

**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. 94 of 2022**

G. Sridhar

..... Complainant

**Vs.**

M/s. Puravankara Limited.,  
Rep by its Mangaing Director,  
Ashish Puravankara

..... Respondent

**Complainant** : Rep by M/s. Vikram Ramakrishnan, Advocates.

**Respondent** : Ex-Parte

**Heard on** : 25.11.2022

**Delivered on** : 27.12.2022

**ORDER**

The above complaint by the complainant seeking refund with interest from the respondent towards purchase of the apartments 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 an apartment in the respondent's project by name, "**Purva Somerset**". He paid a booking advance of Rs.5,00,000/- on 31.03.2021. The total cost of the apartment was agreed at Rs.1,81,51,600/-.

The schedule of payment lay down as follows;

(i) Booking amount ..... Rs.5,00,000/-

(ii) 10% of the sale consideration not later

than 15 days from the date of issue of allotment letter

.... Rs. 18,15,160/-

(iii) On execution and registration of the agreement for

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Sale (not later than 21 days from the date of agreement)

... Rs.18,15,160/-

(b) The complainant submits that after making the initial payment of Rs.5,00,000/- on 31.03.2021 he could not make the 2<sup>nd</sup> and 3<sup>rd</sup> payments on time due to the lock down that was announced by the Government of Tamil Nadu on 26.04.2021. The complainant submits that he was willing to make upfront payment of Rs.1.50 Crores even earlier by selling his property but due to lockdown he could not complete the sale of the property. The Respondent gave a notice to the complainant vide his email dated 03.06.2021 to make the balance amount. The complainant sent a mail to the Respondent on 22.06.2021 and 01.07.2021 about his readiness to make a payment of Rs.10,00,000/- as an additional payment to which he did not get any reply from the Respondent.

(c) The complainant sent a mail dated 05.07.2021 to the Respondent about his inability to sell his property and requested time till 15.08.2021 for the payment of total sale consideration. However, the Respondent vide his email dated 03.08.2021 informed the complainant to collect a cheque of Rs.4,00,000/- after deducting a sum of Rs.1,00,000/- as cancellation charges. The complainant further avers that he replied back to the Respondent on 09.08.2021 about his readiness to pay Rs.13,00,000/- or alternatively to get refund the full amount of Rs.5,00,000/- without any cancellation charges. This is when the Respondent in his social media advertisement about the project had offered a 100% refundable booking. The Respondent has till date not refunded the full amount and is still holding back a sum of Rs.1,00,000/-. The complainant seeks refund of Rs.1,00,000/- with interest.

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

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

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

- (i) Is the complainant in his right to seek the refund of Rs.1,00,000/- held by the respondent as cancellation charges?
- (ii) What are the reliefs made out?

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

(a) The complainant had proposed to buy an apartment in the project of the Respondent by name, "**Purva Somerset**" vide booking form (Ex.A1) and paid a sum of Rs.5,00,000/- as booking advance. The complainant was to make a subsequent payment of 10% of sale consideration payable no later than 15 days from the date of issue of allotment letter amounting to Rs.18,15,160/-. Subsequently, the complainant was required to pay a sum of Rs.18,15,160/- on execution and registration of the agreement for sale. This was as per the booking form.

(b) The complainant has accordingly paid a sum of Rs.5,00,000/- as a booking amount on 31.03.2021. The complainant was not able to pay 2<sup>nd</sup> and 3<sup>rd</sup> instalments allegedly due to the lock down for which the Respondent gave one notice vide email dated 03.06.2021 (Ex. A3). The Respondent once again gave a notice to the complainant intimating him about cancelling the allotment and refund of Rs. 4,00,000/- thereby keeping Rs.1,00,000/-.

(c) The Respondent referred to the booking application for this deduction of Rs.1,00,000/- as cancellation charges, which reads as following in the Ex. A4 of this amount Rs.1,00,000/- will be forfeited as per the terms of booking

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application and the remaining amount net off taxes will be processed as the terms of the booking applications. The complainant thereafter continue to make offers but he was neither allowed to continue in the project nor was Rs.1,00,000/- refunded.

(d) Perusal of the advertisement of the project (Ex. A9) clearly shows a mention of 100% refundable booking amount. This is being so, the Respondent has no right to hold back the Rs.1,00,000/- as cancellation charges. Hence, the Respondent has to refund Rs.1,00,000/- with interest. Thus, the point is answered accordingly.

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

(a) Therefore, the complainant is entitled for refund amount of Rs.1,00,000/- 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 complainant is 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. Thus, the point is answered accordingly

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

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.

Sd/- 27.12.2022  
SUNIL KUMAR, I.P.S (Retd)  
SINGLE MEMBER

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**LIST OF WITNESSES**

CW-1 --- G. Sridhar

**LIST OF DOCUMENTS FILED BY THE COMPLAINANT**

Ex.Nos	Date	Documents Name
Ex.A1	31.03.2021	Booking form
Ex.A2	14.03.2021	E-mail by the respondent to complainant
Ex.A3	03.06.2021	Respondent sent an e-mail to complainant
Ex.A4	03.06.2021	First notice
Ex.A5	---	E-mail communication
Ex.A6	05.07.2021	E-mail communication
Ex.A7	03.08.2021	E-mail communication
Ex.A8	09.08.2021	E-mail communication
Ex.A9	---	Advertisement by respondent

**LIST OF DOCUMENTS FILED BY THE RESPONDENT****NIL**

Sd/- 27.12.2022  
SUNIL KUMAR, I.P.S (Retd)  
SINGLE MEMBER  
TNRERA, CHENNAI