

**BEFORE THE  
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,  
CHENNAI**  
**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,  
CCP No. 88 of 2021**

Vikas Khandelwal

..... Complainant

Vs

M/s. Sare Reality Projects Private Ltd.,  
Rep. by its directors.  
(Project not registered)

.....Respondent

Complainant : Rep. by Ms. A. Smrithi, Advocate  
Respondents : Remained absent

Heard on : 26.11.2021  
Delivered on : 14.12.2021

**ORDER**

The complaint by the above complainant claiming the refund of the amounts paid to the respondent towards the purchase and construction of a villa with interest, compensation and costs 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 villa with the respondent in their project, namely, "MEADOWVILLE PHASE-II", at Kolathur Village, Chengalpattu Taluk, Kancheepuram District. The total sale consideration of the villa is Rs.58,19,000/-. The complainant, in total, paid a sum of Rs.35,90,872/- on various dates.

(b) On 10.05.2015, the complainant and the respondent entered into a construction agreement. Under the agreement, the respondent undertook to complete the construction and handover possession of the villa within a period of 18 months with a grace period of 6 months. Even today, at the time of filing

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the complaint, the building structure was not raised and there is a delay of about 7 years from the date of entering the construction agreement.

(c) The complainant availed loan and is forced to pay monthly EMI to the bank for the default of the respondent in difficult times like COVID. The respondent never reimbursed the EMIs as promised during booking of the villa. The complainant was made to run after him to get the monthly EMI reimbursed and at one point the respondent stopped the reimbursement. The complainant has paid Rs.2,87,000/- as pre-EMI till date. The respondent did not fix a stipulated time for handing over possession. The undue delay caused a huge loss in terms of money and time and severe mental agony to the complainant.

(d) The complainant sent a mail for the cancellation of the villa and the refund of the amount paid to the respondent. There was no response from the respondent. As per section 18 of the RERA Act, the complainant is entitled for refund of the amount with interest, compensation and costs.

3. On service of notice to the respondent, the respondent remained absent.

4. In evidence to prove his claim, the complainant filed proof affidavit 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 refund of the amount paid to the respondent with interest and compensation on the ground of failure on the part of the respondent to complete the construction and handover possession as per the terms and conditions of the agreement?
- ii. What are the reliefs, the complainant is entitled to?

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

(a) The learned counsel for the complainant submitted that the complainant booked a villa in the project of the respondent and entered into an agreement for construction of villa on 10.05.2015 and the respondent undertook to complete the construction work within a period of 18 months with a grace period of 6 months and the complainant also paid a sum of Rs. 35,90,872 /- and there was no sign of development in the project and till the filing of the complaint, there was no progress of construction in the project site and the complainant is entitled for refund of the amount with all the reliefs.

(b) The complainant filed the proof affidavit and examined himself as CW1. Ex.A1 is the construction agreement dated 10.03.2015 entered between the complainant and the respondent. As per clause-6, the respondent undertook to complete the construction of the villa within a period of 18 months from the date of booking with a grace period of 6 months. The time limit expired by March, 2017. Ex.A2, is the accounts statement. Ex.A3, is the e-mail communications.

(c) Through documents and by proof affidavit of the complainant, it is proved that the respondent failed to complete the construction of the booked villa and give possession of the villa as agreed and undertaken by them. Therefore, it is held that the complainant is entitled for return of the amount with interest, compensation and cost. 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 refund of the amount paid by him i.e., a sum of Rs. 35,90,872/- with interest, compensation and cost from the respondent.

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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 complainant is entitled for the interest at the rate of 7.30% per annum which is 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., 9.30% per annum for the amounts paid from the dates of respective payments till repayment by the respondent.

(c) Considering the facts and circumstances of the case, a sum of Rs.2,00,000/- towards compensation for mental agony, loss and hardship caused to the complainant and Rs.25,000/- towards litigation expenses is fixed. The complainant is entitled for the 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 amounts at the interest rate, compensation and cost as per the findings in answer for Point No.(ii), Para No.7 of this order within 30 days of issue of this order.
2. The charge of the aforesaid amount as encumbrance shall be on the villa booked by the complainant till repayment of the claim as per this order. The office of this Forum is directed to intimate the encumbrance created by charge in the order to the Sub-Registrar concerned.
3. On repayment of the claim as per the order, the complainant shall execute the cancellation of the construction agreement at the expense of the respondent.

Sd/- 14.12.2021  
G. SARAVANAN  
ADJUDICATING OFFICER

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**List of witness**

CW-1 --- Vikas Khandelwal

**List of documents filed by the Complainant**

<b>Ex.Nos</b>	<b>Date</b>	<b>Documents Name</b>
Ex.A1	10.03.2015	Construction agreement
Ex.A2	27.03.2016	Account statement
Ex.A3	---	E-mail conversations

Sd/- 14.12.2021  
G. SARAVANAN  
ADJUDICATING OFFICER  
TNRERA, CHENNAI

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14.12.2021  
LAW OFFICER  
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY