

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**
Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
CCP No. 63 of 2022

1. M.R. Srivatsan
Rep. by its PoA, M.S. Ramakrishnan
2. M.S. Ramakrishnan

.... **COMPLAINANTS**

Vs.

M/s. Land Marvel Homes
Rep. by its Partner
(Project not registered)

.... **RESPONDENT**

Complainants : Rep. by Mr. S. Saravana Kumar, Advocate
Respondent : Remained absent.

Heard on : 01.02.2023
Delivered on : 20.02.2023

ORDER

The complaint by the above complainants claiming compensation and cost of the litigation from the respondent on the ground of delay in construction and delivery of the booked apartment 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 complainants, in brief, as follows:**

(a). On 12.03.2014, the complainants entered into an agreement for allotment and construction of a flat with the respondent in their project namely, "SOLARAY" in Perumbakkam Village, Sholinganallur Taluk and paid Rs.5,80,000/ in total, i.e., a sum of Rs. 3,00,000/- towards UDS land and Rs.5,80,000/- towards cost of construction to the respondent. The cost of the flat booked was Rs.38,95,950/-.

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(b). There was no progress of work in the project. On 04.04.2019, the respondent informed the complainants that they were not able to undertake the project as promised and offered to refund the advance amount of Rs.8,80,000/- without any deductions on or before 30.06.2019. The complainants made several attempts to get refund of the amount and settle the matter amicably with the respondent. The respondent failed to refund the amount with interest. The complainants are entitled for refund of the amount with compensation and costs. The complainants reserve their right to file a separate complaint with respect to refund of the amount. The complainants pray for the compensation towards mental agony and legal costs.

3. In spite of service of notice, the respondent remained absent.

4. In evidence to prove his claim, the complainants filed proof affidavit with documents.

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

i. Whether the complainants are entitled compensation for mental agony and legal expenses on the ground of failure on the part of the respondent to complete the construction and to handover possession of the booked apartment as per the terms and conditions of the agreement?

ii. What are the reliefs, the complainants are entitled for?

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

(a). The learned counsel for the complainants submitted that the complainants booked an apartment in the project of the respondent and paid a sum of Rs.8,80,000/- and also entered into agreement for allotment

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and construction of flat, which is marked as Ex.A3 and the respondent is not proceeding and given up the project and therefore the complainants are entitled for refund of the amount with compensation and costs and the complainants intend to file a separate complaint for refund of the amount and the complainants prayed for the compensation and litigation costs.

(b). The second complainant filed the proof affidavit and examined himself as CW1. Ex.A3 is the agreement for allotment and construction of flat in the project entered by the complainants with the respondent and according to the agreement, the total consideration of the flat was Rs.38,95,950/- and the respondent acknowledged the receipt of Rs.8,80,000/- as advance. Ex.A5 is the letter from the respondent acknowledging the receipt of the amount and agreeing to refund the amount without any deduction on or before 30.06.2019. Ex.A6 is the legal notice by the complainants to the respondent demanding the amount with interest and the receipt of the same was acknowledged by the respondent. In the above circumstances, it is held that the complainants are entitled for compensation for mental agony and legal expenses.

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

(a). In view of the answer for Point No.(i), the complainants are entitled for compensation for mental agony and legal expenses from the respondent.

(b). Considering the facts and circumstances of the case, compensation for mental agony at a sum of Rs.50,000/- and legal expenses at a sum of Rs.25,000/- are fixed. The complainants are entitled for reliefs as detailed above. Thus, the point is answered accordingly.

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In the result, the respondent is directed as follows:-

1. The respondent shall pay the compensation as per the order within 30 days of issue of this order.
2. The charge of the aforesaid amount as encumbrance shall be on the flat booked by the complainants till the payment of compensation as per this order.

Sd/- 20.02.2023
G. SARAVANAN
ADJUDICATING OFFICER

C.C.P.No.63/2022
LIST OF WITNESS

CW-1 --- M.S. Ramakrishnan

LIST OF DOCUMENTS FILED BY THE COMPLAINANTS

Ex.Nos	Date	Documents Name
Ex.A1	Brochure of the Project
Ex.A2(Series)	Booking receipts
Ex.A3	12.03.2014	Agreement for allotment and construction
Ex.A4	12.03.2014	Letter from Complainant to Respondent
Ex.A5	04.04.2019	Letter from Respondent regarding refund the amount
Ex.A6	27.10.2021	Legal Notice to Respondent with Ack. Card
Ex.A7	24.01.2022	Power of Attorney executed in favour of second complainant

Sd/- 20.02.2023
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.

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Secretary (Finance & Admn.)
TNRERA, Chennai - 8.