



**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. 358 of 2019

21ST day of November 2019

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

Thiru Manu Karan & Archana Ram

...Complainants

Versus

1. M/s. Devinarayan Housing Board and property
Developments Pvt. Ltd.
2. N.Nandakumar
3. N.Srinivasan

...Respondents

This Complaint came up for final arguments before the Authority in the presence of M/s. V.Legal Empire – Counsel for Complainant and Thiru N.V.V.Krishna, Mr.Venkatachalapathi and P.Subathra Counsel for Respondent and upon hearing the arguments of both the parties this Authority passes the following order.

FINAL ORDER

According to the Complainants, they had agreed to purchase the flat measuring 2385 square feet of built up area (inclusive of proportionate share of common area) on the 3rd floor in the building to be known as "Devinarayan's Sai Sagar" with 1483 square feet of undivided share in the land measuring an extent of 5935 square feet. This property is at Door No.5, Jayaram Avenue, Vannathurai, Shastri Nagar, Chennai – 600 020. They have paid an amount of Rs.3,06,00,000/- against sale consideration.

2. Under the construction agreement, the Respondent-1 had assured to hand over the possession of the flat in all respects by 30.08.2017. However, there was un-explained delay of almost one year in handing over the possession of the flat with basic amenities.

3. The Respondent-1 had also demanded a sum of Rs.9.50 lakhs while agreeing to register the sale deed on 18.05.2018 which is not as per the agreement.

4. The Complainants have sought the following reliefs:

- a) To direct the Respondent-1 to come forward and register the project under TNRERA.
- b) To direct the Respondent-1 to come forward and register the Sale Deed with the office of Sub-Registrar, Adyar without claiming any additional amount or taxes over and above the sale consideration.
- c) To direct the Respondent-1 to bear all the costs, incidental charges for registration of the sale deed.

4. In the Reply Statement filed on 16.08.2019, the Respondent-1 has submitted that the complaint is not maintainable for want of jurisdiction on the ground that this project does not require registration with TNRERA.

5. The Respondent-1 has further submitted that the maximum units constructed in this project is only 4 units and further the Completion Certificate was applied well before the Real Estate (Regulation & Development) Act came into force.

6. They have also submitted that the Complainants have no locus standi to file this complaint when they are in an unauthorized and illegal occupation of the flat.

7. As the Respondent-1 has questioned the maintainability of the Complaint, the Authority without going into the merits of the Complaint pass the following order on the maintainability of the complaint.

8. The number of dwelling units in this project is four whereas the number of dwelling units has to exceed eight for registration as prescribed in the Act. However, the land to be developed is 5935 square feet which is equivalent to 551.37 sq.mtr. which exceeds 500 sq.mtr. thereby requiring registration under the Act.

9. Ongoing projects for which application for Completion Certificate has been filed with CMDA as per Rule-2(h)(ii) of Tamil Nadu Real Estate (Regulation & Development) Rules, 2017 are exempt from Registration.

10. It is seen that this project fulfills the requirement of Rule 2(h)(ii) and hence exempt from Registration as an ongoing project with

TNRERA. Therefore, the Complaint is not maintainable and it is ordered accordingly.

Sd/-...21.11.2019
MEMBER(M),TNRERA

Sd/-...21.11.2019
MEMBER(J),TNRERA

Sd/-...21.11.2019
CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

N. M. 22/11/19
ADMINISTRATIVE OFFICER

21/11