

**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. 18 of 2023**

A.R.Ramaswamy **Complainant**

Vs.

**Dr.P.Manivel,
Proprietor,
M/s. Motherland Real Estate** **Respondent**

Complainant : A.R. Ramaswamy (PIP)

Respondent : Ex-parte

Heard on : 07/09/2023

Delivered on : 08/09/2023

ORDER

The above complaint by the complainants 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 appeared in person. The complainant avers that the respondent developed a layout by name Annai Meenatchi Nagar at Usilampatti, Madurai District. The complainant submits that in order to purchase a plot in the said project he was asked to join a Chit Fund scheme, wherein he was required to pay a sum of Rs.1,500/- as the 1st installment and thereafter Rs.1,000/- every month for 59 months making the total installments to 60 in all. Thereafter, the respondent has assured the complainant that the sale deed due to executed for a residential plot measuring 1200 sq.ft. in the project being developed by the respondent.

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(b) The complainant avers that he had joined 2 schemes for purchasing two residential plots for which he was given 2 chit books. The complainant avers that he had paid the required 60 installments wherein the last installment was paid in February, 2020 making the total payment of Rs.1,20,000/- for 2 residential plots. Despite having received the agreed consideration, the respondent failed to execute the sale deed. The complainant, thereafter, sought refund of the money paid by him to the respondent vide his letter dated 07/07/2022 with interest. The respondent failed to react to the complainant's letters letter, including the 2 remainders dated 16/07/2022 and 20/07/2022. Aggrieved, the complainant seeks refund of the money paid by him with interest and as also litigation charges.

3. In spite of service of notice, the respondent remained absent all through the proceedings despite opportunities given to him and was treated as Ex-parte.

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 there a promoter allottee relationship made out between the complainant and the respondent?

(ii) Is the complainant eligible to the refund of the money paid to the respondent with interest as sought by him?

(iii) What are the reliefs made out?

6. Answer to Point No. (i)

(a) The complainant has admitted that he had joined the respondent Chit Fund with the condition of paying of Rs.1,500/- as the 1st installment and subsequently 59 installments for Rs.1,000/- and thereafter on completing a

deposit of 60 months, the respondent had assured to allot a residential plot to an extent of 1,200 sq.ft. (Ex A1). The complainant had joined the scheme for two such residential plots of 1200 sq.ft. each making the total for the two plots to be 24,000 sq feet. The complainant has made the required payments to the tune of Rs 1,20,000/- (Ex A3) paying the last installment in February 2020. It needs to be first determined whether the respondent would fall in the category of a promoter within the definition of Section 2(zn) of the RERA Act: -

Section 2(zn):-

“(zn) “real estate project” means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;

(b) The complainant had offered to develop a Real Estate Project by name Annai Meenatchi for a consideration of Rs.60,000/- paid in 60 installments. The respondent had undertaken to develop land into plots and would thus be a promoter within the definition of section 2(zn). The complainant had entered into the scheme for two residential plots and had accordingly paid a sum of Rs.1,20,000/- for the two schemes.

(c) The complainant would fall in the category of an allottee within the definition of section 2(d)

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Section 2(d):-

(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

The complainant paid a consideration of Rs.60,000/- each for allotment of 2 residential plots in the respondent's project being developed by him. Thus, the promoter-allottee relationship is clearly established between the 2 parties, thus the first point is answered.

7. Answer to Point No. (i)

The respondent is the proprietor of M/s. Motherland Real Estate having office at Trichirappalli and branch of various places at Madurai, Pudukottai, Chennai and the Coimbatore. The respondent was developing a residential plot layout by name Annai Meenakshi Nagar at Usilampatti (EX-A1). The complainant has joined the project and as stipulated has paid a sum of Rs.1,20,000/- for the 2 residential plots for which he had entered the project (EX-A2&3). The respondent has failed to offer the residential plot as promised to the complainant even after the receipt of the entire consideration and has thus violated section 18 of the RERA Act making out a case for the refund of Rs.1,20,000/- with interest as claimed by the complainant and thus the second point is answered.

8. Answer for the Point No.(iii):-

(a) Therefore, the complainant is entitled for the refund amount of Rs.1,20,000/- 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 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 respondents. Thus, the point is answered accordingly.

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

- (i) The respondent shall pay the entire amount at the interest rate and cost as per findings in answer for point no. (ii) in para 8 of this order within 30 days of the issue of this order.

Sd/- 08/09/2023
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI

LIST OF WITNESSES

CW-1 --- A.R. Ramaswamy

LIST OF DOCUMENTS FILED BY THE COMPLAINANT

Ex.Nos	Date	Documents Name
Ex.A1	---	Pass Book
Ex.A2	---	Receipts
Ex.A3	---	Statement
Ex.A4	07/07/2022	Letter

Ex.A5	16/07/2022	Mail
Ex.A6	20/07/2022	Mail

LIST OF DOCUMENTS FILED BY THE RESPONDENT-NIL

Sd/- 08/09/2023
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI

