

**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. 216 of 2022**

S.Sundararajan

..... **Complainant**

Vs.

T.Srinivasan

ABS Dream Land

..... **Respondent**

Complainant : Mr. S.Sundararajan (PIP)

Respondent : Exparte

Heard on : 11/07/2023

Delivered on : 11/07/2023

ORDER

The above complaint by the complainant seeking refund of amount paid to the respondent towards purchase of a plot 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 complainant, in brief, as follows:

(a) The complainant avers that he had booked a plot in the respondent's project and was allotted plot no. 12 in BVR Nagar I. The complainant avers that the respondent erstwhile currently known as ABS DREAM LAND was earlier known as ABS ESTATES. The complainant avers that he had made a payment of Rs.15,00,000/- in 3 installments as Rs.1,00,000/- on 15/02/2019, Rs.6,00,000/- on 28/02/2019 and Rs.8,00,000/- on 11/03/2019. The complainant avers that the respondent had wanted the remaining amount to be paid by cash at the time of registration. The registration could not take place on the mutually agreed date on 29/03/2019. The complainant avers that

the respondent kept dodging and avoided registration thereafter. The complainant avers that the respondent had subsequently informed that he had now sold the plot allotted to the complainant to another buyer. The complainant prays for refund of Rs.15,00,000/- paid by him with interest.

3. In spite of service of notice, the respondent remained absent all through the proceedings despite opportunities given to him.

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

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

(i) Is the complainant entitled to refund of the money paid by him for non delivery after payment of consideration to the respondent who had allotted it to another buyer?

(ii) What are the reliefs made out?

6. Answer to Point No. (i)

(a) The complainant entered into the respondent's project BVR Nagar I. The total cost of the project communicated to the complainant was Rs.30,90,000/- (EX-A2). The respondent has received Rs.15,00,000/- from the complainant as follows:-

S.No.	Date	Amount	Ex.No.
1	15/02/2019	Rs.1,00,000/-	Ex.A3
2	28/02/2019	Rs.6,00,000/-	Ex.A4
3	11/03/2019	Rs.8,00,000/-	Ex.A5

The complainant has submitted that the respondent wanted the remaining payment to be made in cash to which the complainant agreed

and this payment was to be made at the time of registration of the plot. The agreed date for completing the registration process was mutually decided on 29/03/2019. However, the respondent failed to keep up this commitment on medical grounds and thereafter kept postponing on one ground or the other.

(b) The complainant submits that he was informed by the respondent that the said plot no. 12 in the BVR Nagar I had been allotted to someone else. Hence, the respondent has failed to deliver the plot to the allottee the complainant. Since the said plot has already been allotted to someone else, there is no possibility of the complainant getting the allotted plot. Hence as per the provision section 18, the respondent has failed to give possession of the allotted plot and this obligation of the respondent cannot be completed now, as it has already been allotted to somebody else. This makes the complainant entitled to refund of the money paid by him with interest and thus the first point is answered accordingly.

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

(a) Therefore, the complainant is entitled for refund amount of Rs. 15,00,000/- from the respondent with interest.

(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 8.35% 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., 10.35% p.a for the entire amount paid from the date of respective payment till repayment by the respondent.

8. In the result, the respondents are directed as follows:-

- The respondent shall pay the entire 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.

Sd/- 11/07/2023
SUNIL KUMAR, I.P.S (Retd.)
SINGLE MEMBER,
TNRERA, CHENNAI.

LIST OF WITNESSES

CW-1 --- Mr. S.Sundararajan

LIST OF DOCUMENTS FILED BY THE COMPLAINANT

Ex.Nos	Date	Documents Name
Ex.A1	---	Layout Drawing
Ex.A2	15/02/2019	Quotation Slip
Ex.A3	15/02/2019	Receipt for Rs.1,00,000/-
Ex.A4	28/02/2019	Receipt for Rs.6,00,000/-
Ex.A5	11/03/2019	Receipt for Rs.8,00,000/-
Ex.A6	15/02/2019	Visiting Card
Ex.A7	17/10/2022	Registered Letter
Ex.A8	20/10/2022	Proof of Delivery

LIST OF DOCUMENTS FILED BY THE RESPONDENT-NIL

Sd/- 11/07/2023
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI

