

**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. 02 of 2022**

(i) S. Krishnaswamy  
(ii) Raji Swamy

..... **Complainants**

**Vs.**

M/s. Ramani Realtors Private Limited  
Rep. by its Managing Director

..... **Respondent**

**Complainants** : Rep. by M/s. S.V.Pravin Rathinam, Advocates

**Respondent** : Ex-parte.

**Heard on** : 23.08.2022

**Delivered on** : 22.11.2022

**ORDER**

The above complaint by the complainants seeking refund with interest from the respondent towards purchase of the apartments 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 complainants, in brief, as follows:**

(a) The complainants have applied for allotment of apartment in the project by the name "*Ramani's Coconut Grove*" and was allotted flat No. 113 in Tower-2. The complainants and the respondent executed a Memorandum of Understanding (MOU) on 30.09.2013. The total sale consideration for the said apartment was agreed as Rs.36,00,000/-. The respondent made a commitment to complete the entire constructions within the period of 15 months from the date of MOU projecting the final delivery date to 31.12.2014. A total of Rs.34,92,000/- have been paid in 3

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installments vide dated 30.09.2013, 01.10.2013 and 18.10.2013. The MOU stipulated that Rs.1,08,000/- was to be paid at the time of handing over.

(b) The respondent also agreed to pay to the complainants a sum of Rs. 8000/- per month as rental compensation for the existing apartment at Coimbatore, which was till the completion of the construction of the apartment. Since the construction was not making any improvements, the complainants vide letter dated 03.02.2015 terminated the agreement and sought refund of the amount paid by them. The complainant filed a complaint before the Hon'ble State Consumer Disputes Redressal Forum seeking refund with interest. The complaint was withdrawn on 03.12.2021. The respondent till date have neither completed the construction nor refunded the money and have also stopped the payment of rental compensation from 01.04.2017 onwards. Aggrieved the complainant seeks refund of the amount paid by them i.e Rs.34,92,000/- with interest along with rental compensation, cost for legal expenses and mental agony.

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 complainant warranting refund of the money paid by him?

(ii) What are the reliefs made out?

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

(a) The complainants have entered into memorandum of understanding (Ex.A1) on 30.09.2013, wherein the complainant was allotted the Flat no.113 in the 1<sup>st</sup> floor of Tower-2. The total consideration was agreed at Rs.36,00,000/-. According to the memorandum of agreement, the Respondent had agreed to complete the entire construction of the flats within 15 months from the date of this agreement. The complainants were allotted flat No. 113 in the 1<sup>st</sup> floor, Tower-2 (Ex. A3). The complainant has paid a sum of Rs. 34,00,000/- (EX. A4, Ex.A6 and Ex.A8). The respondent had agreed to pay a sum of Rs.8000/- per month as rent to the house in which the complainant was already staying (Ex. A7). The complainant submitted a request for cancellation of the flat vide letter dated 03.02.2015 and has required refund of the amount paid by him.

(b) It is therefore clearly established that the complainants have been allotted the apartment, memorandum of understanding (MOU) signed, major part of the money to the tune of Rs.34,00,000/- (Rupees Thirty four lakhs only) out of Rs.36,00,000/- (Rupees Thirty six thousand only) paid and the apartment was still not handed over to the complainant, as mutually agreed, in 15 months from the date of agreements viz. 30.12.2014 making the complainant in his right to seek refund. 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 Rs34,92,000/- 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

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**LIST OF WITNESSES**

CW-1 --- S. Krishnaswamy

**LIST OF DOCUMENTS FILED BY THE COMPLAINANTS**

Ex.Nos	Date	Documents Name
Ex.A1	30.09.2013	Memorandum of understanding
Ex.A2	30.09.2013	Letter
Ex.A3	30.09.2013	Letter of allotment
Ex.A4	30.09.2013	Payment receipt
Ex.A5	30.09.2013	Payment intimation
Ex.A6	01.10.2013	Payment receipt
Ex.A7	07.10.2013	Letter
Ex.A8	18.10.2013	Payment receipt
Ex.A9	03.02.2015	Termination of memorandum of agreement
Ex.A10	25.05.2015	Police complaint
Ex.A11	July 2015	Complaint in CC No. 133 of 2015

**LIST OF DOCUMENTS FILED BY THE RESPONDENT**

**NIL**

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

