

**BEFORE THE HON'BLE ADJUDICATING OFFICER,
TNRERA, CHENNAI
I.A. Nos. 38/2020 and 39/2020
in
C.C.P. No. 191 of 2019**

1. J. Vishnu Kumar

2. V. Danusadevi

Rep. by their POA, S. Vijaya kumar

...Applicants/Complainants

-Vs-

1.M/s. Renuka Business Holdings
and Development (P) Ltd

2. M/s. Balaganapathy Estates

Rep. by its Partner Mr.Suresh

... Respondents/Respondents

Heard on : 01.12.2020

Delivered on : 11.12.2020

The above petitions, filed by the Applicants/complainants, seeking to reopen and to receive additional document and additional proof affidavit in the main complaint, came up for final hearing on 01.12.2020, on hearing both sides and perusing the record, the Forum passes the following

ORDER

2. The case of the applicants, in brief, as follows:-

(a) The applicants are the complainants/allottee in the main case. The affidavits of the power of attorney of the applicants are filed in support of the petitions. At the time of the arguments, the counsel for the respondents stated that the builder decided to abort the development of the building complex as a whole. The applicants came to know that the respondents had sold a plot in the same layout to a person, namely Mr. Vignesh on 04.03.2019 through a registered sale deed at

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the office of the Sub Register, Neelankarai. The petitioner came to know about the sale only during the pendency of the case. The registered sale deed of the sale of the plot is filed with the petitions for marking as document in the case.

(b) Unless the above document is received with additional proof of affidavit filed by the applicants, the applicants will be put of irreparable loss and hardship. On the other hand, no prejudice will be caused to the respondents. Hence the petitions are to be allowed in the interest of justice.

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

(a) The petitions are not maintainable and are filed after the arguments are advanced by both sides to delay and prolong the present proceedings. The respondents counsel argued the matter on 20.08.2020.

(b) The complainants have not provided any reason for the delay in filing the additional document. There is no sufficient cause to reopen the case and permit the complainants to file additional documents with proof affidavit as evidence. This Forum has discretionary powers to allow applications. However such powers are to be sparingly and cautiously used by this Forum.

(c) The applicants are attempting to improve the case and they ought to have filed the document along with the statements or with the proof affidavit. A Great prejudice and injustice would be caused to the respondent.

(4) The point that arises for determination:-

Whether the petitions to reopen the case and to receive additional document with additional proof affidavit are to be allowed?

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(5). Answer for the point:

(a) Admittedly the petitions are filed after the oral arguments by both the parties were over and while the case is pending for filing in written arguments, by both sides.

(b) The objections raised by the respondents are that the applicants have filed the document and the proof affidavit belatedly and without sufficient cause and to prolong the case. It is not in dispute that the document pertains to the project in which the complainants entered into agreement for purchase a villa with undivided share of land and the respondents assured the completion of the project and to handover possession of the villa by December 2012. Admittedly the respondents submitted that the project has been aborted in the year 2015. The complaint is filed by the complainants for return of money with interest, compensation and cost. There is no question of improvement of case by the applicants.

(c) In this regard, it is relevant to note that in P. Narayanan Vs. Kasi reported in 2009(5) CTC 822 , the Hon'ble Madras High Court held that the documents filed belatedly could be received and a hyper technical approach should not be taken and the court should follow liberal approach and do complete justice by giving full opportunities to the contesting parties. Further in a decision in Jayaramdas and Sons Vs. Mirza Rafatullah Baig and others reported in AIR 2004 SC 3685, the Hon'ble Supreme Court held that additional evidence can be allowed for the ends of justice even though sufficient reasons are lacking.

(d) Therefore, on consideration of the above decisions and the fact and the circumstances of the case, it is just and necessary to permit the applicants to

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reopen the case and to file the document with additional proof affidavit. Thus the point is answered accordingly.

In the result, the petitions are allowed. No cost.

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11.12.2020
LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY

**G.SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI**