

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

**Quorum : Mr. Sunil Kumar, I.P.S (Retd), M.A, LLB, Hon'ble Single Member
SR No. 257 of 2022**

1. Sivasankaran S/o. Dhamodharan

2. Usha Kumari, W/o. Sivasankaran

..... **Complainants**

Vs.

M/s. Casa Grande Builder Pvt Limited

..... **Respondent**

Complainant : Rep. by M/s. M. Vijayakumar, Advocates

Respondent : (S R Stage)

Heard on : 13/06/2023

Delivered on : 22/08/2023

ORDER

The above complaint by the complainants seeking refund of amount paid to the respondent towards purchase of a plot with interest, and costs is filed under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as RERA Act).

2. Averments of the complainant, in brief, as follows:

(a) The complainant in SR No. 257 of 2022 has filed a complaint seeking refund with interest. The complainant in this SR No. are Thiru Sivasankaran S/o. Dhamodharan and Tmt. Usha Kumari W/o. Sivasankaran. The complainants have also paid the first installment of Rs.18,00,000/- on 18/07/2018. The 2nd complainant submits that since she was a homemaker and the senior citizen, she was advised by the bank to take a loan in the name of the company "Reliable Cashew Company Pvt Ltd". There was an understanding that though the unit was booked in the name of the company, the same could be transferred at the time of registration by full settlement in

the complainant's name. The property was accordingly taken in the name of the "Reliable Cashew Company Pvt Ltd" owned by the family friends of the complainant, who was the 100% owner of the company. The owner of the company wanted to buy more flats in his own name in the same project so as to live close to the complainants and thus he had booked one more flat in the same project with a down payment of Rs.19,00,000/-. Accordingly, the bank released the entire amount to promoter as per the loan agreement on documents that had been signed by the Managing Director of the M/s. "Reliable Cashew Company Pvt Ltd" in whose name the entire loan was taken.

(b) The complainant submits that the MD of the "Reliable Cashew Company Pvt Ltd" on whose name the loan had been taken passed away on 13/05/2021. After the demise of the MD, the bank loan ran into difficulties. The company fell in the hands of the new owner who did not take any initiative to restart the company. Once in this situation, the complainant approached the promoter to change the name in the complainant's name to which they did not accede. The issue to be determined is whether the 1st and the 2nd complainants can file this complaint and that whether they would fall in the category of allottees vis a vis the promoter within the definition of section 2(d) as follows: -

Section 2(d):

(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

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(c) The complainant filed by the 1st and 2nd complainants shows that they had booked the flat no. A 1401 in the 2nd complainant's name in the project "Crescendo" in the year 2017. However, the construction agreement has been entered on 15/09/2018 wherein the allottee party has been shown as M/s. Reliable Cashew Company Pvt Ltd.

(d) The promoter/allottee relationship remains restricted between the Reliable Cashew Company Private Limited as the allottee and the promoter. This being so the present complainant in SR No. 257 of 2022 does not have any allottee/promoter relationship and thus they could not file a complaint seeking any remedy before this authority. The complainant is at liberty to approach the appropriate forum to seek relief sought by him and thus the SR No. 257 of 2022 is dismissed.

Sd/- 22/08/2023
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI

