

**BEFORE THE**  
**TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,**  
**CHENNAI**  
**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,**  
**Execution Petition No.46 of 2022 in CCP No.09 of 2020**

1. S. Rathna  
2. D.S. Prabhu Rajadurai ..... **Petitioners/Order Holders**

**Vs.**

1. M/s. Sylvanus Builders and Developers Ltd.  
Rep. by its Director, Sansil Ramesh Chandhani  
2. M/s. Pacifica Builders Pvt. Ltd.  
Rep. by its Managing Director, Rocky Israni ..... **Respondents/Debtors**

Complainants : Rep. by Mr. S. Karthikei Balan, Advocate.  
Respondents : Rep. by M/s. Jagruti Dekavadiya, Advocate.

**Heard on** : 21.12.2022  
**Delivered on** : 18.01.2023

**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 12.10.2021**

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

2. In the reply of the respondents, it is contended that the order passed by this Forum for compensation suffers from serious legal and factual deficiencies and the averments and allegations in the complaint are false, frivolous and only invented by the complainants and the respondents

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entered into agreements for sale and construction with the complainants and also executed sale deed and are ready to handover possession of the flat to the complainants and the construction took place according to the sanctioned plan and the complainants signed the possession letter wherein all the grievances are solved to the satisfaction of the complainants themselves and there is no cause of action for the complaint and the complaint is abuse of process of law and is liable to be dismissed.

3. By the order dated 12.10.2021, this Forum directed the respondents to pay, either jointly or severally, the compensation under various heads for which the complainants are entitled to. The respondents filed counter in the main case raising all the objections and legal points. This Forum passed the final order in the complaint on considering all the points raised by the respondents. It is well settled law that an executing court or forum cannot go beyond its original order. If aggrieved, it was open for the respondents to prefer appeal before the Appellate Tribunal under the RERA Act. It is not the case of the respondents that they have preferred any appeal challenging the order of this Forum before the Appellate Tribunal. In execution proceeding, this Forum cannot re-open and re-agitate the issues already decided in the case and go beyond the final order passed in the CCP. Therefore, all the contentions raised by the respondents are liable to be rejected.

4. Since the amounts due to the petitioners/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, Chengalpattu District to collect the same to satisfy the claims under the order passed in favour of the above petitioners/order holders.

Sd/- 18.01.2023  
G. SARAVANAN  
ADJUDICATING OFFICER  
TNRERA, CHENNAI.

