

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

Quorum : Mr. Sunil Kumar, I.P.S (Retd), M.A, LLB, Hon'ble Single Member

Execution Petition No. 65 of 2023 in CCP No. 189 of 2021

- 1) Sudhan S.A
2) Priyadharshini S.J ... Complainants

Vs.

- 1) M/s. Grace Gated Community LLP,
Rep. by Managing Partner
2) M/s. Casa Grand Civil Engineering Private Ltd.
Rep. by Managing Director ... Respondents

Complainant : Rep. by M/s. S.M. Muralidharan, Advocates

1st & 2nd Respondent : Rep. by M/s. Ganesh and Ganesh, Advocates

**Heard on: 24/01/2024
Delivered on: 26/04/2024**

**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 21/04/2023**

1. The above complainants filed the petition for execution stating that the respondents have not complied with the order passed in the above CCP filed by them.
2. The respondents have not obtained any stay in any appeal preferred by the respondents before the Appellate Tribunal nor has paid the amount due to the complainants in compliance of the order of this Forum.
3. In the above CCP, the respondents are directed to pay the complainants, the amount of Rs.45,92,027.15/- with interest @ 9.30% p.a, for the paid sum of Rs.32,19,182/- till realization as ordered in CCP No. 189 of 2021 dated 21/04/2023. (i.e. Rs.32,19,182/- with interest at the rate of 9.30% p.a from

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the date of respective payment till 17/07/2023, Rs.13,72,845.15/-)
(Rs.32,19,182/- + Rs.13,72,845.15/- = Rs.45,92,027.15/-)

4. The facts in the counter are very common and have no substance for consideration at this juncture, as the objection has already been raised even at the time of enquiry of CCP No. 189 of 2021. The respondents stated that the complainants has filed an interest working calculation sheet claiming an interest sum of Rs.13,72,845/- but the complainants had not filed any proof to evidence respective payment dates and the sums as claimed. Para No. 8 of the counter the respondent has stated that the complainant cannot plead to create a charge on the project development over which the complainants has no rights. The rights of the complainants are limited to the extent of the residential unit agreed to be purchased by the complainant and execution petition filed by the complainant shows that, as if the charge or attachment is created on the project development "CasaGrand Savoye" but the same is totally wrong on facts and unsustainable in terms of law. The rights of the complainant are limited to CASAGRAND SMART TOWN project only. The complainant has filed the execution petition in order 40(1) of the RERA Act r/w rule 26 of TNRERA Rules to show the recovery warrant to the concerned District Collector for attachment and sale of other immovable property i.e., CasaGrand Savoye. At any point the respondents has to repay the amount ordered dated 21/04/2023 of the TNRERA Authority.

5. Since, the amount due to the complainant under the order is due and liable to be recovered, 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 disposed of 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 to the District Collector, Kancheepuram District, to collect the same for the satisfaction of the claim under the orders passed in favor of the above complainant.

Sd/- 26/04/2024
SUNIL KUMAR, I.P.S (Retd)
SINGLE MEMBER
TNRERA, CHENNAI

