

**BEFORE THE  
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,  
CHENNAI**

**Present : Mr. Sunil Kumar, I.P.S (Retd), M.A, LLB, Hon'ble Single Member  
RCP No. 169 of 2023**

V. Saravanan

..... Complainant

**Vs.**

M/s. Spring Field Shelters (P) Ltd.,  
Rep. by its Directors

..... Respondent

**Complainant** : Rep by M/s. JP. Karunakaran, Advocates

**Respondent** : Ex-parte

**Heard on : 23.04.2024**

**Delivered on : 05.06.2024**

**ORDER**

The above complaint by the complainant seeking refund with interest from the respondent towards purchase of the villas 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 complainant based on an advertisement issued by the respondent, which is a private limited company under the Indian Companies Act, 1956 by name of *Spring Field Shelters (P) Ltd*, decided to buy two villas. The complainant avers that he made an advance payment of Rs.1,00,000/- on 29.04.2016 where after he was allotted Villa Nos. 10 and 11 which were both at a total consideration of Rs.1,01,12,336/-.

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(b) The complainant avers that the allotment letter issued to him clearly laid down the requirement of him making a payment of 20% of the total agreed amount as a pre-condition to the respondent for executing the sale and the construction agreement. The allotment letter further stipulated that on receipt of a further sum amounting to 40% of the payment, the UDS was to be registered in the name of the complainant. The complainant avers that he had made it clear to the respondent that he intended to buy the villas only by obtaining bank a loan. The respondent had in turn assured that in case of any legal issues, the money paid by the complainant would be promptly refunded.

(c) The complainant made yet another payment of Rs.9,11,234/- to the respondent. The complainant avers that thereafter the bank from which the complainant had applied for therejected declined the same citing the reason to be as the legal clearance for the project land not meeting the requirements of the bank. The complainant avers that he obtained a similar opinion from his personal lawyer as well. The complainant, vide his e-mail dated 10.08.2016, cancelled the booking and demanded for the refund of Rs.10,11,234/- paid to the respondent.

(d) However, the respondent had promised to return the entire amount within a month's time and the same was communicated to the complainant vide e-mail dated 17.08.2016 from the respondent. The complainant, vide e-mail dated 21.08.2016, demanded refund from the respondent within 3 days as he was moving to Dubai. The respondent informed the complainant that he was taking steps to clear the rejected loan by convincing the bank but did not make any whisper about the refund of the amount paid by the complainant.

(e) The complainant, on 12.09.2016, clearly communicated to the respondent that he was no longer interested in buying the said property as it did not have a clear title. The respondent refunded a sum of Rs.1,00,000/- on 18.10.2016 leaving a balance of Rs.9,11,234/- still to be paid. The complainant avers that

he approached the District Consumer Disputes Redressal Forum, Coimbatore Vide CC No. 231/2017 for refund of the balance sum of Rs.9,11,234/- with interest, compensation and other expenses and that the complaint was returned with liberty to refile the same before the Hon'ble State Commission as the villas booked exceeds the pecuniary jurisdiction of the Forum.

(f) The complainant did not file any complaint thereafter and kept waiting for the refund. Subsequently, the complainant avers that he learnt that the villa Nos. 10 and 11 allotted to him were sold to some third party while still the money due to the complainant remained unpaid by the respondent.

(g) The complainant avers that the project is not registered with the TNRERA despite the same falling within the provisions of Section 3 of the RERA Act being an ongoing project as the completion certificate is yet to be issued by the competent authority on the stipulated date. Aggrieved, the complainant prays for refund of Rs.9,11,234/- with interest as also interest on the money to the tune of Rs.1,00,000/- already refunded by the respondent on 18.10.2016 and also pleads to give direction to the respondent to register the project with RERA as also prays for litigation expenses.

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 payment of Rs.9,11,234/- in the respondent's project with interest?

(ii) What are the reliefs made out?

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

(a) The complainant had booked Villa Nos. 10 and 11, while the booking form dated 28.04.2016 (Ex.A1). The respondent had acknowledged the receipt of Rs.1,00,000/- as booking advance vide letter dated 29.04.2016 (Ex.A2). The complainant has paid a sum of Rs.10,11,234/- in two instalment which has been acknowledged by the respondent as Rs.1,00,000/- on 29.04.2016 (Ex.A3) and Rs.9,11,234/- on 08.05.2016 (Ex.A4 and Ex.A5). The total consideration was agreed at Rs.1,01,12,336/- which was to be paid as per the agreed payment schedule (Ex.A6).

(b) The complainant applied for a housing loan from AXIS Bank limited, however, the said loan was rejected by the bank on the ground that the project did not meet (Ex.A6) the *internal policy norms not met*(Ex.A7). The complainant informed the fact of the rejection of the loan to the respondent vide his e-mail dated 10.08.2016 (Ex.A8). The complainant had in the same e-mail requested the respondent to refund the booking amount of Rs.10,11,234/- paid by him within 3 business days.

(c) The respondent had vide his e-mail dated 17.08.2016 replied to the complainant of their commitment to refund the money in a month time. The complainant kept following up with the respondent for the refund and finally given sent a legal notice dated 29.08.2016 (Ex.A12) wherein, the complainant had mentioned that the respondent's representative had shared within that if there was any legal issues with the property documentation or in case the bank refuses the loan, the money paid by the complainant would be refunded.

(d) The complainant had got the project documents verified and was advised by the legal advisor also not to proceed with the project as there was a legal lacuna and thus he was seeking refund of the money paid by him to the tune of Rs.10,11,234/-. The respondent had however replied back to the complainant that they would follow up with the AXIS Bank after they got clearance from the

said bank regarding the loan through letter dated 10.09.2016 (Ex.A13). The complainant had again replied back with the legal notice dated 12.09.2016 (Ex.A14) wherein, he reiterates his request for repayment of monies paid by him.

(e) The complainant had thereafter moved the District Consumer Disputes Redressal Forum, Coimbatore (Ex.A15). However, vide its Order dated 07.08.2018 (Ex.A16), the same was returned back as it exceeded the pecuniary jurisdiction where after, the complainant has not filed any complaint before any other Forum. It is, thus, clearly made out that in the absence of any counter which would show completion of the project before May 2017. It is determined, that the project was an ongoing project and would thus require to be registered and would thus also fall in the jurisdiction of this Hon'ble Authority. The respondent shall therefore, submit an application for registration of the project forthwith and shall be penalize for the non-registration of the project in compliance to Section 3 of the RERA Act.

(f) The complainant has pointed out to the defective title of the project and has thereby violated Section 12 of the RERA Act, wherein the respondent had accepted an advance from the basis of submission contained in the brochure claiming title of the land which was otherwise not found to be true. Thus, it is determined that the respondent has violated Section 12 of the RERA Act by declaring false title over the project land. The complainant has therefore is entitled to refund of Rs.9,11,234/- with interest and thus the first point is so determined.

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

(a) Therefore, the complainant is entitled for refund of an amount of Rs.9,11,234/- with interest from the respondent.

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(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 8.75% 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., 10.75% p.a 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 relief as detailed above. Thus the second point is so determined.

**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 respondent is directed to register his project and submit the application for the same within 30 days of the issue of this order before the office of the Authority. A penalty of Rs.1,00,000/- is imposed on the respondent for violation of Section 3 of the RERA Act under Section 59 of the RERA Act.

Sd/- 05.06.2024  
SUNIL KUMAR, I.P.S (Retd)  
SINGLE MEMBER  
TNRERA, CHENNAI

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**LIST OF WITNESSES**

CW-1 ---V. Saravanan

**LIST OF DOCUMENTS FILED BY THE COMPLAINANT**

Ex.Nos.	Date	Documents Name
Ex.A1	28.04.2016	Booking form
Ex.A2	29.04.2016	Letter
Ex.A3	29.04.2016	Receipt
Ex.A4	08.05.2016	Letter
Ex.A5	08.05.2016	Receipt
Ex.A6	---	Payment schedule
Ex.A7	05.08.2016	Communication for AXIS Bank
Ex.A8	10.08.2016	E-mail
Ex.A9	16.08.2016	E-mail
Ex.A10	17.08.2016	E-mail
Ex.A11	21.08.2016	E-mail
Ex.A12	29.08.2016	Legal notice
Ex.A13	10.09.2016	Reply by respondent
Ex.A14	12.09.2016	Rejoinder notice
Ex.A15	---	Consumer complaint in CC No. 231/2017
Ex.A16	07.08.2018	Order by District Consumer Disputes Redressal Forum, Coimbatore to return and refile in CC No. 231 of 2017

**LIST OF DOCUMENTS FILED BY THE RESPONDENT**

**NIL**

Copy to:  
The Additional Director,  
(TNRERA)

Sd/- 05.06.2024  
SUNIL KUMAR, I.P.S (Retd)  
SINGLE MEMBER  
TNRERA, CHENNAI

