



**BEFORE THE TAMIL NADU REAL ESTATE
REGULATORY AUTHORITY (TNRERA)
(Tamil Nadu, Andaman & Nicobar Islands)
at Egmore, Chennai – 600 008**

[Under the Real Estate (Regulation and Development) Act, 2016]

C.No.212/2019

12th day of June 2019

**Coram : Thiru K. Gnanadesikan, I.A.S.(Retired), Chairperson
Er. S. Manohar, Member
Adv. V. Jeyakumar, Member**

Sare Squires Association ... Complainant

Versus

M/s. Sare Shelter Projects Pvt. Ltd. ... Respondent

FINAL ORDER

The Secretary, Sare Squires Association of 268 members as on 30.4.2018 who are apartment owners / owners of dwelling units of Sare Homes Crescent ParC Dewy Terrace, OMR Road project (Phase 1 to 4) registered under the Tamil Nadu Societies Registration Act, 1975 and bearing Registration No.18/2015 has filed a complaint under section 31 of the Act, against SARE Shelters Projects Pvt. Ltd. The main prayer sought by the Association is to issue a direction to the respondent to register the incomplete Phase 1 to 4 with TNRERA within an appropriate prescribed time frame decided upon by this Hon'ble Authority. The complainant has filed an Affidavit on 27.12.2018 stating that all the apartment units in Phase 1 to 4 were made over to the apartment owners at different points of time between March 2012 to November 2014. The common areas, facilities and amenities and the

limited common areas, facilities, amenities (including club house, swimming pool, gymnasium, community hall, shops, etc.) are either yet to materialize or match their full planned and promised extent. The association has further alleged that the respondent is using a portion of the club house as their marketing office and coffee shop remains locked. The Complainant has further stated that the Project does not find mention in the list of projects registered with DTCP under Rule 2(h)(iii) of Tamil Nadu Real Estate (Regulation & Development) Rules, 2017 nor the Respondent obtained exemption certificate from DTCP. The Complainant has filed another written argument on 11-04-2019 where he has referred certain orders / directions passed by this Authority and the Appellate Tribunal.

2. The Complainant has stated that the Respondent cannot take shelter under umbrella of Rule 2(h)(iii) and contend that it will not fall under the purview and provisions of the Central enactment. It cannot be construed that the legislature intended that even persons abandoning the project merely by building a portion within the purview of the rules cannot go scot free without registration. Therefore, the Respondent cannot be allowed or not let out to go scot free under the pretext that he has completed the project Phase 1 to 4 of this project in the year 2015 before the enactment of RERA.

3. The Respondent has submitted written submission on 12-04-2019. The Respondent has stated that owners of land measuring 155.30 acres M/s. Jubilee Flat and Housing Private Limited have developed 1460 plots, 16 farm lands, old-age home, children school and shops and obtained approval from DTCP in Letter No. Na.Ka.27446/2005/LA dated 21-02-2006, Layout Approval No. 30/2006. The OSR area has been gifted to the local body on

10-04-2006. The Respondent Company has purchased 1460 approved plots, 16 farm lands, children school and two shops from the Developer by Sale Deed dated 28-12-2007 and registered as Document No. 11625/2007. The Respondent's company after acquiring the land, obtained DTCP approval for building permit vide Order bearing No. Na.Ka.99/2010/BA-2 dated 19-03-2010 and Building Permit Sanction No. BP/DTCP/50 dated 19.03.2010 wherein there are mandatory conditions like installation of solar water heater system, rain water harvesting, permanent water supply at the expenditure of the Respondent's Company including fire extinguisher, removal of sewage, car parking facility etc., The Mamallapuram Local Planning Authority vide Proceedings dated 25.05.2010 emphasised compliance of the DTCP imposed conditions by the Respondent company. Further, the Thiruporur Town Planning vide its Order dated 04.06.2010 imposed similar conditions for compliance.

4. The Respondent has further stated that they have made Agreement for Sale and Construction with the members of the Complainant Association from August 2010 wherein they have promised to complete the project as per the terms of the agreement and handover the flats to the buyers from January 2013 onwards. Hence, possession of the flats has been handed over and property tax assessed by the local body who have also issued completion certificates prior to the commencement of the RERA Act, 2016. The Respondent has enclosed few possession certificates issued by the Executive Officer, Thiruporur Town Panchayat as a proof that flats in various blocks have been handed over to the Allottees during the years ranging from 2013 to August 2016.

5. The Respondent has taken a stand that the Complainant's Association have no locus-standi to file the present complaint for the reason that the Association has been formed only on completion of the project and not for the on-going project. To prove this, the Complainant's Association itself has admitted that the construction was completed and possession handed over as early as November 2014. The present proceedings have been initiated by the Association which formed on 28.08.2015 and hence there is a clear admission that the project has been completed prior to the commencement of RERA. The Respondent further stated that they have complied with the agreement conditions and handed over the flats much prior to the commencement of the RERA and hence the complaint is liable to be dismissed.

6. From the counters, written submissions and arguments by the Complainant and the Respondent, this Authority has come to a conclusion that the possession of flats and dwelling units have been handed over prior to the notification of the Rules. The Association has also stated that the possession has been taken over during the year 2015.

7. In the above circumstances, we hold that in view of completion and handing over of the apartments to the members of the Complainant Association much before the coming into effect of the RERA Act the question of registration of project Phase 1 to 4 does not arise

Sd/-.....12.06.2019

MEMBER (M), TNRERA

Sd/-.....12.06.2019

MEMBER (J), TNRERA

Sd/-.....12.06.2019

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER


ADMINISTRATIVE OFFICER

p.t.o.