

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

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

Execution Petition No.37 of 2021 in CCP No. 348 of 2019

1. E.Narayanan
2. Gajalakshmi Narayanan Petitioners/Complainants

Vs.

1. M/s. VGN Property Developers Pvt. Ltd.
Rep by its Chairman V.N.Devadoss
2. V. Pratish Devadoss, Managing Director,
M/s.VGN Property Developers Pvt. Ltd Respondents/Respondents

Complainants : Rep by Mr. R.Narendran , Advocate,

Respondents : Rep by Mr. K.Harishankar, Advocate

Heard on : 08.03.2022

Delivered on : 31.03.2022

**ORDER FOR RECOVERY UNDER SECTION 40(1) OF THE RERA ACT READ
WITH RULE 26 OF TNRERA RULES FOR NON-COMPLIANCE OF THE ORDER
IN THE ABOVE CCP DATED 25.02.2021.**

The above petitioners/complainants filed the petition for execution stating that the respondents have not complied with the order passed in the above CCP filed by them.

2. In the counter filed by the respondents, it is stated that the respondents preferred appeal before the Appellate Tribunal and the appeal was dismissed for failure to pay the mandatory pre deposit amount and the petitioners are not entitled to recover the entire amount under the order as they had obtained loan from a finance company, namely M/s.DHFL and as per order passed by this Forum, the petitioners are entitled to recover only the balance amount of sale consideration only after deducting the sums paid by the finance company

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to the respondents and the respondents have already paid to the finance company a sum of Rs.19,28,137/-, out of the amount under the refund claim and further the land and property described in the schedule in the project in which the respondents built the flats have been conveyed with the UDS land and apartments to the allottees and as on date, the respondents are not the owners of the lands and the order cannot be enforced by attaching and sale of land and therefore the petition is liable to be dismissed.

3. In the reply to the counter, the petitioners have stated that in the execution proceedings, the debtors cannot go beyond the decree or the order and there is no specific direction by this Forum to settle the loan amount and pay the remaining sums to the petitioners and there is no proof of settlement of any such amount filed by the respondents and the respondents have also not filed any document to prove that the entire lands were conveyed to the allottees in the project and therefore the petition is sustainable.

4. This Forum by order dated 25.02.2021 ordered for the refund of the amount paid with interest, compensation and cost and directing the respondents to pay the amount within 30 days of the issue of the order. Admittedly, the respondents preferred appeal before the Hon'ble Appellate Tribunal and the appeal was dismissed for failure to deposit the amount as per the order of the Tribunal. So far as the claim of the respondents on payment to the finance company, no supporting document filed by the respondents to prove the same. Apart from the same, the respondents have also not filed any document to prove that all the allottees of various apartments in the project have been conveyed the entire undivided share of land by the respondents. As pointed out by the petitioners, in execution, this Forum cannot go beyond the order passed

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in the main case. Therefore, the contentions raised on behalf of the respondents are not sustainable and are liable to be rejected.

5. Since the amount due to the petitioners/complainants under the order is to be recovered as arrears as land revenue, it is just and necessary to issue warrant under section 40(1) of the RERA Act read with Rule 26 of the TNRERA Rules. The EP is disposed accordingly.

In the result, it is ordered as follows:

Issue recovery warrant under section 40(1) of the RERA Act, read with Rule 26 of TNRERA Rules and send it to the District Collector, Thiruvallur, to collect the same to satisfy the claims under the order passed in favor of the above petitioners/complainants.

**Sd/- 31.03.2022
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.**

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31.3.2022
LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY