



**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.047/2020

5th day of November, 2020

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

Thiru Deepak Kumar Agarwal ... Complainant
"Akshaya January"
W-509, 5th Floor, Block-Wednesday
OMR Road,
Chengalmal-Thairiyur,
Chennai – 603 103

Versus

M/s. Akshaya Pvt. Ltd. ... Respondent
G Square,
No.46, OMR Road,
Kandanchavadi,
Chennai – 600 096

This Complaint came up for final hearing before the Authority in the presence of the Complainant having appeared as party in person and of M/s. Mani Sundargopal, Shree Aadya, S. – Counsel for the Respondent and upon hearing the arguments of both the parties, this Authority pass the following order:

FINAL ORDER

The Complainant has booked a flat in Akshaya "January" Real Estate Project in February, 2012 and entered into Memorandum of Agreement for the same on 22.02.2012 with the Respondent Promoter. This project is developed in Thaiyur 'B' village in Chengalpattu Taluk.

2. When the Complaint was taken up for hearing by the Authority, the Counsel for the Respondent submitted that the apartment has been handed over possession to the Complainant long back and the reliefs sought by the Complainant are not very clear.

3. In the next hearing, the Complainant clarified the relief sought by him by stating that all the amenities promised to him in the Memorandum of Agreement have not yet been completed and put into use and they should be completed at the earliest for which a clear time line should be indicated by the Respondent.

4. In the next hearing held on 30.07.2020, the Counsel for the Complainant submitted that various amenities have not yet been provided like gas connection, license for lift, etc.

5. The Counsel for the Respondent submitted that all the amenities are completed except club house which may require few more months to complete it. The Authority directed the Respondent Promoter to file a comprehensive Affidavit in this regard.

6. The Respondent Promoter has filed the status of completion of common amenities and club house facility in the January Project. In this Affidavit, the Respondent has stated that underground water tank with

pumps, separate rest room for staff and drivers, children play area with equipments, crèche, etc have been completed and handed over, however, one DG set over and above the backup requirement is to be installed. The gas bank connection has been completed and handed over, but co-ordination with Association is required for individual connectivity/non availability of keys. The Swimming Pool commissioning is also delayed due to paucity of water. As regards club house, the entire structure work is completed and finishing work is in progress. Most of the amenities including Air Conditioning are completed to the extent of 80%, but for the final commissioning and installation of gym equipments and furniture. The work has been stalled due to COVID pandemic. The club house requires special skilled workers from North India and another 6 months are required to complete the remaining works.

7. The Respondent Promoter has stated that this Affidavit is filed without prejudice to the Respondent's contention that the project "January" does not come within the purview of the Real Estate (Regulation and Development) Act, 2016 and consequently the Real Estate Regulatory Authority.

8. The Authority has examined the Complaint and the Affidavit of the Respondent carefully.

9. In the typed set of papers enclosed as Annexure to Form-M, the Complainant has enclosed a copy of order of the Adjudicating Officer in C.C.P. No.059 of 2019 filed by one K.Deepa against this Respondent Promoter in respect of this Real Estate Project. In this order, the Respondent has stated in his counter that the apartment of the

Complainant was completed as early as August, 2018 and the Complainant was called for inspection of the apartment on 30.08.2018. The Adjudicating Officer has held that as on the date of commencement of the Act i.e. 26.03.2016 or as on 01.05.2017 when the Section-3 of the Act came into force, the project was not completed.

10. In the present Complaint heard by this Authority, the Respondent Promoter has also admitted that the club house is completed to the extent of 80% only and it will require another 6 months to complete the Club House which means the Club House will be completed only by February, 2021. The common amenities like the club house are part and parcel of the Real Estate Project and hence the non completion of common amenities makes this project an on-going project and hence, the complaint is maintainable.

11. The Authority directs the Respondent Promoter to complete all the common amenities including the club house before 28.02.2021 and register the project with this Authority without further loss of time.

12. With this direction, this complaint is disposed of.

Sd/-...05.11.2020

MEMBER (M), TNRERA

Sd/-...05.11.2020

MEMBER (J), TNRERA

Sd/-...05.11.2020

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER/

o/c


ADMINISTRATIVE OFFICER

