid booking advance and further amounts. The total sale consideration of the studio villa is Rs.21,64,081/-.

(b) On 08.06.2015, construction agreement was executed between the complainants and the second respondent. The respondents undertook to handover possession of the villa by 31.12.2016 with a grace period of 3 months.

(c) The respondents completed the construction and handed over possession of the villa on 17.03.2018. As per the construction agreement the compensation payable by the respondents for the delay in delivering possession of the villa to the complainants was fixed at Rs.3,000/- per month and the respondents made a part payment of Rs.27,000/- towards compensation for the delay in handing over possession of the villa. The respondents are still liable to pay the balance amount of compensation. The complainants are entitled for all the reliefs.

3. In spite of service of notice, the respondents 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 the delay compensation, and compensation for mental agony and litigation cost from the respondents?
- ii. What are the reliefs the complainants are entitled to?

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

(a) The learned counsel for the complainants submitted that the complainants booked the studio villa in the project, jointly promoted by the respondents, on payment of booking advance and subsequent payments as per the payment schedule under the construction agreement dated 08.06.2015, entered between the complainants and the second respondent and the respondents undertook to complete the construction and to deliver the studio villa on 31.12.2016, with a grace period of 3 months, but the respondents completed construction and handed over possession of the unit to the complainant only on 17.03.2018, after an inordinate delay and the complainant is entitled for all the reliefs.

(b) Ex.A1 is the construction agreement dated 08.06.2015 entered between the complainants and the second respondent as the developer of the project. Under clause-6 of the agreement, the second respondent undertook to complete the construction and to handover possession of the studio villa by December 2016. As per Ex.A3, the completion certificate and Ex.A4, the letter of the second respondent dated 17.03.2018, the construction of the studio villa was completed and the same was handed over on receipt of the final payment.

(c) Even though the respondents undertook to complete the construction and to handover the studio villa by 31.12.2016, they were able to complete the construction and to deliver the constructed villa to the complainants only on 17.03.2018. Therefore, the complainants are entitled for delay compensation and other reliefs. Thus the point is answered accordingly.

7. Answer for Point no.(ii)

(a) The learned counsel for the complainants submitted that as per the proviso to section-18 of the Act, the complainants are entitled for compensation as prescribed under the section.

(b) There was inordinate delay in handing over the unit to the complainants by the respondents. The respondents started collecting advance booking amount and subsequent payments from 2015, but were able to complete construction and deliver the villa only in 17.03. 2018 after the RERA Act came into force without minding the rights of allottees under the Act. The terms of the agreement are one sided and not fair. In the circumstances of the case, it is held that the complainants are entitled for compensation as per proviso of section-18 of the RERA Act. Hence the complainants are entitled for delay compensation at the rate of interest payable by the promoter to the allottee shall be the highest marginal cost of lending rate of SBI plus 2% p.a. 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. from 01.04.2017 to 17.03.2018. The amount already paid towards delay compensation is liable to be adjusted out of the compensation payable under the order.

(c) Apart from the above, considering the facts and circumstances of the case, a sum of Rs.50,000/- is fixed towards mental agony and Rs. 25,000/- is fixed towards litigation expenses payable by the respondents.

(d) The complainants are entitled for reliefs as detailed above. Thus, the point is answered accordingly.

In the result, the respondents are directed as follows:

The respondents, shall jointly or severally, pay the complainants 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.

**Sd/- 19.04.2022
G. SARAVANAN
ADJUDICATING OFFICER**

List of witness

CW-1 --- Shekhar Murthy

LIST OF DOCUMENTS FILED BY THE COMPLAINANTS

Ex.Nos	Date	Documents Name
Ex.A1	08.06.2015	Agreement for construction
Ex.A2	04.01.2018	Payment request letter
Ex.A3	17.03.2018	Completion certificate
Ex.A4	17.03.2018	Letter from the respondent
Ex.A5	07.06.2021	Legal notice issued by complainants
Ex.A6	...	Calculation sheet for compensation

**Sd/- 19.04.2022
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI**

CERTIFIED TO BE TRUE COPY


19.4.2022
LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY