

**BEFORE THE TAMIL NADU REAL ESTATE
APPELLATE TRIBUNAL (TNREAT)**

**(Tamil Nadu, Puducherry, Andaman &
Nicobar Islands)**

**(Under the Real Estate Regulation
And Development Act 2016)**

DATED 16-03-2020

**Coram : Mr.Justice B.Rajendran, Chairperson
Mr.N.Balasubramanian, Judicial Member
Ms.Leena Nair, Administrative Member**

Appeal No. 33 of 2020

- 1) Sylvanus Builders and Developers Limited
Rep by its Director, Sanjil Ramesh Chandhani
- 2) Pacifica (Chennai Project) Infrastructure Co.Pvt. Ltd.
Rep by its Managing Director, Rocky Israni

.... Appellants

..Vs..

Shri.K.Srikar Reddy

... Respondent

This appeal was taken on file on 31.01.2020 in the presence of M/s.Stephen.C.Kumar, K.S.Srinivasan, Counsels for the appellants, Mr.T. Raghavan and T.Sudarsanan, Counsels appeared for the respondent.

2. The respondent booked a Villa on 03.08.2012 with the appellants for the sale consideration of Rs.1,47,51,658/-. The appellants agreed to complete the construction and hand over the villa by 30.06.2015. But the appellants failed to complete the construction within the stipulated time. Hence the respondents sought for refund of amount with interest and compensation.

3. The appellants admitted the payments of Rs.1,47,98,470/- made by the respondent and denied the allegation that the project was not completed. On 27.03.2019 appellants informed that villa was ready and requested to clear the amount due but the respondent sent email on 20.04.2019 cancelling the booking of the villa and sought for refund of money. The appellants stated that their project is exempted under TNRERA since it was structurally completed before the implementation of RERA.

4. After contest the Learned Adjudicating Officer found that the complaint is maintainable and ordered refund of the amount paid by the respondent and awarded compensation and interest with costs. Aggrieved upon that the appellants preferred this appeal along with waiver petition in M.A.No.56/2020. In that petition this Tribunal ordered to deposit 40% of the entire amount as ordered by the Authority on or before 26.02.2020. In the mean time the appellants filed M.A.No.70 of 2020 for extension of time for compliance of order made in M.A.No.56/2020. Extension of time was granted for 15 days and directed to deposit on or before 13.03.2020 and posted the case for 16.03.2020.

5. On 16.03.2020 when the case was called both sides counsels were present and the appellants' counsel represented that they have not complied the order. Hence, this Tribunal passed the following:

ORDER

6. The appellant was directed to deposit 40% of the amount due as ordered by the court below even as early as on 03.02.2020. They did not comply with the order. They filed an application in MA.No.70 of 2020 seeking for extension of time. Extension also was granted to comply with the earlier order on or before 13.03.2020. Even then, within that time, they have not paid the amount. The matter was posted today for compliance of order. The Learned Advocate for the appellant represents that they have not paid the amount as directed by this Tribunal on or before 13.03.2020.

7. Till date they have not even filed an application also, either for extension or to condone the delay. In that view of the matter, as the mandatory order for deposit of the amount as per Section 43(5) of the RERA Act has not been complied with, the appeal itself cannot be entertained.

8. In view of the non compliance of the mandatory order under Section 43(5), the appeal is rejected. No costs.

This order is dictated to the Stenographer and typed in the computer by her, corrected and pronounced by us in the open court on 16.03.2020.

Sd/-XXXX
CHAIRPERSON

Sd/-XXXX
ADMINISTRATIVE MEMBER

Sd/-XXXX
JUDICIAL MEMBER