

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

**Quorum : Thiru. Sunil Kumar, I.P.S (Retd), M.A, LLB, Hon'ble Single Member
RCP No. 108 of 2022**

S. Arunrajaa Complainant
Vs.
M/s. Provident Housing Ltd.,
Rep. by its Managing Director Respondent

Complainant : Rep. by M/s. K. Murugan & Associates, Advocates.
Respondent : Ex-parte.

Heard on : 15.11.2022
Delivered on : 20.12.2022

ORDER

The above complaint by the complainant seeking refund with interest from the respondent towards purchase of the apartment with interest, and costs and is filed under section 31 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 was allotted a three bedroom apartment with floor plan No. PGP-A4-102 in the respondent's project by name "**Provident Green Park**" situated at Coimbatore District. The construction and sale agreements were executed on 30.05.2015 and the construction agreement was registered before the Registrar, Coimbatore vide document no. 5597/2015.

(b) The complainant has paid a sum of Rs.43,49,213/- towards the project. The promise date of delivery as per the construction agreement was

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31.12.2016 with the grace period of 6 months. The respondent has failed to deliver the apartment as promised on 30.06.2017 including the grace period. All efforts made by the complainant to get a response did not receive any reaction from the respondent. The complainant cancelled the allotment vide email letter dated 15.09.2018 and prays for refund of the amount paid by him along with interest 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 complainant has filed proof affidavit with documents.

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

(i) Is there any delay in handing over the apartment by the respondent to the complainant warranting refund of the money paid by him?

(ii) What are the reliefs made out?

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

(a) The complainant was allotted a three bedroom apartment with floor plan No. PGP-A4-102 in the respondent's project by name "**Provident Green Park**". The construction agreement and the sale agreement were executed on 30.05.2015 (Ex.A1 and Ex.A2). The complainant has paid a total sum of Rs.43,49,213/- and the promised date of delivery as per the construction agreement was 31.12.2016 with a grace period of 6 months. The respondent has failed to deliver the apartment on or before 30.06.2017 where after the complainant have cancelled the allotment and request for refund.

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(b) The respondent remained absent and was treated as Ex-Parte. It is determined that the apartment was not handed over on or before 30.06.2017, thereby delay in delivery of the completed apartment is clearly made out entitling the complainant for refund of amount paid by him to the respondent. 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 amount for a sum of Rs.43,49,213/- 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 complainant is entitled for the interest at the rate of 7.50% 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., 9.50% 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 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 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 respondent is prevented from creating any 3rd party encumbrance and a charge shall be on the above mentioned property till repayment of the claim as per this order. The Registry of the Authority shall take action to ensure compliance with the Sub-Registrar concerned.

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3. On repayment of the claim as per the order, the complainant shall execute the cancellation of the construction agreement as the case may be, at the expense of the respondent.

Sd/- 20.12.2022
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER

LIST OF WITNESSES

CW-1 --- S. Arunrajaa

LIST OF DOCUMENTS FILED BY THE COMPLAINANT

Ex.Nos	Date	Documents Name
Ex.A1	30.05.2015	Construction agreement
Ex.A2	30.05.2015	Agreement for sale
Ex.A3	19.04.2017	Home loan sanction letter
Ex.A4	15.09.2018	E-mail
Ex.A5	03.09.2020	Legal notice
Ex.A6	03.07.2021	Reply notice

LIST OF DOCUMENTS FILED BY THE RESPONDENT

NIL

Sd/- 20.12.2022
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI

