

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

**Quorum : Mr. Sunil Kumar, I.P.S (Retd), M.A, LLB, Hon'ble Single Member  
RCP No. 213 of 2022**

(i) Sathish Kumar  
(ii) Shobana  
..... **Complainants**  
**Vs.**

M/s. Selene Estate Ltd.,  
Rep. by its Director  
..... **Respondent**

**Complainants** : Rep by M/s. Ralph V. Manohar, Advocates.

**Respondent** : Ex-Parte

**Heard on** : **21.11.2023**  
**Delivered on** : **28.11.2023**

**ORDER**

The above complaint by the complainants seeking refund of amount paid to the respondent towards purchase of the apartment 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 learned counsel for the complainants avers that they had joined the respondent's project under the name, "Ozone Greens", located at Jalladianpettai Village, Perumbakkam – Jalladianpettai Joint Road, Sholinganallur Taluk, Kancheepuram District. The complainants aver that they had booked a residential apartment in the respondent's project and had been allotted apartment in the Tower E4, 19<sup>th</sup> Floor, apartment no. E42004 on 07.06.2021. The total sale consideration for the flat was agreed at Rs.48,19,455/-.

(b) The complainants have paid a sum of Rs.5,50,896/- as an advance towards the sale consideration in 3 installments i.e. a sum of Rs.9,999/- on

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07.06.2021, Rs.90,000/- on 02.08.2021 and Rs.4,50,897/- on 26.10.2021 making a total payment of Rs.5,50,896/-. The complainants submit that even after the receipt of the 10% amount, the respondent has not come forward to execute the agreement of sale and the construction for the apartment allotted to the complainants despite repeated reminders.

(c) The respondent's project is registered with the TNRERA vide Registration No. TN/01/Buildings/23/2017 dated 21.08.2017 in which the date of completion was 31.05.2019 which had been later extended to 31.12.2021. The complainants aver that the project was still not complete till date. The complainants aver that they had approached their bank for sanction of loan which did not materialized as the respondent had failed to provide the required document. The complainants made repeated efforts to reach out to the respondent seeking the required documents but the same did not yield any results.

(d) The complainants decided to withdraw from the project and sought refund of money paid by them and communicated their decision to the respondent by their letter dated 25.01.2022. The complainants aver that on 27.01.2022, the complainants even received intimation from the respondent that the refund will be initiated within 4 months time.

(e) However, the respondent failed to honour his commitment even till date. The complainants aver that the cancellation was only due to the failure of fulfillment of the obligation by the respondent. Aggrieved, the complainants prays for the refund of Rs.5,50,896/- with interest, compensation and litigation cost.

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

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

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

- (i) Are the complainants entitled to the refund of the money as claimed by them with interest due to the failure of the respondent in carrying out their obligations towards the complainants?
- (ii) What are the reliefs made out?

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

(a) The respondent had registered the project by name, "Ozone Greens", with the TNRERA vide Registration No. TN/01/Buildings/23/2017 dated 21.08.2017 (Ex.A1). The respondent had been allotted an apartment No. E42004. The complainants had paid a total sum of Rs.5,50,896/- for which an appropriate receipts had been issued by the respondent (Ex.A2, Ex.A3). The complainants had thus paid a sum of Rs.5,50,896/- which works out to more than 10% of the total cost of the residential apartment allotted to the complainants. On a Suo-motto cognizance, it is found that the respondent had failed to register the agreements as set out under Section 13 of the RERA Act for which penalty shall be imposed on the respondent under Section 61 of the RERA Act. It is also found that the respondent has failed to provide the required documents due to which the complainants did not get the housing loan from the bank.

(b) The complainants had made several efforts to get the said documents but all in vain. Subsequently, the complainants have decided to withdraw from the project and had accordingly approached the respondent vide their cancellation letter dated 25.01.2022 (Ex.A3) citing the reason for delay in providing documents by the respondent which has been captured in the

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complainants cancellation intimation to the complainants which has been so laid down as follows (Ex.A3):-

***“Reason for cancellation of unit:***

***Delay in agreed handover date and change in builder lead to issues with bank”***

(c) The respondent has accepted the request of the complainants for the cancellation and communicated the same to the complainants vide their e-mail dated 27.01.2022 wherein they had communicated their commitment to start the refund process within 4 months of time (Ex.A4). The reason for the cancellation would fall on account of non performance of the obligations by the respondent and hence the complainants are entitled to the refund of the amount paid by them with interest and thus the first point is answered accordingly.

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

(a) Therefore, the complainants are entitled for refund amount of Rs.5,50,896/- from the respondent with interest.

(b) The rate of interest payable shall be current highest marginal cost lending rate of interest of State Bank of India (SBI) +2% per annum. Hence the complainants are entitled for interest at the rate of 8.25% per annum marginal cost of lending rate of interest of SBI at the time of filing the complainants +2% per annum i.e 10.25% per annum 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 second point is answered accordingly.

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

- (i) The respondent shall pay the amount at the interest rate and cost as per the findings in answer for Point No. (ii) in Para No. 7 of this order within 30 days of issue of this order.
- (ii) The complainants are at liberty to move the Adjudicating Officer for claiming the compensation portion of the complainants.
- (iii) 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.
- (iv) A penalty of Rs. 50,000/- is imposed on the respondent under Section 61 of the RERA Act for the violation of Section 13 of the RERA Act payable within 30 days of issue of this order.

Sd/- 28.11.2023  
SUNIL KUMAR, I.P.S (Retd)  
SINGLE MEMBER

**LIST OF WITNESSES**

CW-1 --- Sathish Kumar

**LIST OF DOCUMENTS FILED BY THE COMPLAINANTS**

Ex.Nos	Date	Documents Name
Ex.A1	---	Project registration details
Ex.A2	---	Payment receipts
Ex.A3	25.01.2022	Cancellation request form

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Ex.A4	27.01.2022	E-mail
Ex.A5	---	Whatsapp messages

**LIST OF DOCUMENTS FILED BY THE RESPONDENT**

**NIL**

Sd/- 28.11.2023  
SUNIL KUMAR, I.P.S (Retd)  
SINGLE MEMBER  
TNRERA, CHENNAI

