

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

Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,

CCP No. 86 of 2020

Saranya Anish

... Complainant

Vs.

1. M/s. Color Home Developers Pvt.Ltd.,
Rep by its MD, Duraisamy Ramesh

2. M/s.Silver Sands Property Development Pvt.Ltd.

(Project not registered)

.... Respondents

Complainant : Rep. by M/s. A&N Care Solicitors, Advocates

Respondents : Remained absent

Heard on : 20.11.2021

Delivered on : 16.12.2021

ORDER

The complaint by the above complainant, claiming compensation for damages caused to the villa by the respondent, 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) On 09.11.2016, the complainant entered into an agreement of sale for purchase of plot with the second respondent. Subsequently, in July 2017, the complainant entered into construction agreement and land development agreement with the first respondent in the project of the respondents, namely, "Poonamallee Farms" at Sorancherry Road, Avadi Chennai. The complainant paid Rs.9,54,000/- for purchase of the plot and Rs.5,62,190/- to

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make development in the project for providing amenities and to maintain the project for a period of one year.

(b) On 25.12.2018, the villa was delivered by the respondents. On 23.12.2019, the complainant visited the villa and found that the entire right side building of her house got damaged, including the tiles laid in the right side area of her house. On enquiry, she came to know that the first respondent had dugged out sand for laying foundation for putting up construction in the adjacent land using heavy construction vehicles and that caused severe damages to the foundation of her home and cracks developed inside and outside of her home and the pipelines were also severally damaged. No prior intimation was given by the respondents. The complainant suffered damages. Hence she is entitled for the reliefs.

3. On service of notice to the respondent, the respondent remained absent.
4. In evidence to prove her 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. Whether the complainant is entitled for compensation for damages caused to her property while the respondent undertook construction works in the adjacent land?
 - ii. What are the reliefs, the complainant is entitled to?

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6. Answer for Point Nos.(i) & (ii):

(a) Heard the counsel for the complainant and perused the documents. The claim for compensation is filed under section 31, read with Section 71 of the RERA Act. Under section 71 of the Act, this Forum has power to adjudicate compensation only under sections 12,14,18 and 19 of the Act . In pursuance of the agreements entered with the respondents, the respondents had executed sale deed of the plot on 15.09.2017 and also handed over possession of the villa on 24.12.2018. The complaint has not been filed with regard to rights and obligations of allottee or promoter covered under sections 12,14,18 and 19 of the Act.. The complaint is not at all maintainable before this Forum. Hence, the complaint is liable to be dismissed and the complainant is not entitled for any reliefs. Thus the points are answered accordingly.

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

Sd/- 16.12.2021
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI

LIST OF WITNESS

CW-1 --- Saranya Anish

LIST OF DOCUMENTS FILED BY THE COMPLAINANT

Ex.Nos	Date	Documents Name
Ex.A1	...	Brochure
Ex.A2	July 2017	Agreement of sale
Ex.A3	July 2017	Land development agreement
Ex.A4	July 2017	Construction agreement

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Ex.A5	15.09.2017	Sale deed
Ex.A6	15.09.2017	Memorandum of Deposit of Title Deeds
Ex.A7	24.12.2018	Possession letter
Ex.A8	30.12.2019	Legal notice
Ex.A9	...	Photographs
Ex.A10	19.09.2020	Report of CMDA

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Sd.- 16.12.2021
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.

16/12/2021
LAW OFFICER
TNRERA, CHENNAI