

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

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

Execution Petition No.78 of 2021 in CCP No.16 of 2020

1. Anjana Gupta
2. Anil Kumar Gupta

.... Applicants/Order holders

Vs.

M/s. Ozone Projects Pvt. Ltd.
Rep. by its MD, S.Vasudevan

.... Respondent/Debtor

Complainants : Rep by Mr. Ajay Kumar Gupta, Advocate,

Respondent : Rep by Mr. A.R.Vishwaram, Advocate,

Heard on : 20.04.2022

Delivered on : 26.04.2022

**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 10.08.2021.**

The above applicants/order holders filed the petition for execution stating that the respondent has not complied with the order passed in the above CCP filed by them.

2. In the counter of the respondent, it is stated as follows:

“The allotment of the flat was made by the respondent under a special scheme, wherein, the respondent had taken liability to pay the pre-EMI to the bank till the unit is made ready for occupation. The respondent paid the pre-EMI interest till the unit is made ready for occupation. The unit was made ready during August 2019. The construction agreement does not provide for any delay compensation under the subvention scheme. The delay in construction was caused due to

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natural calamities and also due to several third party frivolous claims touching the project lands. The complaint is devoid of merits. The RERA Act and TNRERA Rules provide for extension of time for developers under the force majeure circumstances. The respondent completed the residential unit and obtained completion certificate from the authorities and is also willing to waive the balance sale consideration payable by the petitioner and also to handover the residential unit to the petitioner since August 2019. Therefore, the Execution Petition is liable to be dismissed with exemplary cost.”

3. By order dated 10.08.2021, this Forum directed the respondent, to refund the amount paid by the petitioner with interest, compensation and cost within 60 days from the date of issue of the order. The respondent filed counter in the CCP raising all the above points in the counter of this execution petition. This Forum considered all the points raised by the respondent in the main case and passed the final order. The respondent cannot seek to reopen the main case raising the same points in the execution petition. It is well settled law that an executing court cannot go beyond its original order. Therefore this Forum, in execution proceeding, cannot go beyond the final order passed in the CCP. Therefore, all the contentions raised by the respondent are liable to be rejected.

4. Since the amount due to the applicants/order holders 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.

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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, Chennai, to collect the same to satisfy the claims under the order passed in favor of the above petitioners/complainants.

Sd/- 26.04.2022
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.

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26.4.2022
LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY