



**BEFORE THE TAMIL NADU REAL ESTATE
REGULATORY AUTHORITY (TNRERA)
(Tamil Nadu, Andaman & Nicobar Islands)
at Anna Nagar, Chennai – 600 102
[Under the Real Estate (Regulation and Development) Act, 2016]
Bench 2 : Adv. M.Krishnamoorthy, Hon'ble Member
Dr.D.Jagannathan, I.A.S. (Retd.), Hon'ble Member**

**RCP. No. 13 of 2022
25th day of February, 2026**

1. J. Divya dona
2. Jesuraj Santiago ... Complainants

Versus

1. Mr. Dattatray Dhone
Deputy General Manager (DGM)
2. Mr. R. Narayanan
Godrej SSPDL GREEN acres LLP ... Respondents

The above complaint came up for final hearing on 19.09.2025 before this Authority in the presence of M/s S. Sathia Chandran – Counsel for Complainants, M/s G. Vivekanand - Counsel for Respondents. After perusing the complaint, counter affidavit, documents submitted by both the parties and the arguments put forth on behalf of the Complainants and Respondents, this Authority passes the following order:-

ORDER

The above complaint is filed by the Complainants seeking refund of amount along with interest under *section 31 of the Real Estate (Regulation and Development) Act, 2016*, hereinafter referred to as RERA Act.

1. Averments of the Complainants, in brief, as follows:

- a) The Complainants aver that, in the year 2015, on going through an advertisement that appeared in the English dailies published by the Respondents for sale of flats in the names and style of "Godrej Azure-Twr 2- Emerald" in Padur Village, Thiruporur Taluk, Kancheepuram District and lured by the same, the 2nd Complainant contacted the 2nd Respondent office to purchase a flat. Thereafter a person from the Respondent's company met the 2nd Complainant and canvassed and issued him a brochure.
- b) The Complainants further aver that, on 31.07.2015, the 2nd Complainant paid a sum Rs.1,00,000/- as booking advance. Subsequently, the Complainants have paid a sum of Rs. 82,74,707/- on various dates to the Respondents. Thus, a total sum of Rs.83,74,707/- was paid by the Complainants to the Respondents.
- c) The Complainants further submitted that, the Respondents registered a Sale Agreement and Construction Agreement in favour of the Complainants only on 22.06.2019. Thereafter, on 21.01.2020, the Complainants paid the remaining consideration to the tune of Rs.2,90,655/- to the Respondents. Thereafter, in the month of June 2020, the Complainants took possession of the Flat. Furthermore, on 23.07.2020, the Respondents registered a Sale Deed in the favour of

the Complainants and the same was registered as Document No.839 of 2020 in Book I before the Sub-Registrar, Thiruporur.

- d) The Complainants state that, after taking possession of the flat, the Complainants faced many difficulties and were totally unsatisfied with the quality of construction. The building was in very badly damaged condition with cracks on the ceiling, walls etc and during the rains, water seepages appeared in the walls and ceilings and also through windows and balcony. The Complainants further submitted that, the building is a 18-storey building, the builder has not provided the safety grills on the windows and the balconies.
- e) Furthermore, the Complainants aver that the Respondents had collected a sum of Rs. 1,60,000/- towards a promised club house. However, they have not even started the construction of the club house, till date. The Complainants contended that, a sum of Rs.30,000/- was separately collected from the Complainants towards payment of a piped gas installation. However, it has not been provided till date. Though, the Respondents collected a sum of Rs. 1,50,000/- towards TNEB charges, the Respondents have not installed a separate EB meter to the Complainants flat. The Complainants further submit that, the tenant in the Complainants flat also faced the same complaints and the Respondents have failed to take any steps to rectify the same.
- f) The learned counsel for the Complainants filed the rejoinder to the counter affidavit filed by the Respondents stating that, the Respondents have already raised the same question of

maintainability before this Authority in I.A. No. 118 of 2022 and this Authority was pleased to dismiss the same through its Order dated 17.02.2023. Further, the Complainants submitted that, the present case the Complainants have prayed only to rectify the defects / short comings as per the Agreement and Compensation for the mental agony caused to the Complainants. The claim for refund of the entire consideration paid along with Compensation has been made in the above complaint only as an alternative prayer, in case of failure by the Respondents to rectify the defects as per standards of the agreement.

- g) The Complainants further state that, the Respondents have alleged that, the Complainants have failed to comply with the conditions of the construction agreement and defaulted in payment, because of which, the Respondents have sent two Pre – Termination Notices dated 11.05.2017 and 16.08.2018 to the Complainants. The Complainants further aver that, the Respondents cannot take shelter under the ground that, the Complainants have not paid the dues in time and it may be applicable, only when the Complainants sought for a refund for delay in handing over the physical possession of the property and not under the circumstances explained in the current complaint. Furthermore the Complainants aver that, only on few occasions the employees of the Respondents visited the flat and tried to do some patch work and simply make an entry in their job card and get an acknowledgement from our Tenant for their internal use.
- h) The Complainants sought a relief to rectify the short comings as per the agreement or to repay the entire sum of Rs. 83,74,707/- along

with other charges to the tune of Rs. 2,70,655/- paid by the Complainants with current rate of interest from the date of such payment till its realization and to pay a sum of Rs. 25,00,000/- for the mental agony suffered.

2. Counter averments of the Respondents, in brief, as follows:

- a) The learned counsel for the Respondents filed counter affidavit stating that, the Godrej SSPDL Green Acres LLP (Godrej) has developed the Project "Godrej Azure – twr 2 – Emerald". However, Complainants have filed this Complaint against the employees of the Godrej. Hence the 2nd Respondent has filed an application before this Authority in I.A. No. 118 of 2022 for maintainability of this complaint. The Complainants were themselves admitted in the counter in I.A. No.118 of 2022 that, the Respondents were added in these proceedings as not an individual capacity and only as a representative capacity of the Godrej and the same was recorded by this Authority, vide order dated 17.02.2023.
- b) The Respondents further aver that, the Respondents have obtained the DTCP approval, vide its proceedings Na. Ka. 4277/2015/CP dated 15.07.2015, planning permission bearing No. 914/2014 dated 21.09.2015 issued by the Mammallapuram Local Planning Authority, Building license No. 3/02/10/15 and Plan Permit No. 60/15-16 dated 05.10.2015 issued by the Padur Panchayat and Building permit No. 49 dated 23.09.2015 and building permit No. 48 dated 28.10.2015 issued by the Kazhipattur Panchayat for development of residential complex in the Project Lands and the said project was

registered under TNRERA vide Registration No. TN / 01 / Building / 0076 / 2017 dated 23.09.2017. Furthermore, the 2nd Respondent has obtained Completion Certificate dated 26.03.2019 in Letter No. Na. Ka. No. 4614 / 2018 / B1 issued by the Tiruporur Panchayat Union.

- c) The Respondents further submitted that, the Complainants desirous of owning an apartment in the Project, entered into an Agreement of Sale (AGS) dated 22.06.2019, registered as Document No.8376 of 2019 and Agreement for Construction (CA) dated 22.06.2019, registered as Document No.8377 of 2019 with the Respondents herein for construction of an apartment bearing No. 1804 on the 18th floor of the Tower named as Emerald.
- d) The Respondents aver that, the Clause 4(g) of the Construction Agreement, the Complainants have agreed that the possession of the Apartment to the Complainants as committed subject to receipt of the entire consideration as per the Schedule - D (payment schedule) to the Construction Agreement. Further aver that, the Clause 14 of the Agreement of Sale, the Complainants have agreed that the execution and registration of the sale deed of the apartment shall be completed only upon the receipt of the entire consideration to the Respondents.
- e) The Respondents submit that, the Complainants have failed to adhere the payment as per the payment schedule of the above said agreements though the Respondents have issued the termination notice as per the terms of the Agreements. The Complainants have requested to extend the time for payment till registration or handover the possession of the Apartment, vide email dated 16.08.2018. The

Respondents denied the time extension vide email dated 17.08.2018. Hence, the Complainants have made a payment on 27.08.2018 and continued to pay the consideration but not as per the terms of the payment schedule of the Construction Agreement.

- f) The Respondents further submitted that, the Complainants have completed the payment of the consideration in the year 2020 and on receipt of the payment of the entire consideration, the Respondents have registered the Sale Deed in favour of the Complainants, as Document No.839 of 2020, Book-1, dated 23.01.2020, in the office of the Sub Registrar, Thiruporur.
- g) The Respondents stated that, the Apartment was handed over to the Complainants in June, 2020. Subsequently, the Complainants started complaining the water seepage and threatened the Respondents, vide email dated 17.07.2020 and the Respondents have attended the complaint and rectified it. The Respondents further submitted that, the Complainants have vacated the Apartment due to some other reason and rented the Apartment. The Complainants again raised the complaint to the Respondents with regard to water leakage and the Respondents team attended the complaint and rectified the problem. The tenant of the Complainants also satisfied with the Respondents work and confirmed that there is no leakage, which was also intimated to the Complainants, vide emails dated 19.07.2021 and 04.08.2021. Therefore, the Respondents have rectified all the complaints and as of now there are no complaints in the Apartment.
- h) Furthermore the Respondents aver that, the allottees of the Project has formed a registered association in the year 2021 in the name of

“Godrej Azure Residents Welfare Association” vide certificate No. SRG/Chengalpattu/31/2021 dated 09.03.2021. The Respondents have completed the club house as per the terms of the above said agreements and the Respondents have intimated to the association to take over the club house and common amenities and facilities of Phase II, vide email dated 07.07.2023. Further in the counter affidavit the Respondents stated that, the association has yet to take possession of the club house and common amenities and facilities of Phase II.

- i) The Respondents further aver that, the commissioning of the pipe gas system will happen only after 50% of allottees start residing in the project, since several apartments in the project is vacant. The Respondents have installed the separate EB meter to the Complainants and the same was communicated to the Complainants on 17.03.2021. The Respondents further aver that, the safety grills on the windows and the balconies are not part of the specifications agreed by the Complainants and Respondents as per the Construction Agreement.
- j) The learned counsel for the Respondents filed the written arguments stating that, the Complainants cannot be allowed to introduce new pleas in his complaint so as to alter the basis of his complaint. The prayer made by the Complainants in the Complaint clearly establishes that the Complainants have filed the above complaint for refund of the consideration paid for the Apartment and other charges with interest and compensation and on plain reading of the rejoinder, the

Complainants have now replaced the relief sought in the complaint that the complaint is filed for compensation.

3. An attempt to settle the matter amicably has failed.
4. Both the parties have filed their respective evidence on affidavit with documents.
5. On the basis of the contentions of the parties, the following points arise for determination:
 - (i) Whether the Complainants are entitled to the relief sought by them from the Respondents?
 - (ii) What are the other reliefs made out?

6. Answer to Point No. (i)

- a) The Respondents had developed the project by name, "GODREJ Azure- Twr 2-Emerald" at Padur Village, Kanchipuram for which the DTCP approval had been obtained vide its proceedings Na. Ka. 4277/2015/CP dated 15.07.2015, planning permission bearing No. 914/2014 dated 21.09.2015, Building license No. 3/02/10/15 and Plan Permit No. 60/15-16 dated 05.10.2015 issued by the Padur Panchayat and Building permit No. 49 dated 23.09.2015 and Building permit No. 48 dated 28.10.2015 issued by the Kazhipattur Panchayat.
- b) The 2nd Respondent had obtained Completion Certificate dated 26.03.2019 vide Letter Na. Ka. No. 4614 / 2018 / B1 from the DTCP and the said project was registered under TNRERA vide Registration No. TN / 01 / Building / 0076 / 2017 dated 23.09.2017.

- c) The Complainants were desirous of owning an apartment in the Respondents Project and entered into an Agreement of Sale dated 22.06.2019, registered as Document No.8376 of 2019 and in the same day, Agreement of Construction was registered as Document No.8377 of 2019. Furthermore, the Respondents have registered the Sale Deed in favour of the Complainants dated 23.01.2020, registered as Document No.839 of 2020.
- d) The possession of Apartment, bearing flat No.1804 on the 18th floor of the Tower was handed over by the Respondents to the Complainants in the year 2020. Upon taking the possession of the said apartment, the Complainants stated that, they have faced many difficulties and noticed water seepages in the walls and the same was informed to the Respondent to rectify it. Later on, the Complainants have vacated the apartment and let out for rent. The Tenants of the Complainants flat also raised same complaint with regard to the water seepage in the walls of the apartment.
- e) Upon the perusal of documents filed by the Respondents, the job cards dated 18.07.2021, 03.08.2021 and 30.04.2022 shows that the rectification works were taken up by the Respondents and the same was acknowledged by the complainants and their Tenant. Thereafter, the work done by the Respondents were communicated to the Complainants vide email dated 19.07.2021 and 04.08.2021. However, if any defects were found by the Complainants and the same were brought to the notice of the Respondents, the Respondents are obligated to rectify such defects as per Section 14(3) of the RERA Act.

f) With Respect to the claim for refund, it is clear from the complaint filed by the Complainants that, the possession of the flats was taken up by the Complainants in the month of June 2020. Thereafter, the Complainants let out the apartment for rent and it was occupied by the Complainant's tenant. The monetary benefit (i.e) rent reaches the Complainants and the possession of the flats still continues to remain with the Complainants.

g) According to the Section 18 of the RERA Act,

18. (1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,—

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.

(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

Thus, as per the Section 18, an allottee is entitled to seek a refund from the promoter only if the Complainants withdraw from the project. In the present complaint, the Complainants have been in the possession of the flat since 2020 and continue to remain in possession till date and the Complainants have not withdrawn from the Respondent's project.

h) Therefore, in view of the above facts and circumstances, the Complainants are not entitled to the refund. With respect to the claim for Compensation, the Complainants are at liberty to file the complaint before the Adjudicating Officer.

Thus the point (i) answered accordingly.

7. Answer to Point No.(ii):

a) The Complainants are not entitled for refund of amount from the Respondents.

b) Considering the facts and circumstances of the case, the Complainants are not entitled to the interest and litigation expenses. Therefore, the Complainants claim for refund of amounts is rejected.

Hence, the above complaint is dismissed with no cost

LIST OF WITNESSES

CW-1--- Thiru. Jesuraj Santiago
 RW-1--- Thiru R. Narayanan
 RW-2--- Thiru J. Tamil Arivu

LIST OF DOCUMENTS FILED BY THE COMPLAINANTS

Ex.No	Date	Documents Name
Ex.A1	31.07.2015 to 21.01.2020	Payment receipts issued by the Respondent to the Applicants
Ex.A2	24.06.2019	Sale Agreement made in favour of the Applicants
Ex.A3	24.06.2019	Construction Agreement in favour of the Applicants
Ex.A4	24.01.2020	Sale Agreement registered in favour of the Applicants
Ex.A5	10.07.2020	Complaint preferred by the Applicant via e-mail to the Respondents-Company
Ex.A6	15.07.2020	Reply received by the 2 nd Applicant from the Respondents-Company
Ex.A7	02.12.2020	Complaint preferred by the Applicant through RPAD to the Respondents-Company
Ex.A8	---	Photographs showing the damages in the construction of the flat and other connected deficiencies

LIST OF DOCUMENTS FILED BY THE RESPONDENTS

Ex.No	Date	Documents Name
Ex.B1	---	Board Resolution
Ex.B2	15.07.2015	DCTP approval in proceedings Na.Ka. 4277/2015/CP
Ex.B3	21.09.2015	Planning permission bearing by the No.914/2014 issued Mammallapuram Local planning Authority
Ex.B4	05.10.2015	Building license No.3/02/10/15 and plan permit No.60/15-16 issued by the Padur Panchayat
Ex.B5	23.09.2015	Building permit No.49 issued by the Kazhipattur Panchayat
Ex.B6	11.05.2017	Email communication between Complainants and Respondents along with attachments
Ex.B7	16.08.2018	Email communication between Complainants and Respondents along with attachments
Ex.B8	16.08.2018	Email dated communication between Complainants and Respondents
Ex.B9	17.08.2018	Email dated communication between Complainants and Respondents
Ex.B10	26.03.2019	completion certificate in Letter No. Na. Ka. No.4614/2018/B1
Ex.B11	23.09.2023	Registered certificate in certificate No.TN/01/Building/0076/2017 before this Hon'ble Authority
Ex.B12	17.07.2020	Email dated communication between Complainants and Respondents

Ex.B13	19.07.2021	Email dated communication between Complainants and Respondents
Ex.B14	04.08.2021	Email dated communication between Complainants and Respondents
Ex.B15	09.03.2021	Godrej Azure Residents Welfare Association registered certificate No. SRG/Chengalpattu/31/2021
Ex.B16	07.07.2023	Email dated communication between Complainants and Respondents
Ex.B17	18.07.2021	Job Card(3)
Ex.B18	---	Statement of Accounts
Ex.B19	26.02.2024	Board Resolution
Ex.B20	---	Booking Application

Sd/- 25.02.2026

MEMBER (J), TNRERA

Sd/- 25.02.2026

MEMBER (K), TNRERA

/TRUE COPY/FORWARDED/BY ORDER

J. Jeyaraj 25/2/26.
ADMINISTRATIVE OFFICER