

BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI
Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
Execution Petition No. 14 of 2022 in CCP No.149 of 2020

K. Sasikala Petitioner/Order Holder

Vs.

1. M/s. Grace Gated Community, LLP,
2. M/s. Casa Grande Civil Engineering
Private Limited Respondents/Debtors

Petitioner : Rep. by M/s. R. Ramasubramaniam Raja, Advocate
Respondents : Rep. by M/s. Ganesh & Ganesh, Advocate

Heard on : 03.10.2022
Delivered on : 02.11.2022

**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 10.12.2021**

The above petitioner/order holder filed the petition for execution stating that the respondent/debtor has not complied with the order passed in the above CCP filed by her.

2. In the counter of the respondents, it is stated that the respondents decided to prefer an appeal against the order of this Forum in the main case and instructed their counsel accordingly and the petitioner has filed an interest calculation sheet on payments at nine different intervals and they have not filed any proof to evidence the respective payment dates and the sums as claimed by her and charge over the property i.e. the flat booked by the complainant was created by this Forum till repayment of the claim, but the

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petitioner has shown as if the charge or attachment is created on the entire schedule 'A' property and the petition is to be dismissed due to incorrect and false submissions and the entire claim made in the petition is not in consonance with the orders passed. The petitioner was directed to execute cancellation of the agreements and the petitioner has not come forward to execute the same and preferred the petition and therefore the petition is liable to be dismissed.

3. By order dated 10.12.2021, this Forum directed the respondents either jointly or severally, to pay the amounts to the petitioner/order holder with interest, compensation and litigation cost within 30 days from the date of issue of the order. It is not the case of the respondents that they have preferred any appeal against the order of this Forum before the Appellate Tribunal till date. The respondents disputed the interest working calculation with respect to the payments made to them. When the respondents, as promoters of the project, received the amounts paid by the petitioner and also maintained the accounts of payments made by the allottees including the petitioner in the project, the respondents have not come forward to produce any evidence contradicting the statement of the petitioner.

4. At the time of hearing of the case, the counsel for respondents filed a memo stating that the respondents would like to settle the amount to the petitioner and since the petitioner availed bank loan, it is necessary to settle the amount paid by the bank and to obtain a NOC and receive the original documents and the delay is not willful and wanton and the same is to be taken into consideration. Admittedly, till date, the amount due as per the order is not settled to the petitioner even after the expiry of time limit in the final order in the complaint. Therefore all the contentions raised by the respondents are liable to be rejected.

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5. Since the amounts due to the petitioner/order holder 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, Kancheepuram, to collect the amount from the respondents to satisfy the claims under the orders passed in favor of the above petitioner/order holder.

Sd/- 02.11.2022
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.

