



**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.Nos.37, 46 to 48/2018, 220 to 237, 365 & 366/2019
30th day of January, 2020**

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

Tvl.

1. V.Muralidharan	037/2018	Complainants
2. M.Varunkumar & S.Muralidharan	046/2018	
3. M.J.X. Alphonse	047/2018	
4. K.S.Muralidharan	048/2018	
5. Rangamannar Veeravalli	220/2019	
6. Grand Hills Kovai – CBOU Enclave Investors Forum	221/2019	
7. V.Natarajan	222/2019	
8. Dr. M.Srinivas	223/2019	
9. G.Amirthavalli & S. Ganesan	224/2019	
10. M. Meenakshi	225/2019	
11. Mr. Vidhya Shankar Baskaran	226/2019	
12. S. Ganesan & G.Amirthavalli	227/2019	
13. Lalitha Ganesh alais R.Lalitha	228/2019	

14. K.Sudha	229/2019
15. B.Natarajan	230/2019
16. G.Ramkumar & R.Sudha	231/2019
17. N.Geetha Baskaran	232/2019
18. S.Baskaran	233/2019
19. Lakshmi Chandrasekaran	234/2019
20. R.Balakrishnan	235/2019
21. B.Sandhya	236/2019
22. P.Gopinath	237/2019
23. V.Anand	365/2019
24. Geetha Seshadri & Seshadri R.	366/2019

Versus

M/s. Canara Bank Officers Union

Respondent

These Complaints came up for final arguments before the Authority in the presence of the M/s. Rank Associates – Counsel for Complainants and of M/s. Aiyar and Dolia – Counsel for Respondent and upon hearing the arguments of both the parties this Authority passes the following order.

FINAL ORDER

These Complainants relate to a Real Estate Residential Project promoted by the Respondent Developer M/s. Canara Bank Officers Union. The project is situated in S.No.1003/1, Madukkarai village, Coimbatore District.

2. According to Thiru V.Muralidharan, one of the Complainants, the project was started in the year 2012 and the construction was to be completed by 2014. The allotment was made on 01.10.2012 with a schedule to complete in April 2014. The agreement for construction was entered on 01.08.2013. The sale deed for undivided share was registered on 05.09.2014.

3. The approvals from DTCP, Local Planning Authorities and the Local Bodies were obtained in 2013 and he has paid Rs.29.59 lakhs.

4. The project was unduly delayed and it has become an ongoing project under the Real Estate (Regulation and Development) Act, 2016 and the Rules made thereunder. While he got possession of the apartment, the common amenities were not completed. The project was also not registered with the Authority.

5. The main prayer of all the Complainants is to ensure completion of the remaining construction and hand over the flats to the allottees in habitable condition along with all common amenities in place.

6. This project is located on a parcel of land with an extent of 4.37 acres in S.No.1003/1 in Madukkarai village, Coimbatore District.

7. This project was subsequently registered with this Authority. The Blocks A, B and E were registered vide TN/11/Building/0245/2018 dated

24.07.2018. Blocks C and D were registered vide TN/11/Building/0342/2018 dated 19.11.2018.

8. Both sides have made allegations against each other and much water has flown since then. Therefore, this Authority will not traverse into various Affidavits and Counter Affidavits filed earlier and will examine the final prayer of the Complainants and the final response of the Respondents and pass orders.

9. The Respondent had submitted in his Counter Affidavit filed on 16.10.2019 that the C and D Blocks were completed and the efforts were on to complete the pending works in A and B Blocks. The Respondent union also conceded that they do not have liquid funds to complete the pending works in A and B Blocks.

10. The Respondent Union borrowed loan of Rs.2.00 crores from Tamilnad Mercantile Bank Limited, TTK Road branch and the Respondent has repaid a sum of Rs.63.50 lakhs apart from servicing the upto date interest. The present liability as reported by the Bank is below Rs.2.00 crores. The Bank has classified the loan as NPA and has initiated recovery action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

11. However, there are dues to the extent of Rs.1.10 crores to be received from the flat owners out of which Rs.35.00 lakhs to be recovered from the completed flats of C and D Blocks.

12. In the Memo filed on 18.11.2019, the Complainants in their final prayer submitted that the Respondent may be permitted to sell about 2.5 acres of land which is encumbered with Tamilnad Mercantile Bank Limited with the consent of more than 2/3rd of 104 allottees and by the Association, so that from the sale proceeds, the cost of remaining construction of A, B, C and D Blocks can be met.

13. In their memo filed on 26.11.2019, the Complainants have submitted that the Respondent had mortgaged a part of the project land with Tamilnad Mercantile Bank Limited, TTK Road branch at Royapettah, Chennai-114. This mortgaged extent is 2.89 acres out of 4.37 acres with buildings in S.No.1003, Madukkarai village forming the schedule property of the project standing in the name of M/s. Canara Bank officers' Union.

14. The Respondent has proposed to sell this property to meet the cost of completing the pending works and discharging other liabilities, Tamilnad Mercantile Bank Limited has attempted to e-auction this property under SARFAESI Act, four times, the last one on 15.11.2019 with a reserve price of Rs.5.55 crores. The auctions were closed without a successful

bidder. The Bank may come out with the auction again. In case of successful auction, the Bank will transfer the surplus proceeds after recovering their liabilities (Rs.195,84,669.59 as on 30.09.2019 as published by the Bank in their Auction Notice dated 18.10.2019) to the Respondent.

15. The Complainants have requested this Authority to give direction to the Bank to transfer surplus auction proceeds direct to the dedicated account only instead of Canara Bank Officers' Union. They have also suggested a Committee to be formed with one representative of Canara Bank Officers' Union and two representatives from CBOU Enclave Flat Owners Association (Complainants). Thiru M.J.X.Alphonse, President and Thiru V.Venkataraman, Secretary of the Association will be representing the home buyers. The Respondent will represent their representative.

16. The Complainants have also suggested detailed modalities and guidelines for the operation of this Committee.

17. This Authority has examined the Complaint and various Affidavits filed by the Complainants, various Counter Affidavits filed by the Respondent carefully and pass the following orders.

- i. It is seen that the only way forward for the completion of the remaining works in this project is by way of utilizing funds to be

mobilized by sale of part of the project land mortgaged with Tamilnad Mercantile Bank Limited.

Therefore, the Tamilnad Mercantile Bank Limited is directed to conduct auction for the sale of the mortgaged land expeditiously and after recovering the dues to the bank, the bank is directed to remit the balance available funds in the dedicated project escrow account.

This project escrow account required to be opened and operated as required under Real Estate (Regulation and Development) Act for this registered project shall hereafter be operated by the Committee consisting of one representative from the Canara Bank officers Union (Respondent Developer) and two representatives from CBOU Enclave Flat Owners Association (Complainants).

- ii. Thiru M.J.X.Alphonse, President and Thiru V.Venkataraman, Secretary of the Association will be representing the home buyers in this Committee.
- iii. This committee will manage the affairs of this project henceforth.

- iv. The escrow account will be operated under the joint signatures of the three members of this Committee. The Committee shall collect the dues from the home buyers which shall be remitted in the escrow account.
- v. The project expenditure shall be met from the escrow account.
- vi. The committee is empowered to engage contractors / agencies to complete the pending works and incur expenditure for the same.
- vii. The Respondent should hand over the complete details of collection from the home buyers and the amount due from them to the Committee.
- viii. The Respondent Developer should also hand over the list of pending works and the liabilities to be discharged on account of the project works to the Committee.
- ix. The Respondent Developer should also hand over the corpus fund and maintenance monies collected from the home buyers to the Committee after deducting maintenance expenditure incurred on this project by the Respondent.
- x. This amount shall be transferred to the Flat owners Association from the escrow account on completion of the pending works.

- xi. The Committee will transfer the balance amount in the escrow account to the Respondent Developer after completing all the pending works in A, B, C & D blocks and that of common areas.
- xii. The Committee shall hand over the undelivered flats to the Respondent Developer.
- xiii. The Escrow account will be closed and the Committee dissolved on completion of all items of pending works and payment thereof and handing over of maintenance to the Flat Owners Association.
- xiv. This Committee arrangement is ordered by this Authority under Section-8 of the Real Estate (Regulation and Development) Act, 2016 in order to ensure completion of this residential project.

Sd/-...30.01.2020
MEMBER (M), TNRERA

Sd/-...30.01.2020
MEMBER (J), TNRERA

Sd/-...30.01.2020
CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

N. Anand
30/1/2020
ADMINISTRATIVE OFFICER

el
20/1/2020