

**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. 36 of 2023**

Mr. Denny Joy **Complainant**

Vs.

M/s. Sare Shelters Projects Private Limited **Respondent**

Complainant : Rep by M/s. Vigneshwar Elango, Advocates

Respondent : Ex-parte

Heard on : 09/08/2023

Delivered on : 11/08/2023

ORDER

The complaint filed by the complainants seeks a refund of the amount paid to the respondent for the purchase of a plot, along with interest and costs, under Section 31 of the Real Estate (Regulation and Development) Act, 2016 hereinafter referred to as the RERA Act.

2. Brief Averments of the Complainant:-

(a) The complainant states that they registered flat no. M-5403 in the respondent's project named "Crescent ParC Dewy Terraces" for a sale consideration of Rs. 29,25,727/-. The complainant paid Rs. 8,28,508/- in three instalments from 29/02/2012 to 28/03/2012. A sale and construction agreement was executed on 26/04/2012, with an assurance from the respondent to hand over the completed unit within 24 months from the date of obtaining building plan approval, along with a 3-month grace period. The complainant states that plan approval was obtained on 11/06/2012. The

undivided share was registered on 22/05/2015. The respondent, in a letter dated 28/11/2014, claimed completion of construction to help the complainant secure the bank loan of Rs. 20,00,000/- sanctioned to the complainant.

(b) Despite a significant portion of the payment being made to the respondent, the complainant avers that the unit was not handed over within the stipulated time as per the agreement, which should have been by 11/06/2014, with a grace period ending by 11/09/2014. The complainant claims that the project remains incomplete and despite repeated efforts, there has been no progress. The complainant also submits of their previous attempt to seek redress through the National Company Law Tribunal, which became infructuous due to a Supreme Court decision. The aggrieved complainants seeks refund of the money paid by him with interest, compensation and litigation cost.

3. The respondent remained absent, and as a result, was treated as Ex-parte.

4. The complainant submitted proof affidavits along with documents as evidence to support his claim.

5. Points for Determination:

- (i) Is the complainant entitled to a refund of the money paid, along with interest, due to the delay in handing over the unit by the respondent?
- (ii) What reliefs are warranted in this case?

6. Answer to Point No. (i)

(a) The complainant paid Rs. 8,28,508/- in three instalments, and this payment is acknowledged by the respondent (Ex-A1). The sale and construction agreement was executed on 26/04/2012 (Ex-A2) which stipulated a completion time of 24 months from building plan approval, with a 3-month grace period. The building plan approval date was 11/06/2012, implying a handing over date of 11/09/2014. The total consideration amounts to Rs. 28,28,508/-.

(b) Despite the respondent's claim of completion, the complainant disputes this, and the total payment made by the complainant amounts to Rs. 29,25,727/-. As the unit was not handed over by the due date, Section 18(1) of the RERA Act comes into play, requiring the respondent to refund the full amount with interest. Therefore, the complainant is entitled to a refund of Rs. 29,25,727/- along with interest.

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

(a) The complainant is entitled to a refund of Rs. 29,25,727/- from the respondent, along with interest.

(b) As per Rule 18 of the TNRERA Rules, the applicable interest rate is the current highest marginal cost of lending rate of State Bank of India (SBI) plus 2% per annum. The complainant is entitled to an interest rate of 9.30% per annum from the date of respective payment until repayment by the respondent.

(c) Considering the circumstances, the complainant is awarded Rs. 25,000/- towards litigation expenses.

8. The Respondent's Obligations:-

- (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 7 of this order within 30 days of the issue of this order.
- (ii) The charged amount, if any, shall be on the booked flat until repayment is made, and the encumbrance shall be intimated to the Sub-Registrar.
- (iii) Upon repayment, the complainants are to execute the cancellation of the construction and sale agreements at the respondent's expenses.
- (iv) The complainants are at liberty to move the Adjudicating Officer for claiming the compensation portion of the complainants.

Sd/- 11/08/2023
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI

LIST OF WITNESSES

CW-1 --- Denny Joy

LIST OF DOCUMENTS FILED BY THE COMPLAINANT

Ex.Nos	Date	Documents Name
Ex.A1	26/03/2012	Payment Receipts
Ex.A2	26/04/2012	Agreement for Sale and Construction
Ex.A3	28/11/2014	Letter
Ex.A4	22/05/2015	Sale Deed

Ex.A5	09/03/2015	Customer Account Statement
Ex.A6	---	Account Statement
Ex.A7	24/12/2012	Loan Sanction Letter
Ex.A8	---	Photos

LIST OF DOCUMENTS FILED BY THE RESPONDENT-NIL

Sd/- 11/08/2023
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI



