



**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.121 of 2020

22nd day of September, 2021

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

Thiru Srinivasan SanthanakrishnanComplainant

Versus

M/s. Amar Prakash Developers Pvt. Ltd.Respondent

This Complaint came up for final hearing before this Authority in the presence of the Complainant as party in person and of M/s.Dineshkumar – Counsel for Respondent and upon hearing the arguments of the Complainant, this Authority passes the following order.

FINAL ORDER

The Complainant Thiru Srinivasan Santhanakrishnan has stated in the Complaint that he has purchased from the Respondent undivided share (UDS) of land admeasuring 236 sq.ft in the "Temple Waves" project, Block No.I, Unit Name I-606 in Kundrathur Village, Kundrathur Town Panchayat, Sriperumbudur Taluk, Kancheepuram District for the purpose of

construction of 2 BHK flat vide the Respondent's comprehensive quotation No.36547 dated 10.09.2016 (Annexure-1) at a total estimate of Rs.22,60,943/-. In pursuance of the above, Sale Deed was executed on 23.05.2018 for conveyance of the UDS of 236 sq.ft. in favour of the Complainant vide Doc.No.6556 of 2018 Book-1 of Sub-Registrar of Kundrathur (Annexure-2). However, the Respondent did not hand over the Construction Agreement (Annexure-3) until October, 2020 when the Complainant has personally gone to enquire about the same and the status of progress of construction of the subject flat, though the entire payment including the construction cost had been paid by the Complainant and acknowledged by the Respondent through receipts details of which are given along with this Form (Annexure-4).

2. The Complainant has further stated that the Complainant was working in GCC and frequent visits to Chennai were not possible. Efforts were, therefore, taken to reach the Respondent only through phone calls and e-mails. The Complainant is presently at Chennai and the opportunity was taken to pay a personal visit to the office of the Respondent on 13.10.2020 which has also gone in vain as the Complainant could not get any concrete answer from the official present (Shri Vasudevan, representative of the Respondent). Shri Vasudevan has informed that the pandemic has caused the delay. He has, however, not had any idea that though the entire consideration was taken by the Respondent, the project is already delayed by almost more than a year before the outbreak of the virus. The Complainant has also stated that he was promised while executing the Sale Deed in May 2018 that the flat would be handed over by the end of December 2018.

3. The Complainant has sought the following reliefs:

- Immediate handing over of possession of the said flat (Block-I Flat No.606) without any further delay.

4. In the Counter Affidavit, the Respondent has submitted that the construction of Block-I, in which the above mentioned apartment is situated at Kundrathur Village, Kundrathur Taluk and Kancheepuram District was completed and Completion Certificate for the above mentioned Block-I was obtained and therefore the present complaint is not maintainable as the concerned apartment falls with the completed project, the same has been exempted from TNRERA registration and therefore this Authority lacks jurisdiction to entertain the present Complaint.

5. The Respondent has further submitted that with payments relating to delay interest charges still remaining due from the Complainant to the tune of Rs.85,184/- as on 19.07.2019, the claim for the possession of the apartment is impermissible as provided under Clause 17 of the said agreement.

6. The Respondent has also submitted that the concerned apartment I-606 is fully completed with respect to civil work and other amenities, except EB power supply which is delayed by TANGEDCO in processing the application filed by the Respondent herein which is beyond the control of the Respondent herein. The Respondent undertakes to hand over the possession forthwith subject to payment of the above mentioned delay interest charges by the Complainant to the tune of Rs.85,184/- as on 19.07.2021.

7. In the brief written submissions filed by the Respondent, it has been stated by the Respondent that the completion certificate, for the

concerned Block in which the subject matter apartment is situated, was obtained on 28.02.2019. The said Completion Certificate was applied on 31.05.2017.

8. The Complainant has not filed any written submission of arguments.

9. This Authority has examined the Complainant, the Counter Affidavit and the written submission of arguments filed by the Respondent carefully.

10. The Respondent Promoter has stated that the Authority lacks jurisdiction in respect of this Complaint as this apartment booked by the Complainant Allottee is a part of completed project for which application for Completion Certificate was applied on 31.05.2017 and the Completion Certificate obtained on 28.02.2019.

11. The Division Bench of the Hon'ble High Court of Madras in CMSA No.22 of 2019 dated 15.09.2020 in Subashini Thulasiram Vs M/s.SPR & RG Constructions Pvt. Ltd., has held that the Real Estate projects for which the application for Completion Certificate has been filed on or before 01.05.2017 alone are eligible for exemption from registration with this Authority.

12. As per this ruling of the Hon'ble High Court of Madras, this Block-I is very much an ongoing project and hence this Authority has jurisdiction and the Complaint is maintainable.

13. This Authority has already directed the Respondent Promoter to register this Block-I with this Authority vide its order in Complaint No.88/2020 dated 30.06.2021.

14. The Authority also notes that the apartment has not been provided with electricity service connection from TANGEDCO so far.

15. This Authority does not accept the contention of the Respondent Promoter that the inability to obtain electricity service connection from TANGEDCO is beyond the control of the Respondent Promoter. On this ground also, the Authority holds that this apartment is not completed in all respects.

16. Therefore, the Authority directs the Respondent Promoter to obtain domestic electricity service connection from TANGEDCO for this apartment before 30.11.2021 and hand over the apartment to the Complainant Allottee before 31.12.2021, after collecting balance sale consideration, if any, strictly as per the Agreement for project promotion and construction.

17. Any interest on delayed payment by the Allottee Complainant has to be collected strictly as per the RERA rate of interest.

18. The Complainant Allottee is at liberty to move the Adjudicating Officer of this Authority for interest on delayed construction and compensation, if any.

19. With the above directions, this Complaint is disposed of.

Sd/-...22.09.2021

MEMBER (M), TNRERA

Sd/-...22.09.2021

MEMBER (J), TNRERA

Sd/-...22.09.2021

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

N. Prasad
22/9/21
ADMINISTRATIVE OFFICER

by
22-9-21