



**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.306/2019

13th day of August, 2020

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

Tvl. P.Latha Devi and E. Gani ... Complainants

Versus

M/s. Amar Prakash Developers Pvt. Ltd. ... Respondent
Rep. by its Managing Director

This Complaint came up for final arguments before this Authority in the presence of M/s. R. Prabhakaran, Mr.Kathiravan Narayanaswamy, Ms. R.Dhivya Bharathi, Ms. M.Karpagam – Counsel for Complainants and of the Authorised Representative of the Respondent Company and upon hearing the arguments of both the parties, this Authority passes the following:

FINAL ORDER

The Complainants had booked an apartment in a residential apartment complex in the name of Palm Riviera developed by the Respondent at Thirumudivakkam village.

2. The Complainants had entered into an agreement of project promotion and construction on 30.07.2013 with the Respondent for construction and handing over of apartment No.H-111 measuring 982 sq.ft. Ground Floor, H Block. As per the agreement, the total cost of construction is Rs.32,83,443/- and Rs.4,13,000/- towards sale consideration for undivided share of land. The Agreement stipulates that the apartment should be delivered on or before April, 2015.

3. The Complainants have stated that as per the payment receipt details issued by the Respondent, they had paid a total sum of Rs.46,09,393. While so, when the Complainants approached the Respondent for getting keys of the flat, they were told that a sum of Rs.3,42,267/- is payable by the Complainants and only on remittance of such amount, the Respondent will hand over the keys. The flat has not been handed over till date.

4. The Complainants have prayed that the Respondent shall be directed to hand over the keys of the flat duly constructed to the Complainants.

5. In the Counter Affidavit, the Respondent has submitted that the apartment booked by the Complainants forms part of completed project and the same has been exempted from TNRERA registration and hence the Complaint is not maintainable.

6. The Respondent has also stated that a sum of Rs.5,20,190/- remains due to the Respondent on account of delay interest charges including the tax charges. The Respondent further submitted that the concerned apartment is fully completed and is ready for occupation. The Respondent undertakes to hand over the possession forthwith subject to the payment of the above mentioned balance payment towards interest and tax charges.

7. The Complainant has stated in the Additional Affidavit that they have suffered additional expenditure by way of rental payment on account of delay in completion and handing over of the flat by the Respondent which works out to Rs.8,10,000/- The Complainants have also stated that they are also paying interest to State Bank of India without getting the flat which works out to a loss of Rs.10,19,345/-

8. The Complainants have also indicated that they would have earned about Rs.15.00 lakhs had they invested the amount paid to the Respondent elsewhere.

9. The Complainants have also filed Complaint in CCP No.134 of 2019 before the Hon'ble Adjudicating Officer claiming compensation for delay in construction and handing over of the completed flat by the Respondent and also for the mental agony due to delay. Orders have been pronounced by the Hon'ble Adjudicating Officer on 16.12.2019 holding that the claim of the Respondent for interest charges on delay payment by the Complainant is liable to be rejected on account of the delay in construction of the project by more than 3 years beyond the due date. The Hon'ble Adjudicating Officer has also awarded the compensation to the Complainants.

10. The Authority has examined the Complaint and Additional Affidavit filed by the Complainants and the Counter Affidavit of the Respondent carefully.

11. Even though the Respondent has stated that the apartment is part of completed project and the same has been exempted from registration with this Authority, the Respondent has not produced any documentary evidence for the same. Therefore, the Authority holds that the Complaint is maintainable and directs the Respondent to hand over the flat booked by the Complainants immediately without further loss of time within 30 days from the date of pronouncement of this order and without demanding any interest charges which has been rejected by the Hon'ble Adjudicating officer. If there are any tax dues, based on actual payment to statutory tax authorities, and subject to maximum of Rs.79,351/- indicated by the Respondent, the tax dues shall be paid by the Complainants on production of documentary evidence for the same to be furnished by the Respondent to the Complainants.

12. With these directions, this Complaint is disposed of.

Sd/-...13.08.2020

MEMBER (M),TNRERA

Sd/-...13.08.2020

MEMBER(J),TNRERA

Sd/-...13.08.2020

CHAIRPERSON,TNRERA

/TRUE COPY/FORWARDED/BY ORDER

ADMINISTRATIVE OFFICER (i/c)