

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

**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
CCP No.06 of 2021**

A.Dinakaran

..... Complainant

Vs.

M/s. Thiru Arunachala Annamalaiyar Builder,
Rep. by its Proprietor, A.K.Palaniswamy
(PROJECT NOT REGISTERED)

..... Respondent

Complainant : Rep. by Mr. S.Stalinraja, Advocate.

Respondent : Remained absent.

Heard on : 12.11.2021

Delivered on : 07.12.2021

ORDER

The complaint by the above complainant seeking refund of amount paid to the respondent towards purchase of a house 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) The complainant booked a house in the project of the respondent bearing Plot No.19, in Venkateshwara Nagar Extension, Ekkadu Village, Thiruvallur District. The total cost of the house is Rs.19,30,000/-. The complainant paid, on various dates, in total Rs.19,30,000/- .

(b) On 07.08.2013, the complainant and the respondent entered into agreements for sale and construction. The respondent undertook to complete construction and handover possession of house within 6 months from the date of the agreements. The due date for handing over possession of the house was over by February, 2014. But, the respondent failed to construct and

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handover possession of the house even after 7 years. Hence the complainant is entitled for all the reliefs.

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

4. On the side of the complainant, evidence on proof affidavit 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 a house with interest and compensation on the ground of failure on the part of the respondent to give possession of the house booked by him in accordance with the date and terms of agreements for sale and construction?
- 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 07.08.2013, the complainant and the respondent entered into agreements for sale and construction for purchase of a house for a total sale consideration of Rs.19,30,000/- and the complainant, in total, paid Rs.19,30,000/- on various dates and subsequently the respondent failed to complete the construction and handover the constructed house to the complainant and the complainant availed bank loan for making payments of the sale consideration and the

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respondent has failed to keep up his commitment even after 7 years of time and the complainant is entitled for all the reliefs.

(b) The complainant was examined as CW-1 and filed his proof affidavit and produced Ex.A1 to Ex.A7 documents to prove his claim. Ex.A1 and A2 are the agreements for sale and construction respectively entered between the complainant and the respondent for purchase of the house for a total sale consideration of Rs.19,30,000/-. Ex.A3 is the sale deed of plot. Ex.A4, is the plan showing the proposed construction of the house. Ex.A5 is the gift deed dated 05.10.2012. Ex.A6 is the general power of attorney dated 13.07.2012 and Ex.A7 is the bank loan disbursement letter dated 10.05.2014 with statement on transaction.

(c) As per the agreement, the respondent undertook to complete the construction of the house within 6 months from the date of the agreements. The respondent failed to construct and hand over possession of the house as promised by them. By evidence and documents, the complainant proved the claim against the respondent.

(d) 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) The complainant paid a sum of Rs.19,30,000/- in total towards the purchase of a house to the respondent. Therefore, the complainant is entitled for refund of the said amount with interest.

(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 complainants are entitled for the interest at the rate of 7.30% per annum which is currently the

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highest marginal cost of lending rate of interest of SBI, at the time of filing of the complaint, plus 2% per annum i.e., 9.30% per annum for the amounts 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.1,00,000/- as compensation towards mental agony and 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) On repayment of the claim as per this order, the complainant shall execute the cancellation of the agreement for construction and the sale deed, as the case may be, at the expense of the respondent.

Sd/- 07.12.2021
G. SARAVANAN
ADJUDICATING OFFICER

LIST OF WITNESS
CW-1 --- A.Dinakaran

LIST OF DOCUMENTS FILED BY THE COMPLAINANT

Ex.Nos	Date	Documents Name
Ex.A1	07.08.2013	Agreement for sale
Ex.A2	07.08.2013	Agreement for construction
Ex.A3	23.09.2013	Sale deed

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Ex.A4	...	Housing plan
Ex.A5	05.10.2012	Gift deed
Ex.A6	13.07.2012	General power of attorney
Ex.A7	10.05.2014	Bank loan disbursement letter and statement

Sd/- 07.12.2021
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.

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LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY