

**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. 129 of 2023

S. Selvi Complainant

Vs.

M/s. Sulaiman Real Estates.,
Rep by its proprietor, A. Feroz Khan Respondent

Complainant : Rep by M/s. S. Rajakumar, Advocates.

Respondent : Ex-Parte

Heard on : 09.11.2023
Delivered on : 15.11.2023

ORDER

The above complaint by the complainant seeking refund of amount paid to the respondent towards purchase of the 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 learned counsel for the complainant avers that the respondent had developed a layout project by name, "**New Crescent Nagar**", at Cheyyar, Tiruvannamalai District. The complainant avers that she was allotted a plot measuring 1200 sq.ft for a total consideration of Rs.40,000/- requiring payment to be made on monthly basis. The complainant avers that he had joined the project on 20.08.2014 and made periodical payments without fail.

(b) The complainant was allotted a Plot No. L-116 in the respondent's project and an agreement of sale was entered on 21.08.2014. The complainant avers that on 03.03.2021, the complainant had approached

TRUE COPY

the respondent to execute and register the sale deed in favor of her, however, further an additional amount of Rs.10,000/- was raised by the respondent in addition to the agreed amount of Rs.40,000. The complainant was compelled and even paid the said amount of Rs.10,000/- as demanded by the respondent making the total payment to be Rs.50,000/-.

(c) However, the respondent kept postponing the registration of the plot. On repeated persuasion, the respondent finally agreed to execute the sale deed but limited it to 3 cents and demanded a sum of Rs.2,50,000/- if the complainant was interested in the purchase of the same plot which had been allotted to her earlier. Repeated persuasion by the complainant did not yield any results. The complainant thereafter, dispatched a legal notice on 14.07.2022 to the respondent requiring registration of the sale deed for the plot allotted in Plot No. L-116 in the respondent's project. However, even the legal notice remained unattended.

(d) Aggrieved, the complainant prays for refund of Rs.50,000/- with interest in the event of registration not happening.

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

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 entitled to the refund of the money as claimed by her with interest due to non delivery of the plot agreed to be allotted to her?

(ii) What are the reliefs made out?

TRUE COPY

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

(a) The complainant had joined the respondent's project by name, "**New Crescent Nagar**" and had entered into the agreement of sale on 21.08.2014 on a scheme where monthly payment was required to be done to make the total payment to Rs.40,000/- which was the agreed price for the plot allotted to the complainant. The complainant was allotted Plot No. L-116 to an extent of 1200 sq.ft as per the sale agreement (Ex.A1). The agreed consideration to be paid as monthly installments aggregated to the sum of Rs.40,000/- which was the consideration for the plot allotted to her as laid down in Clause 2 of the sale agreement.

(b) The complainant had made the required payment, however, as demanded by the respondent even an additional payment of Rs.10,000/- was also made, making the total payment to Rs.50,000/- (Ex.A2 and Ex.A3). The project was initiated in the year 2014 as shown by the existing evidence, at which time, the complainant entered into the project and was allotted Plot No. L-116 on 21.08.2014, however, the payment portion was completed only by 03.03.2021 and it was on this date that the complainant became eligible for the registration.

(c) This would make the project as an ongoing project which was not registered with the TNRERA, hence the project would firstly require registration to be done under the provisions of Section 3 of the RERA Act. This would thus establish the jurisdiction of the Authority and would make the complaint maintainable. Having established the maintainability it is seen that the respondent has failed to hand over the layout even after payment of the entire consideration and even Rs.10,000/- more than the agreed amount. Since, the complainant has decided to withdraw from the project due to non delivery of the plot, she would be eligible to the refund of the money paid by her under Section 18 of the RERA Act. The

TRUE COPY

complainant is hence entitled to the refund of Rs.50,000/- paid by her 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.50,000/- 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 complainant is entitled for interest at the rate of 8.75% per annum marginal cost of lending rate of interest of SBI at the time of filing the complainant +2% per annum i.e 10.75% per annum for the entire amount paid from the date of respective payment till repayment by the respondent.

(c) The complainant is entitled for the reliefs as detailed above. Thus, the point is answered accordingly.

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 charge of the aforesaid amount as encumbrance shall be on the flat booked by the complainant 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.
- (iii) On repayment of the claim as per the order, the complainant shall execute the cancellation of the sale agreement, at the expense of the respondent.

TRUE COPY

- (iv) The respondent is directed to register the project as per Section 3 of the RERA Act and should submit the same for registration with the TNRERA within 30 days of issue of this order.
- (v) A penalty of Rs.50,000/- is imposed under Section 59 of the RERA Act on the respondent for the violation of Section 3 of the RERA Act payable within 30 days of issue of this order.

Sd/- 15.11.2023
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER

LIST OF WITNESSES

CW-1 --- S. Selvi

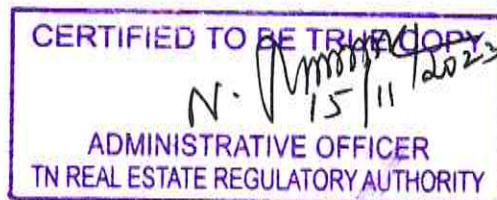
LIST OF DOCUMENTS FILED BY THE COMPLAINANT

Ex.Nos	Date	Documents Name
Ex.A1	21.08.2014	Agreement for sale
Ex.A2	---	Periodical payments
Ex.A3	---	Periodical payments
Ex.A4	---	Periodical payments
Ex.A5	14.07.2022	Legal notice
Ex.A6	27.07.2022	Postal acknowledgment
Ex.A7	28.07.2022	Unclaimed legal notice

LIST OF DOCUMENTS FILED BY THE RESPONDENT

NIL

Sd/- 15.11.2023
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI



**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. 129 of 2023

19th December, 2023

S. Selvi

..... Complainant

Vs.

M/s. Sulaiman Real Estates.,

Rep by its proprietor, A. Feroz Khan

.... Respondent

Complainant : Rep. by M/s. S. Rajakumar, Advocates.

Respondent : Ex-Parte

AMENDMENT

In view of the memo filed by the complainant in RCP No. 129 of 2023 dated 12.12.2023, the following in the result paragraph at Page 4, shall be read as follows:-

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

- (ii) The charge of the aforesaid amount as encumbrance shall be on the **plot** booked by the complainant 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".

Instead of

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

- (ii) The charge of the aforesaid amount as encumbrance shall be on the **flat** booked by the complainant 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".

Other part of the order shall remain intact.



Sd/- 19.12.2023
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI