



**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.69 of 2020

17th day of March, 2021

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

Thiru G.Viswanatha Reddy

Complainant

Versus

M/s.G.K.S.Properties Private Limited
Rep. by its Authorised Signatory
Mr.Suresh Vaidyanathan

Respondent

This Complaint came up for final hearing before the Authority in the presence of Thiru K.P.Satish Kumar and I.Bobby Portia and B. Pon Manimaran, Counsel for Complainant and of M/s. S.Ramesh and R.Venkatraman, Counsel for the Respondent and upon hearing the arguments of both the parties, this Authority passes the following:

FINAL ORDER

According to the Complainant, the Complainant is an Allottee of an apartment bearing Flat No.B-108 at 1st Floor, Tulive Dakshin in Ayyappanthangal, Chennai-600 056 along with 2 Nos. reserved covered Tandem car park space at the ground level of storied building raised on the land described in the Schedule-A of the Construction Agreement dated 28.03.2019.

2. The Complainant has stated that the Respondent Promoter has failed to provide 2 Nos. tandem covered car parking space at Block-B at "Dakshin" and the Respondent Promoter forced the Complainant to have the car park at "C" Block as a result the Complainant and his aged family members had suffered a lot.

3. The Complainant has sought the following reliefs:

- a) direct the Respondents to return and to provide the Complainant two covered car parking in the B-Block instead of C-Block and such other permissible rate of interest from the date of filing until realization to be fixed by this Hon'ble Authority.*
- b) direct the Respondents to remove the unauthorised covered car parking in the common areas which was not allotted for car parking and such other permissible rate of interest from the date of filing until realization to be fixed by this Hon'ble Authority.*
- c) direct the Respondents to install the solar panel in every apartment as in the plan approval and such other*

permissible rate of interest from the date of filing until realization to be fixed by this Hon'ble Authority.

4. In the Counter Affidavit the Respondent Promoter has stated that this project is registered with this Authority and the Completion Certificate has also been obtained.

5. The Respondent Promoter has also stated that the Construction Agreement was entered for the flat along with tandem car park in the stilt area which is described as ground floor. The Complainant was called upon to inspect the apartment after all the works were completed. At that point of time, the car park was identified and inspected. On 04.09.2019 after inspecting the car park and also the flat, the Complainant signed a letter of satisfaction. After letter of satisfaction was signed and after all the payments were made, on 18.10.2019 the possession was handed over along with the identified car park with a map enclosed. Possession certificate was duly signed by both the parties.

6. The Respondent Promoter has further stated that at no point of time the Complainant demanded car park under his flat either during booking or during execution of construction agreement or during registration of sale deed or during taking possession. After having consciously taken possession in October, 2019 and having expressed satisfaction with regard to flat as well as the car park, the Complainant is estopped from claiming contrary in the present proceedings.

7. The Respondent Promoter has further stated that at this distant point of time, the Complainant seeks for a reallocation and the same will

have cascading effect on other flat owners/allottees whose car park complainant seeks. Third party rights have been created in respect of car parks under Block "B". The Respondent never promised or allotted tandem car park below Block "B". All Allottees have identified and obtained car parks on 'first come first serve basis' with no specific pattern being adopted by the Respondent. There is no malafides or favouritism in allotment of car park to the Complainant.

8. Regarding allegations of Respondent converting the OSR area and common area into car park, the same is denied by the Respondent Promoter. Car parks are allotted and conveyed to the persons who own flats in the project and the size of each car park is as per Development Regulations.

9. Regarding installation of solar panels, the Respondent has stated that the work could not be started due to Covid-19 and the same will be started shortly. The Respondent undertakes to complete the same in a time bound manner.

10. In the written submissions of arguments, the Complainant has stated that in the Construction Agreement there was earmarking plan regarding the car parking which was registered before the registration authority. The Complainant used the car parking area in Block "B" under his flat. To his shock and surprise the car parking area used by the Complainant was illegally sold to an allottee in the Block "C" and the Respondent shifted his car parking to Block "C". This was done after 18.10.2020.

11. The Complainant has also stated that there are 2 vacant tandem car parking are still available in Block "B" for the unsold flats in Block "B". The person who booked the flat in Block "B" after the Complainant was given tandem car parking areas in the Block "B".

12. In the written submissions of arguments, the Respondent Promoter has reiterated its earlier submissions regarding allotment of car parking area. He has stated that the Complainant has taken possession by signing possession certificate which also contains a map indicating the car park allotted to the Complainant in accordance with the wish of the Complainant. The Possession Certificate dated 18.10.2019 along with annexure including the car park slot was indicated after the consent of the Complainant ***(page 33 to 37 of the documents filed by the Respondent. Page 37 contains the car park map indicating the allotment and signed by the Complainant)***.

13. The Respondent Promoter has denied the allegation of conversion of OSR area and common area into car park. Also the Complainant has not produced any proof to substantiate his allegation. The Respondent has further stated that the installation of solar panel has commenced from August, 2020.

14. This Authority has examined the Complaint, counter Affidavit filed by the Respondent and the written submission of arguments by both sides carefully.

15. It is seen that the Complainant has not produced any documents to show that he has been allotted a tandem car park in the car parks situated below Block "B". The Complainant has taken possession by signing

the possession certificate which also contains the map indicating the car park allotted to the Complainant which is available on page No.51 of the typed set of papers filed by the Complainant and page No.37 of the typed set of papers filed by the Respondent Promoter. Therefore, the Complainant's prayer for provision of tandem car park in Block "B" instead of Block "C" is rejected.

16. Regarding the prayer for removal of unauthorized covered car park in common areas which was not allotted for car parking, the Complainant has not produced any material evidence in support of his allegation.

17. The Completion Certificate for this Real Estate project has also been obtained on 14.08.2019. Therefore, the Complainant is at liberty to move CMDA for violation of Planning Permission, if any, with supporting evidence.

18. Regarding the installation of solar panels, the Respondent Promoter has stated that he could not start the work due to Covid-19 and has since commenced the work in August, 2020.

19. The Respondent Promoter is directed to complete the installation of solar panels before 30.04.2021, if not done already.

20. With these directions, the above Complaint is disposed of.

Sd/-...17.03.2021

MEMBER (M), TNRERA

Sd/-...17.03.2021

MEMBER (J), TNRERA

Sd/-...17.03.2021

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

N. 
17/3/21
ADMINISTRATIVE OFFICER


17-3-21

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