



**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.445/2019
3rd day of September, 2020**

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

Thiru R.M. Anbunidhi ... Complainant
No.77, Harvey Nagar 4th Street,
Arasaradi, Madurai-16

Versus

Thiru J.Robert Raja, Respondent
C/o J.Joseph Prabu,
Flat No.A1, Jesu Enclave, ...
No.30/70, Melaponnagaram 2nd
Street, Madurai - 625016

This Complaint came up for final arguments before this Authority in the presence of Complainant having appeared party in person and of Thiru S.Premkumar - Counsel for Respondent and upon hearing the arguments of both the parties this Authority passes the following order.

FINAL ORDER

The Complainant Thiru R.M. Anbunidhi has stated in the Complaint that he is the resident of Harvey Nagar, Arasaradi, Madurai and the Complainant is member of Harvey Nagar Residents Welfare Association.

2. The Complainant has further stated that the Respondent purchased the land in T.S.No.10, Old T.S.No.1309/2-1 at Plot No.83, Harvey Nagar, Arasaradi Madurai with an extent of 15.42 cents by a registered sale deed dated 30.06.2016 in the Office of the Sub-Registrar, Arasaradi, Madurai in Document No.2656/2016. The Respondent (the Complainant has wrongly mentioned as 'Complainant') decided to construct a Multi Storeyed Building for construction of Stilt + 4 floors (20 flats) (the Complainant has wrongly mentioned as 'plots').

3. The Complainant has further stated that the Madurai Municipal Corporation and the Local Planning Authority, Madurai had issued notices to the Respondent for deviations from the approved plan. He has also added that the Madurai Bench of Hon'ble High Court of Madras has also directed the Director, DTCP, Chennai to take appropriate decision on the revised plan of the Respondent. The Complainant has given the details of 36 dwelling units for which the Sale Agreement / Builder Agreement have been entered into by Mr. Robert Raja / M/s. Cecily Homes with various buyers on dates starting from 30.06.2017 to 22.06.2018.

4. The Complainant has further stated that there is a clear violation of Section-14 of Real Estate (Regulation and Development) Act, 2016 and that the project is not registered as required under Section-3 of the said Act.

5. The Complainant has prayed that penalty and imprisonment may be imposed on the Respondent for violation of Section-3 and Section-14 of the Act.

6. In the Counter Affidavit, the Respondent has stated that Mr. R.M. Anbunithi is not an "Allottee" in the project and he has not been allotted or he has not bought any flat / residential unit in their project. He has also stated that the Complainant has no interest in the project at No.22/83, 4th street, Harvey Nagar, Arasaradi, Madurai-625 016 and the Complainant is neither a purchaser nor a person concerned with the project. The present complaint is filed under Section-31 but the Complainant does not fulfill the requirement of 'Aggrieved Person'.

7. Further, the Respondent has stated that the project at No.22/83, 4th Street, Harvey Nagar, Arasaradi, Madurai-625 016 consists of one block and the project was completed on time with the alterations and additions as requested by the original allottees in the project with the concurrence of the concerned Engineers. The same was handed over to the original allottees. All this was done in compliance with Section-14 of the Real Estate (Regulation and Development) Act, 2016. The alterations and additions made in the original approved plan have also been submitted to the relevant authorities for approval.

8. The Respondent further stated that the agreements were reached between the Respondent and his agent and 12 of the 19 allottees before 22.06.2017. The Registrations were carried out on subsequent dates based on the convenience of the allottees. He has also stated that he is not the proprietor of "Cecily Homes" as mentioned in the Complaint and the order / notice dated 29.11.2019 sent by the RERA Authorities to him. He has also stated that the project has been completed / occupied and assessed for property tax with effect from 1st October, 2017.

9. The Respondent has also stated that the Complainant had also instituted Writ Petition (WP (MD)/17336/2017) in the Madurai Bench of the Madras High Court in this regard misrepresenting before the Court that there were certain encroachments into public land. The Court finally granted some relief to this Respondent going into the merits of the case. The Madurai Bench of the Madras High Court had already heard the matter and passed suitable orders in favour of the Respondent.

10. The Respondent has also stated that the Complainant has no right to seek an interim order since the Complainant is neither an allottee nor related to the project. The Complainant has sought interim order without providing any substantial evidence or reasons to make such a claim and the Complainant has used a blanket term "endangering human life" without substantiating it.

11. In the rejoinder to the Counter Affidavit filed by the Respondent, the Complainant has stated that Section-31 of the Act did not say that only an Allottee may file a complaint with the Authority, whereas, the said

section says "any aggrieved person" may file a complaint with the Authority.

12. The Complainant and the Respondent have submitted their arguments by way of written submissions. The Complainant has reiterated his earlier submissions in the written submission of his arguments.

13. The Respondent has stated that he had filed for exemption for his project with RERA and his project is listed in the respective RERA website under the name J. Robert Raja. He has also submitted that he has carried out the alterations / additions requested by the allottees / consumers and he had also seen to it the alterations / additions as requested by the allottees / consumers. The project was completed / occupied and assessed for property tax.

14. The Respondent has also submitted that the Complainant has failed to prove that he is an 'aggrieved person' as per Section-31 of the RERA Act, 2016 and stated that:

- a. An "aggrieved person" in law is a person who has suffered unfair or illegal treatment and is making a complaint.
- b. To be an eligible aggrieved person, the complainant has to prove that he is an "allottee" in the project at No.22/83, 4th street, Harvey Nagar, Madurai-652 016. The complainant has failed to produce evidence that he has been allotted, sold or otherwise transferred by his client J.Robert Raja or his assignees or as required under

the Act any residential unit / flat at No.22/83, 4th street, Harvey Nagar, Madurai – 625 016. The complainant has no locus standi to file the complaint.

- c. To be an aggrieved person the complainant has to prove that he has suffered due to false claims or misrepresentation of the Respondent. The complainant has not suffered any loss. The complainant has not proved that false claims were made. The complainant has not suffered any loss.
- d. RERA does not provide for filing of "Public Interest Complainant". Moreover the complainant is not eligible to file a "public interest complaint" either since he is a person with vested interest. The house of the complainant is situated right opposite the project at No.2/83, 4th street, Harvey Nagar, Madurai-625 016.
- e. The complainant is not an allottee in the project. There has never been any agreement or contract between the complainant and the respondent with respect to this project.
- f. The above points have time and again been reiterated in Smt.Manit Malhotra Versus M/s. AGI Infra – Punjab RERA Complaint No.RERA/C-32/749-750 dated 16.10.2017, Sushil Agrawal Versus Yashdhan Associates 2017 Maha RERA Complaint No.CC005000000000049 and

RAMPRASHAD P PATEL Versus Aditi Developers – Gujarat
RERA CMP/Ahmedabad/180808/000114.

15. The Respondent has also stated that in compliance with Section-3 of the Real Estate (Regulation and Development) Act, 2016 read along with Rule-2(h)(iii) of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017 his client had filed that the project at No.22/83, 4th Street, Harvey Nagar, Arasaradi, Madurai-625 016 was eligible to be exempt from RERA. There are three distinct parts to this Rule for a project to be exempted.

- i. The project should be structurally completed i.e. all columns, beams and slabs should have been erected when RERA came into being effectively in Tamil Nadu.*
- ii. The details including photographs and a certificate of structural completion from an architect or structural engineer have to be submitted to the concerned LPA, with a copy to the DTCP within 15 days of the notification of the Rules or to say 15 days from 22.06.2017.*
- iii. The list of all such projects should be published on the official website and the details were duly updated in the relevant website.*

16. The Respondent has also stated that the evidence filed in support of the allegation that Section-3 has been violated does not hold good and he had complied with Section-3 of the Real Estate (Regulation and Development) Act, 2016 read along with Rule-2 (h) (iii) of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017.

17. The Authority has examined the Complaint, Counter Affidavit filed by the Respondent, Rejoinder filed by the Complainant and the arguments by way of written submission by both sides, carefully.

18. The Respondent has pointed out that the Complainant is not an aggrieved person to satisfy the requirement of Section-31 of the Act to file a complaint. The Respondent has also pointed out that the Complainant is not an allottee in the project.

19. Therefore, without going in to the substance of the complaint, namely alleged deviations to the approved plan and non registration of the project, the Authority would first determine whether the Complainant has locus standi to file the complaint under Section-31 of the Act. The fact that the Complainant in this complaint is not an allottee in this project is not in dispute.

20. The Complainant has not made out a case as to how he is aggrieved by the alleged deviation from the approved Building Plan, thereby violating Section-14 of the Act and the non registration of the project under Section-3 of the Act.

21. As the Complainant has failed to substantiate his claim that he is an aggrieved person to file a Complaint under Section-31 of the Act, the Authority holds that this complaint is not maintainable and this complaint is disposed of accordingly.

Sd/-...03.09.2020
MEMBER (M), TNRERA

Sd/-...03.09.2020
MEMBER (J), TNRERA

Sd/-...03.09.2020
CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

ADMINISTRATIVE OFFICER (i/c)

Handwritten signature and date: 3/9/2020