

**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. 89 of 2023

Soundarajan

... Complainant

Vs.

M/s. Sheltrex Developeres Pvt Ltd.,
Rep. by its Managing Director

.... Respondent

Complainant : Rep by M/s. J. Pachiyappan, Advocates.

Respondent : Ex-Parte

Heard on : 22.12.2023

Delivered on : 10.05.2024

ORDER

The above complaint by the complainant seeking refund of amount paid to the respondent towards purchase of the flat 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 submits that he entered into the respondent's project and booked a Flat No. 104, A6, B Enclave, *Sheltrex-Maraimalai project* in April 2013. The complainant avers that due to various issues cited by the respondent the project site was changed to Oragadam. The complainant was allotted a Flat No. 104 on 1st Floor in A1 Building Complex of Phase I in "*Sheltrex City*".

(b) The complainant has paid a total sum of Rs.15,52,401/- to the respondent. The complainant avers that the respondent had sent a construction agreement draft at Sl. 6 (a) wherein the handing over was

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stipulated as 18 months with a grace period of 6 months. The agreement also contained a Clause that in the event of failure to handover on the agreed date, the respondent had to pay Rs.5/- per Sq.ft per month for the area allotted to the complainant.

(c) The complainant avers that he had paid the entire payment to the respondent. However, neither the flat has been handed over to him nor has he been informed about the date of handing over even after more than 7 years. The complainant avers that he had even requested the respondent to cancel the flat allotment and refund the money paid by him.

(d) The respondent prefers to maintain silence on the issue and did not favor the complainant with any reply. The complainant therefore prays for refund of Rs.15,52,401/- paid by him with interest along with litigation costs.

3. In spite of service of notice, the respondent remained absent and hence he was 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 amount paid by him to the respondent due to delay in handing over in contravention to the agreed date of delivery?

(ii) What are the reliefs made out?

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

(a) The complainant was allotted a Flat No. 104, A6, B Enclave, *Sheltrex-Maraimalai project* on 30.04.2013 (Ex.A2). The allotment letter contains

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the receipt of payment of Rs.3,29,821/- and projects the delivery to December 2015. The total cost of the flat has been enumerated in the allotment letter as Rs.17,65,578/-. The respondent had informed the complainant with regard to obtain the DTCP approvals vide E-mail dated 05.10.2015 (Ex.A3). The respondent shifted the project site to oragadam and allotted a Flat No. Enclave – A- A1 – 104 (Ex.A4).

(b) The complainant has made a total payment of Rs.15,52,401/- to the respondent. There is no construction agreement executed between the two parties. However, draft construction agreement had been dispatched to the complainant by the respondent (Ex.A7) which have not been signed by the respondent. The said unsigned construction agreement vide Clause 6 (a) stipulated the completion and handing over within 18 months with a grace period of 6 months from the date of the agreement.

(c) The revised allotment letter as submitted by the complainant dated 19.10.2015 (Ex.A4) stipulates the handing over within 18 months with a grace period of 6 months, which projects the final delivery to 31.12.2017. The complainant avers that due to continued delay in handing over of the project he had requested the respondent to cancel the booking since the respondent has failed to hand over the complainant's flat even after such a long delay. The complainant is therefore entitled to the refund of the amount of Rs.15,52,401/- paid by him with interest from the respondent. Thus, the first point is so determined.

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

(a) Therefore, the complainant is entitled for refund amount of Rs.15,52,401/- from the respondent with interest.

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(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 7.80% per annum marginal cost of lending rate of interest of SBI at the time of filing the complainant +2% per annum i.e 9.80% per annum for the entire amount paid from the date of respective payment till repayment by the respondent.

(c) Considering the facts and circumstances of the case, a sum of Rs.25,000/- towards litigation expenses is fixed. The complainant is entitled for the reliefs as detailed above. Thus, the second point is so determined.

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/- 10.05.2024
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER

LIST OF WITNESSES

CW-1 --- Soundarajan

LIST OF DOCUMENTS FILED BY THE COMPLAINANT

Ex.Nos	Date	Documents Name
Ex.A1	22.04.2013	1 st booking letter
Ex.A2	30.04.2013	Allotment letter
Ex.A3	05.10.2015	Intimation of oragadam project
Ex.A4	19.10.2015	2 nd booking oragadam flat
Ex.A5	20.10.2015	Payment receipts

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Ex.A6	---	Canara Bank statement
Ex.A7	---	Draft construction agreement

LIST OF DOCUMENTS FILED BY THE RESPONDENT

NIL

Sd/- 10.05.2024
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI

