

**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. 60 of 2022**

**Mr.G.Swaminathan**

..... **Complainant**

**Vs.**

- 1) **M/s. Simpcon Developers  
Rep by its Proprietor,**
- 2) **Mrs. Parvathy,**
- 3) **Mr. Guruvan Ayyavoo,**
- 4) **M/s. Karan Constructions  
Rep by its authorized signatory**

..... **Respondents**

**Complainant : Rep. by Mr. P.Ganesh Kumar., Advocate**

**Respondents : Ex-parte**

**Heard on : 17/10/2023**

**Delivered on : 18/10/2023**

**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 had booked a flat in the respondents project located at Indira Colony, K.K.Nagar, Chennai. There are 4 respondents cited in this RCP. The agreed consideration for the flat measuring 1470 sq.ft. was Rs.1,60,00,000/-. The complainant has paid a sum of Rs.1,40,41,000/-.

(b) The complainant avers that despite all his efforts the Sale and the Construction agreements had not been executed between the parties.

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(c) The complainant avers that the project has not been registered with the TNRERA nor were the respondents complying with the provisions of the *Real Estate (Regulation and Development) Act, 2016*. The complainant finally submits the following details for the project.

- 1) The total area of the proposed land is 2820 Sq.ft.,
- 2) There are 6 dwelling units.
- 3) The advance amount collected was more than 90%.
- 4) Release of advertisements and effecting sale before RERA registration.

The respondent despite notice being served on them remained absent and were treated as *exparte*.

### ORDERS

The section 3 of the *Real Estate (Regulation and Development) Act, 2016* lays as follows: -

***Section 3. Prior registration of real estate project with Real Estate Regulatory Authority. — (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act: .....***

***..... (2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required—***

***(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:***

***Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;***

***(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;***

As also as per the judgment of the Hon'ble High Court of Madras

**Ref: Honourable High Court Order of Madras C.M.S.A.No. 23 & 24 of 2020 and CMP (MD) Nos. 9226 & 9236 of 2020 and 5221, 5219, 9499 & 21214 of 2022 dated 20/09/2023.**

The complainant by his own submission admits that the project extent is 2820 Sq.ft. and consists of 6 dwelling units. This allows the project to be covered under exception of section 3 of the *Real Estate (Regulation and Development) Act, 2016* as: -

- 1) It is less than 500 Sq.mts. being 2820 sq. feet only.
- 2) It is less than 8 dwelling units being 6 dwelling units only.

In view of the above, the complainant is dismissed as not maintainable.

The complainant has the liberty to approach the appropriate forum for relief.

Sd/- 18/10/2023  
SUNIL KUMAR, I.P.S (Retd)  
SINGLE MEMBER  
TNRERA, CHENNAI

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**LIST OF WITNESSES**

CW-1 --- Mr.G.Swaminathan

**LIST OF DOCUMENTS FILED BY THE COMPLAINANT**

Ex.Nos	Date	Documents Name
Ex.A1	01/10/2020	Memorandum of Understanding
Ex.A2	21/11/2020	Sale and Construction Agreement
Ex.A3	---	Receipts of acknowledgment

**LIST OF DOCUMENTS FILED BY THE RESPONDENTS-NIL**

Sd/- 18/10/2023  
SUNIL KUMAR, I.P.S (Retd)  
SINGLE MEMBER  
TNRERA, CHENNAI

