

**BEFORE THE  
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,  
CHENNAI**  
**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,**  
**CCP No. 33 of 2021**

A.Arivudainambi

.... Complainant

**Vs.**

1. M/s. Bheema Estate and Reality Pvt Ltd  
Rep by its Director, Ram Chandra Singh
2. M/s. Bhavesha Reality and Development Pvt Ltd  
Rep by its Director, Mahesh Chandra Verma
3. M/s. Bhavaanee Estate and Reality Pvt Ltd  
Rep by its Director, Mahesh Chandra Verma
4. M/s. Benedict Estate and Reality Pvt Ltd  
Rep by its Director, Rajnish Bhushan Pandey
5. M/s. Bansidhara Reality and Estate Pvt Ltd  
Rep by its Director, Vineet Saxena
6. M/s. Bankim Estate and Investment Pvt Ltd  
Rep by its Director, Nand Lal
7. M/s. Badrinaath Development and Reality Pvt Ltd  
Rep by its Director, Anil Kumar Srivastava
8. M/s. Sahara Prime City Ltd  
Rep by its Director, Subrata Roy Sahara  
(POA for Respondents 1 to 7)  
(Project not registered)

... Respondents

Complainant : Rep. by. Mr. Sundarnarayan, Advocate.

Respondents : Remained absent.

**Heard on : 21.09.2021**  
**Delivered on : 05.10.2021**

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25/10/2021

## **ORDER**

The above complaint is filed by the complainant *under Section 31 of the Real Estate (Regulatory and Development) Act, 2016 (hereinafter referred to as RERA Act) read with Rule 38 of the Tamil Nadu Real Estate (Regulation and Development), Rules, 2017 (hereinafter referred to as TNRERA Rules)* for refund of amounts paid by the complainant to the respondents towards the purchase and construction of the booked apartment with interest, compensation.

### **2. Averments of the complainant, in brief, as follows:-**

- (a) The complainant booked an apartment with the 8<sup>th</sup> respondent in their project "Sahara City Homes" Sathy Road, Saravanampatty, Coimbatore. The respondents 1<sup>st</sup> to 7<sup>th</sup> are the owners of the land of the project. The 8<sup>th</sup> respondent is the promoter and also the POA of the other respondents. The complainant paid a sum of Rs.4,38,740/- towards part sale consideration for purchase of a unit in Flat No.C24/501 Type, 3 bedroom, on the 5<sup>th</sup> floor having a unit area of 120.70 sq.m for a total sale consideration of Rs.29,22,984/-. Subsequently, no agreement was entered between the complainant and the respondents.
- (b) On the promise of the respondents that the constructed unit will be delivered on time, the complainant made payments. Booking and allotment letters were issued by the respondents on 23.5.2007 and 23.12.2008 respectively. But the respondents failed in their obligations.
- (c) Due to litigations before various forums, the construction activity in the project site came to a standstill. If the project was executed as promised by

the respondents, the project would have been completed long back. There was no attempt by the respondents to continue the project.

(d) Some of the allottees in the project filed complaints before the consumer forums for reliefs. But none of the complainants moved any legal forum before approaching this forum.

(e) As per the provisions of the RERA Act, the respondents are liable to return the amount with interest and compensation to the complainant claiming refund of the amount paid to the respondents with interest and compensation. Hence, the complainant is entitled for the reliefs.

3. On services of notice on the respondents, the respondents remained absent.

4. On the side of the complainants, the complainants filed proof affidavit and marked Ex.A1 to Ex.A8 documents.

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

i. Whether the complainant is entitled to the reliefs of refund of the amount paid to the respondents with interest and compensation on the ground of failure on the part of the respondents to commence construction of the apartment booked by the complainant so as to deliver the constructed apartment as per the assurance of the respondents?

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 a flat in the project of the respondents and paid the booking advance

and further amounts to the respondents and the respondents 1 to 7 are the owners of the land of the project and the 8<sup>th</sup> respondent is the promoter and also the POA of the other respondents and on booking by the complainant, the 8<sup>th</sup> respondent allotted a flat and no agreement was entered between the complainant and the respondents and there was no progress of construction in the project site and the respondents have not handed over the flat to the complainant and they failed in their obligations and therefore, the complainant is entitled for the reliefs.

(b) It is not in dispute that as on date, the project is an incomplete project. Under Section 3 of the RERA Act, the project, an ongoing project as on the date of commencement of the Act is required to be registered under the RERA Act with TNRERA. But, the project has not been registered with the Tamil Nadu Authority (TNRERA) till date. Admittedly, the planning permission accorded by the Director of Town and Country Planning lapsed on 15.9.2014 and till date the 8<sup>th</sup> respondent has not completed construction and handed the unit to the complainant.

(c) In the above facts and circumstances of the case, it is held that the complainant is entitled for the relief of refund of the amount with interest and compensation from the respondents. Thus, the point is answered accordingly.

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

(a) The complainant has claimed refund of the amount paid with interest and compensation. The complainant have paid Rs.4,38,740/- to the 8<sup>th</sup> respondent. The complainant is entitled for refund of Rs.4,38,740/- at interest @ 7.30% which is the marginal cost of lending rate of interest of SBI at the

time of filing the complaint, plus 2% i.e., 9.30% per annum for the amounts paid from the date of respective payments till the repayment of the entire amount by the respondents.

(b) Apart from the above, the complainant is entitled to a claim of Rs.50,000/- as compensation towards mental agony and inconvenience and Rs.20,000/- towards the legal expenses.

**In the result, the respondents are directed as follows:-**

- (1) The respondents shall either jointly or severally pay the complainant the amounts at the interest rate, compensation and cost as per the findings in the answer for Point No.(ii), Para 7 of this order within 60 days from the date of issue of this order.
- (2) The charges of the aforesaid amounts shall be on the unit booked by the complainant seeking refund till their repayment

Sd/- 05.10.2021  
G.SARAVANAN  
ADJUDICATING OFFICER

**CCP.No. 33/2021**

**List of witness**

CW-1 --- Arivudainambi

**List of documents filed by the complainant**

Ex.Nos	Date	Documents Name
Ex.A1	...	Brochure
Ex.A2	02.04.2007	Application form
Ex.A3	23.05.2007	Confirmation of booking
Ex.A4	23.12.2008	Allotment letter
Ex.A5	---	Payment receipts (series)
Ex.A6	15.02.2013	General Power of Attorney

Ex.A7	11.07.2016	Copy of Supreme Court order
Ex.A8	10.12.2018	Letter from PIO, TNRERA

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5.10.2021  
LAW OFFICER  
TN REAL ESTATE REGULATORY AUTHORITY

Sd/- 05.10.2021  
G. SARAVANAN  
ADJUDICATING OFFICER  
TNRERA, CHENNAI