

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

**Quorum : Thiru. Sunil Kumar, I.P.S (Retd), M.A, LLB, Hon'ble Single Member  
CCP No. 333 of 2021**

(i) R. Subbulakshmi  
(ii) R. Vidhya

..... **Complainants**

**Vs.**

M/s. Real Value Promoters Private Limited  
Rep. by its Chairman and Managing Director,  
V.S. Suresh  
(TN/01/Building/0149/2018)

..... **Respondent**

**Complainants** : Rep. by Dr. K. Thirugnanam, Advocate

**Respondent** : Ex-parte.

**Heard on** : 05.08.2022

**Delivered on** : 22.11.2022

**ORDER**

The above complaint by the complainants seeking refund with interest from the respondent towards purchase of the flats with interest, and costs is filed under section 31 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 have booked two flats in the respondent's project Viz. "**Padmasri**" (earlier named as "**Padmalaya**") at Thiruporur Taluk in Kancheepuram District. The complainants have paid a total sum of Rs.14,05,363/- for Flat No. 8A and a sum of Rs.14,83,028/- for Flat No. 8B in the eighth floor "Q" block. The construction and sale agreements for both the flats were entered in August, 2014 fixing the period of handing over of the Flats Nos. 8A and 8B to October, 2015.

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(b) The complainant submits that in January 2015, they were shocked to find that no statutory approval had been obtained for the project nor even the work had started. Aggrieved the complainants have moved to cancel both the flats and to seek refund of Rs.28,88,391/-. At this point the respondent blaming the Government Authority for the delay, offered to exchange these Flats Nos. 8A and 8B to another blocks in the same property of the respondent where construction was already going on and agreed to combine both the flats into one flat and offered the flat in 'B' block. Since, in the other block construction had already started, left with no other option, the complainants opted for this and was now allotted Flat No. 7A in seventh floor of "B" block with a promise to hand over it by October, 2016 including the grace period of 6 months. The complainants surrendered both the sale and construction agreements for the earlier allotted Flat Nos. 8A and 8B and entered into a fresh agreement for one flat which was to be held jointly by the two complainants for a sale consideration of Rs.42,80,820/- and the amount already paid to the tune of Rs.28,88,391/- was adjusted towards payment for this new allotment.

(c) A new construction and sale agreement was signed with the respondent on 11.03.2015 with a promise to handover by month of October, 2016. Once again, when the complainants visited the site in the last week of the April 2016, the project was no where near completion. Aggrieved they once again demanded cancellation of the flat and sought refund, which was not forthcoming. Subsequent efforts thereafter for refund fell on deaf ears as there was no response from the respondent.

(d) In pursuance of the complaint made by the complainants to the Hon'ble Prime Minister's Office, the matter was enquired by the Inspector of Police, Crime Branch, Pallikaranai, Greater Chennai Police, where the respondent



promised to refund the amount by April, 2018 which also was not done. Subsequent complaint to the Hon'ble Chief Minister's cell also did not yield any result. Hence, the complainants seeks refund of amount paid by them to the tune of Rs.28,88,391/- with interest, compensation and cost for legal expenses.

3. In spite of service of notice, the respondent remained absent all through the proceedings and hence treated as ex-parte.

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

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

(i) Is there any delay in handing over the apartments by the respondent to the complainants and is refund of the money paid by them made out?

(ii) What are the reliefs made out?

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

(a) The complainants were allotted the Flat Nos. 8A and 8B in "Q" block of the respondent's project namely, "**Padmasri**" (earlier named as "**Padmalaya**"). The sale agreement was entered in August 2014. The construction agreement was entered in August 2014. The project earlier known as "**Padmalaya**", renamed as "**Padmasri**" (Ex. A14). The construction agreement projects the delivery date of the flat October 2015. The complainants found that there was no construction started at all in the flats allotted to them in January 2015. The respondent had not even got the statutory approvals to build the flats of the complainants. Thereafter, on assurance of the respondent, the complainants agreed to change the Flats from Flat Nos. 8A and 8B of "Q" block to Flat No. 7A of the "B" block.

The respondent issued credit note for the amounts paid by the complainants for Flats Nos. 8A and 8B (Ex.A10).

(b) The complainants have entered into a fresh construction agreement on 11.03.2015 (Ex.A2) and agreement for sale on 11.03.2015 (Ex.A1). The new date of delivery was promised as October, 2016 in the new construction agreement. Even this promise was not kept up by the respondent and this too did not see the delivery taking place. The complainants therefore sought refund (Ex.A17) from the respondent. Aggrieved, the complainants also moved a complaint to the Hon'ble Prime Minister Office on 17<sup>th</sup> March 2017.

(c) Enquiry on the Hon'ble Prime Minister complaint (Ex.A18) and the Hon'ble Chief Minister's cell complaint (Ex.A29) was made in which the respondent requested for extension in the date for refund. It is therefore clear that, the flats have not been delivered by the respondent to the complainants by the agreed date in the month of October 2016. Hence, delay in delivery of the flats along with the refund is clearly made out and thus the point is answered accordingly.

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

(a) In view of the answer for Point No.(i) the complainants are entitled for refund of amount for a sum of Rs.28,88,391/- from the respondent.

(b) As per Rule 18 of the TNRERA Rules, the rate of interest payable shall be the current highest marginal cost of lending rate of interest of State Bank of India (SBI) plus 2% per annum. Hence, the complainants are entitled for the interest at the rate of 7.30% per annum which was the marginal cost of lending rate of interest of SBI at the time of filing the complaint plus 2% per annum, i.e., 9.30% p.a for the entire amount paid from the date of respective payment till repayment by the respondent.



(c) Considering the facts and circumstances of the case, a sum of Rs.25,000/- towards litigation expenses is fixed. The complainants are 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 amount at the interest rate, 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 complainants are at liberty to move the Adjudicating Officer for claiming the compensation portion of the complainants.
3. The charge of the aforesaid amount as encumbrance shall be on the flat booked by the complainants 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.
4. On repayment of the claim as per the order, the complainants shall execute the cancellation of the construction agreement and sale deed, as the case may be, at the expense of the respondent.

Sd/- 22.11.2022  
SUNIL KUMAR, I.P.S (Retd)  
SINGLE MEMBER

**LIST OF WITNESSES**

CW-1 --- R. Vidhya

**LIST OF DOCUMENTS FILED BY THE COMPLAINANTS**

Ex.Nos	Date	Documents Name
Ex.A1	11.03.2015	Agreement for sale
Ex.A2	11.03.2015	Construction agreement
Ex.A3	27.06.2013	Building approval
Ex.A4	21.04.2014	Payment receipt

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Ex.A5	26.04.2016	Letter of complainants
Ex.A6	15.05.2014	Payment receipt
Ex.A7	06.06.2014	Payment receipt
Ex.A8	23.08.2014	Transmitted document
Ex.A9	25.11.2014	Transmitted document
Ex.A10	07.02.2015	Payment receipt
Ex.A11	09.03.2015	Letter of complainants
Ex.A12	28.03.2016	Letter of complainants
Ex.A13	20.06.2016	Letter of complainants
Ex.A14	12.07.2016	Mail for name change
Ex.A15	22.07.2016	Assurance mail sent by respondent
Ex.A16	30.09.2016	Letter of complainants
Ex.A17	03.03.2017	Cancellation of flats
Ex.A18	---	Copy of complaint
Ex.A19	24.03.2017	Copy of complaint
Ex.A20	17.03.2017	Letter of Department of Administrative Reforms & Public Grievances
Ex.A21	21.06.2017	Flat cancellation mail
Ex.A22	05.07.2017	Confirmation of flat cancellation
Ex.A23	18.08.2017	Refund follow up mail
Ex.A24	10.10.2017	Refund refused
Ex.A25	13.10.2017	Refund follow up mail
Ex.A26	26.04.2018	Refund follow up mail
Ex.A27	09.05.2018	RERA approval certificate
Ex.A28	26.09.2018	Police complaint
Ex.A29	18.12.2018	Complaint to Chief Minister's Cell
Ex.A30	03.01.2020	Refund follow up mail

**LIST OF DOCUMENTS FILED BY THE RESPONDENT**

**NIL**



Sd/- 22.11.2022  
SUNIL KUMAR, I.P.S (Retd)  
SINGLE MEMBER  
TNRERA, CHENNAI