

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

Quorum : Mr. Sunil Kumar, I.P.S (Retd), M.A, LLB, Hon'ble Single Member

C. No. 81 of 2022

G. Ramamoorthy **Complainant**

Vs.

M/s. Navin's Housing and Properties Pvt Ltd
Rep. by P. Bhavani **Respondent**

Complainant : Party – In - Person.

Respondent : Rep by M/s. SK. Rahul Vivek, Advocates.

Heard on : 26.08.2022

Delivered on : 09.12.2022

This complaint came up for final hearing before the Hon'ble Single Member in the presence of the both the parties, this Authority passes the following order:-

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

The complainant was allotted an apartment in the "**Navin's Triumph**", No. 802, 804, Anna Salai, Nandanam, Chennai. The complainant complaints of water stagnation in the toilet floor. However, despite repeated request to rectify the same, the respondent had not carried out the defects.

3. Counter averments of the respondent, in brief, as follows:-

(a) The respondent avers that the complainant had his apartment in the project by name, "**Navin's Starwood Towers**", which was handed over to the complainant.

(b) The respondent submits that the wet and dry concept had been followed in the toilet which implied that the same toilet has two distinct usable spaces. Water activities are placed in designated wet areas while the other area has been kept dry. The respondent

submits that the complainant has not pointed out any defect in the structures apart from making a stray allegation of slope in the bathroom.

ORDER

Both the complainant and the respondent argued and their contentions were heard in full. The respondent submitted written arguments. Since, the building was handed over within the period of 5 years, the complaint is maintainable. The complainant alleges that there is a water stagnation in the toilet and has submitted that despite repeated requests, the issue has not been attended to and the problem thereafter continues. The respondent on other hand has submits that the toilet follows the concept of dry and wet area in the toilet. The facts of the case are put to test against the provisions of the Real Estate (Regulation and Development) Act, 2016.

The Section 14(3) provides;

*“In case any structural defect or **any other defect in workmanship**, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of promoter’s failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act”*

The section will clearly relate to the complaint where the complainant claims defects in workmanship. The respondent turns it to be a concept, where the toilet, is designed in such a way that there is a wet and dry area in the same toilet room. The complainant on the other hand pleads it to be a defect in workmanship on which ground he seeks remedy.

9/12/22

The respondent has submitted photographs to explain the dry and wet concept. The complainant too has submitted photographs wherein an **outlet for the water to disburse is shown in the toilet area** which is been marked as dry area by the respondent.

Since, there is a outlet already existing and the same is not allowing the water to drain out, it can only be inferred that there is a defect in workmanship wherein a facilities has been provided but does not appear to be functional which would be only due to defect in workmanship where the outlet is not working the way it should.

It is therefore, ordered that the respondent shall make the outlet shown in the photograph submitted by the complainant, which was pointed out to the respondent lying in the wet area as claimed by the respondent, operational and thus rectify the defects in workmanship allowing water to flow out from there.

The following directions are issued:-

- (i) This rectification shall be completed and the report submitted within 30 days of the issue of this order.
- (ii) With these directions, the above complaint is disposed off.



Sd/- 09.12.2022
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI