

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**
Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
CCP No. 61 of 2022

Guru Prasad

.... **COMPLAINANT**

Vs.

M/s. Radiance Realty Developers India Ltd,
Rep. by its Managing Director, Varun Manian
(Regn.No.TN/01/Buildings/0250/2018)

.... **RESPONDENT**

Complainant : Rep. by Mr. R. Dilli Kumar, Advocate

Respondent : Rep. by Mr. Arun C. Mohan, Advocate.

Heard on : 25.01.2023

Delivered on : 15.02.2023

ORDER

The complaint by the above complainant claiming compensation on the ground of delay in delivery of covered car parking area of his flat by the respondent and legal expenses is filed under section 31 read with Section 71 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 purchased a residential apartment in the project of the respondent namely, "RADIANCE MERCURY" at Perumbakkam, Chennai. The complainant has paid Rs. 2,00,000/- for covered car parking. As per the terms of the construction agreement, the respondent is to allot a covered car parking space in the same block in which the apartment was allotted to the complainant. The complainant sought car parking allotment near the lift of his block. The respondent initially agreed to allot the same. However by a letter dated 03.07.2021, the respondent earmarked a

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car space at bay No.BCC08A which is located in the edge of way bay which is causing hindrance to other car owners. The other owners were provided additional open car park space in the common area.

(b). The complainant took the issue to the respondent. The respondent repainted the allotted car parking space to the complainant as no car parking area and therefore the complainant was not able to park his vehicle in the allotted slot. The respondent forced the complainant to take a car parking at F-Block. The acts of the respondent are discriminatory and clear violation of fundamental rights of the complainant. The complainant issued a legal notice dated 14.02.2022, but there was no response from the respondent. The complainant was put to huge monetary loss, mental agony and hardships suffered. The complainant is entitled for compensation and other reliefs.

3. Counter averments of the respondent, in brief, as follows:-

(a). Except admitted, all averments in the complaint are denied as false. The complaint is not maintainable. The complainant entered into a construction agreement and sale agreement dated 27.02.2020 with the respondent for purchase of a flat in the project of the respondent, namely, "RADIANCE MERCURY" at Perumbakkam, Chennai. The respondent allotted a covered car parking to the complainant as per the terms of the agreement. The apartment along with the covered car park was delivered to the complainant within the time lines. The complainant also signed a No objection certificate for the same.

(b). The allotment of car parking in the project was done on the "first come and first serve" basis. The complainant has given his consent for allotment of car parking vide letter dated 03.07.2021. The complainant is entitled to

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only one covered car parking. The respondent has not repainted the allotted car parking space as no car parking area. The maintenance of the apartment has been handed over to the association of owners of apartments. Therefore the respondent cannot have any access to repaint any car parking in the project. The complainant was re-allotted the covered car parking in B-block which is acknowledged by the complainant in his letter dated 30.07.2022. The respondent intervened between the complainant and the association of the apartment owners for the above re-allotment of the car parking to the complainant. The complainant also filed a complaint before the Authority in C.No.33 of 2022 on the same cause of action. The complainant is not entitled to any compensation and the complaint is liable to be dismissed.

4. An attempt to settle the matter amicably has failed.

5. On the basis of the contentions of the complainant, the following points arise for determination;

- i. Whether the complainant is entitled for compensation on the ground of delay in handing over and delivery of covered car parking by the respondent under the terms and conditions of the agreements?
- ii. Whether the complainant is entitled for any other reliefs ?

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

(a). The learned counsel for the complainant filed a written argument notes submitting that the complainant purchased a residential apartment from the respondent in their project, "**RADIANCE MERCURY**" at Perumbakkam, Chennai and paid the entire amount of Rs.2,00,000/- for covered car

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parking to the respondent without any default and the respondent who agreed to allot the car parking slot near the lift of the block initially earmarked a car park space at bay No.BCC08A which is located at the edge of the way bay causing trouble to other owners of the apartment and the complainant was facing hurdles and problems with others and other flat owners were also allotted with open car space in the common area which was not given to the complainant and therefore the complainant had to suffer with a great mental agony and hardships and the respondent delayed the delivery of the covered car parking space in B-block and as well as not allotting open car park space and therefore the complainant issued legal notice dated 14.02.2022 and the complainant is entitled to compensation for the inordinate delay in delivery of the covered car parking area and the complaint is to be allowed with cost.

(b). The learned counsel for the respondent contended that the respondent allotted covered car parking to the complainant as per the terms of the construction agreement and the same was delivered to the complainant within the time lines and the car parking was allotted on the "first come and first serve" basis and the complainant had given his consent for allotment of car parking through his letter and no objections were raised at the time of allotment and subsequently, the maintenance of the flats was handed over to the association of the owners of apartment and the respondent had no access to repaint any space including the car parking area and there was no breach to contract by the respondent and as a goodwill gesture, the respondent intervened and ensured the allotment of alternative car park to the complainant and the re-allotted covered car parking was also acknowledged by the complainant by his letter dated

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to
15/2/23

30.07.2022 and the complainant is not entitled to any compensation from the respondent.

(c). It is not in dispute that initially, the complainant was allotted a car park at the bay No.BCC08A in the block in which the apartment was allotted to him. Even though, the complainant alleged that the allotted car park was hindrance to other car owners and the other car owners were also allotted with a open car space in common area in addition to the covered car parking area, the complainant produced no evidence for the same. It is also not in dispute that the maintenance of the flats in the project was handed over to the association of owners subsequent to the handing over of apartment to the flat purchasers by the respondent. Ex.B5, the allotment letter for covered car park to the complainant by the respondent was acknowledged by the complainant on 30.07.2022 with an undertaking to park the car only in the car park bay and also not to disturb the car parking area allotted to other apartment owners. In the above circumstances, it is held that the complainant has not made out **any case for compensation** on the ground of delay in delivery of car park slot. Therefore, the complainant is not entitled to any compensation. Thus the point is answered accordingly.

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

In view of the answer for Point No.(i), the complainant is not entitled for any compensation and other reliefs. Hence the complaint is liable to be dismissed without any cost.

In the result, the complaint is dismissed. No cost.

Sd/- 15.02.2023
G. SARAVANAN
ADJUDICATING OFFICER

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C.C.P.No.61/2022**LIST OF WITNESSES**

CW-1 --- Guru Prasad

RW-1 --- K. Kannadasan

LIST OF DOCUMENTS FILED BY THE COMPLAINANT

Ex.Nos	Date	Documents Name
Ex.A1	27.02.2020	Sale Deed
Ex.A2	27.02.2020	Construction Agreement
Ex.A3	08.02.2022	Email from Complainant to Respondent
Ex.A4	03.07.2021	Allotment Letter for covered car park
Ex.A5	14.02.2022	Legal Notice to Respondent with Acknowledgement card

LIST OF DOCUMENTS FILED BY THE RESPONDENT

Ex.Nos	Date	Documents Name
Ex.B1	25.07.2018	RERA Registration Certificate
Ex.B2	27.02.2020	Construction Agreement
Ex.B3	27.02.2020	Sale Deed
Ex.B4	10.06.2020	Completion Certificate
Ex.B5	30.07.2022	Allotment Letter for covered car park
Ex.B6	Ledger Account Statement
Ex.B7	Copy of the Order in C.No.33/2022

Sd/- 15.02.2023

G. SARAVANAN

ADJUDICATING OFFICER

TNRERA, CHENNAI.

