



**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.311 to 318/2019
5th day of December, 2019**

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

Name of the Complainants (Tvl.)	Complaint Nos.	
1) C. Sabarish	311/2019]
2) Sudarsan Jayasingh	312/2019]
3) T. Rajendren and R. Balasundari	313/2019]
4) P. Kothargani & Mahubal	314/2019]
5) Shahul Hameed	315/2019]Complainants
6) T.R. Nagalingam	316/2019]
7) T. Natarajan	317/2019]
8) Parselvan Aravazhi	318/2019]

Versus

1. M/s. Vishwakarma Real Estate and Constructions (I) Private Limited Represented by its Director Thiru C. Shankar]]
]].... 1 st Respondent
]]
2. M/s. Oasis Grace Engineering Projects Pvt. Ltd.]]... 2 nd Respondent
]]

These Complaints came up for final arguments before the Authority in the presence of M/s. Narayanan, Mr.G.Arunprasad, Mr.Vijay R.Shukla – Counsel for Complainants 1 to 5 and the Complainants 6 to 8 appeared as party in person and the 1st Respondent represented by its Director who having appeared in person and of M/s.Ganesh and Ganesh – Counsel for 2nd Respondent and upon hearing the arguments of all the parties this Authority passes the following order.

FINAL ORDER

The Complainants have stated that they have booked apartments in a project named 'In Town' in Thaiyur village near Kelambakkam.

2. The booking commenced in January, 2013 and advance amount was paid by them.

3. The promoter committed a delivery time of 18 months from the date of booking and all payments were made as per the milestones. The promoter commenced the work for 112 apartments out of 348 apartments. The structural works (foundation, pillars, beams, slabs and roofing) were completed by the end of 2014. Thereafter the construction work came to a standstill.

4. Since January 2017, the Builder has been holding meetings and promising to complete the project and handing over the apartments by December, 2017.

5. The Builder has applied and got exemption from DTCP regarding registration of the project.

6. The Complainants have sought the following reliefs:

- a) Ascertain the basis / regulations on which the promoter has claimed exemption.
- b) TNRERA to intervene and safeguard the interests of the buyers.
- c) Pass an order to the Builder to start reimbursing the amount under the penalty clause of the construction agreement from the committed date of construction and hand over.
- d) In case of failure of any arbitration attempt, TNRERA to instruct the Promoter to refund the money paid with due interest.

7. In the Counter Affidavit, Thiru C. Shankar, former Director of the Respondent Company has submitted that the project consists of 2 Phases and the Phase-I was launched in the year 2014. Much before the RERA Act came into force, the structures, brick works, internal plastering and internal electrical works have been completed. Therefore, this project has been treated as exempted from registration under RERA and finds a place under the serial No.91 out of the 188 projects that were exempted.

8. He has further submitted that due to untimely death of one of the land owners, bad market conditions, etc. the project ran into rough weather. On a reference made to the Hon'ble NCLT in C.P.No.639/2017, resolution process was initiated and M/s. Oasis Grace Engineering Project Pvt. Ltd has stepped in to take over the project and orders regarding the takeover of the project has been passed by the Hon'ble NCLT vide orders dated 11.06.2019. This arrangement has been agreed to by the home buyers association.

9. Mr. Muthukumar, CEO of M/s. Oasis Grace Engineering Projects Pvt. Ltd. has stated that he is the CEO of the Company and the Company has been authorized by the orders of the Hon'ble NCLT, Chennai bench to complete and hand over the project as per the terms in the construction agreement executed by the erstwhile Promoter.

10. The Phase-I of the project is exempted under Rule-2(h)(iii) of Tamil Nadu Real Estate (Regulation and Development) Rules, 2017. The subject apartments purchased by the Complainants are located in the Phase-I of the project. The Resolution Plan has been agreed to by the home buyers association and the home buyers have also agreed to withdraw the Complaint filed under the provisions of RERA Act. Further, to assure the performance of his company in completing the project, a monitoring committee has also been appointed in the orders passed by the Hon'ble NCLT. Thus the interest of the home buyers are secured and protected in accordance with the said order.

11. He has also stated that the Company has proposed the following schedule to deliver and handing over of apartments.

- Phase-I - Balance work for completion has commenced on 01.09.2019 and shall be completed by 31.03.2020. Handing over will also be done by 30.04.2020.

12. Therefore, he has prayed an order directing the Complainants to withdraw the Complaints.

13. In the arguments, the Complainants have prayed that the submissions made by the Complainants and the statement given by the Respondent as well as the new Builder may be recorded and the

Respondent and the New Builder be directed to hand over the possession of the respective apartments to the Complainants in a habitable condition in a time bound manner i.e. 9 months from 08.10.2019.

14. The Complainants have also prayed that the New Builder be directed to submit stage-wise construction progress before this Authority.

15. The Authority notes that the Phase-I of the project is structurally completed and finds place in the list of structurally completed projects published by the DTCP.

16. The Authority also notes that the Resolution Plan has been approved by the Hon'ble NCLT, Chennai Bench and the New Promoter has stepped in as per the Resolution Plan.

17. The Authority also notes that there is a Monitoring Committee to monitor the progress as per the orders of Hon'ble NCLT. Therefore, the Authority accepts the submission of the Respondent as well as the New Promoter and holds that the Phase-I of the project need not be registered with the Authority.

18. However, the Authority directs the New Promoter to ensure compliance of the schedule of construction, completion and handing over of the apartments in Phase-I of the project as per the schedule submitted by the New Promoter.

19. The New Promoter shall send monthly progress reports of the construction to all the apartment buyers in Phase-I of the project till they are completed and handed over to the respective buyers.

20. With these directions, these Complaints are disposed of.

Sd/-...05.12.2019

MEMBER(M),TNRERA

Sd/-...05.12.2019

MEMBER(J),TNRERA

Sd/-...05.12.2019

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

N. M...
5/12/19
ADMINISTRATIVE OFFICER
9/12