



**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]

I.A.No.1/2020 in C.No.471/2019

30th day of September, 2020

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

M/s. First Venture, ... Petitioner /
Rep. by its Managing Partner, Complainant
Mr. Kaustubh Johri,
No.60, First Avenue, Vettuvankani
Chennai – 600 115

Versus

1. M/s. Color Home Developers Pvt. Ltd. Respondents
Rep. by its Authorised Signatory
Mr. D.Selvabharathy
2. Sub-Registrar,
Office of Sub-Registrar,
Joint-II, Kancheepuram
3. M/s. Religare Housing Development
Finance Corporation Ltd.,
Rep. by Mr.Ganesh, ...
Authorised Signatory,
No.29, Dr. Nair Road,
T.Nagar, Chennai – 600 017
4. IDBI Bank,
Rep. by its Manager
Mr.Antony Sundarajan,
No.480, Khivraj Complex,
Anna Salai, Nandanam, Chennai - 35

The Interim Application No.1/2020 in Complaint No.471/2019 came up for hearing before this Authority in the presence of C.Uma and K.Chandra, B.Anandhalakshmi – Counsel for Petitioners / Complainants and of M/s. S.Anand, H.Visveswaran, P.A.Delhi Babu – Counsel for Respondents / Respondents and upon hearing the arguments of both the parties this Authority pass the following order.

ORDER

The Complainant has filed a Complaint praying for a direction directing the 1st Respondent to register Villa No.101B in Kanchipattinam project in Karai village in Kancheepuram Taluk and District with all amenities in the name of the Complainant and to take action against the 1st Respondent alleging that he has fraudulently registered Villa No.101B to a third party by name Mr.Giftson Samuel on 22.11.2019, despite the NOC being in the name of the Complainant.

2. The Complainant has prayed to implead M/s. Religare Housing Development Finance Corporation Ltd. The Complainant has also stated that the Complainant Firm has paid a sum of Rs.15 lakhs on 31.07.2019 to release the lien on Villa No.101B to the above proposed Respondent No.3. Also the original NOC dated 31.07.2019 was issued in the name of M/s. First Venture by M/s Religare Housing Development Finance Corporation Ltd.

3. The Complainant has further stated that the 1st Respondent has manipulated the original NOC in favour of one Mr.Giftson Samuel and that the 1st Respondent along with Mr.Giftson Samuel has mortgaged and

created an encumbrance for Villa No.101B by obtaining housing loan from IDBI Bank the proposed 4th Respondent in the I.A.

4. The Complainant has also stated that after conducting internal enquiry, the IDBI Bank has decided to cancel the housing loan and to cancel the Memorandum of Deposit (MOD) registered vide document No.6801/2019 dated 22.11.2019 at SRO Kancheepuram Joint-II on the ground that the 1st Respondent had forged the original NOC and obtaining the housing loan using fraudulent method. Therefore, the Complainant has prayed to implead the IDBI Bank.

5. The Complainant has also prayed to implead the Office of the Sub Registrar, Joint-II, Kancheepuram as 2nd Respondent in this regard.

6. In the Counter Affidavit on this I.A., the Respondent has stated that the Complainant has not entered into any agreement and MoU for Villas bearing Nos.57A and 101B in Kanchipattinam project. To the legal notices sent by the Complainant, the Respondent Company has replied on 22.11.2019 that there was no written agreement of sale or MoU with regard to the sale of villas 57A and 101B in the Kanchipattinam project.

7. The Respondent Company has also not given any assurance to the Complainant to register the Villa 101B as they already sold the villa No.55A to the Complainant without NOC. Moreover, the Complainant has not paid any amount for procuring NOC for the plot No.55A, but the Respondent has registered the plot No.55A in favour of the Complainant by adjusting the amount given by the Complainant towards plot No.101B. This has been

done fully with the concurrence of the Complainant only. Till date the Complainant has not paid any amount for registering the plot No.101B. Moreover, there is no written agreement of sale to sell the Villa No.101B to the Complainant. The amount paid to M/s. Religare Housing Development Finance Corporation Ltd. is for the plot Nos.55A, 99A, 99B, 100A, 100B and 101B. The Complainant has failed to enter into any kind of agreement of sale or paid any amount for the plot No.101B.

8. The Respondent has further submitted that M/s. Religare Housing Development Finance Corporation Ltd. is only a financing authority and they have no locus standi to enter into any kind of sale transactions between the Complainant and the Respondent.

9. No documents showing forgery or concealing of facts or manipulations, or malpractice done by the IDBI Bank in the above process. Hence, it is not necessary to implead them in this case.

10. The 1st Respondent stated that the Villa No.101B has been registered in the name of Mr.Giftson Samuel as the Complainant has neither entered into any sale agreement nor paid any amount for the registration of the said plot. Also the Respondent did not give any assurance to the Complainant to register the above said Villa No.101B.

11. There is no oral or written promise given to the Complainant for sale of the above said Villa. The inquiry by the IDBI Bank is in the initial stage and it is not necessary to implead them in this Complaint.

12. It is also not necessary to implead the SRO concerned as he/she an executive authority and no way connected with the sale transaction except registering the sale deed documents. Therefore, the 1st Respondent has concluded that the proposed 2nd, 3rd and 4th Respondents need not be impleaded as Respondents and the IA may be dismissed.

13. In the written arguments, the Complainant has stated that the Complainant has paid a sum of Rs.15 lakhs on 31.07.2019 to release the lien on the Villa No.101B to the proposed 3rd Respondent who is the financier of the 1st Respondent in whose favour the deposit of title deed is registered and charge is created by the 1st Respondent for the Villas. On receipt of the payment, the proposed 3rd Respondent discharged the lien and issued NOC for registering the sale deed in favour of the Complainant M/s. First Venture for the Villa No.101B.

14. However, the 1st Respondent after issue of NOC denied to register the Villa in favour of the Complainant and forged the NOC issued by the proposed 3rd Respondent in favour of one Mr.Giftson Samuel on 11.11.2019 and registered the Villa No.101B in his favour. Therefore it is just and necessary to implead the proposed 3rd Respondent being the originator of the NOC.

15. The Complainant has reiterated their submission regarding impleading the Sub Registrar and IDBI Bank.

16. The Complainant has stated that the contention of the 1st Respondent is that the payment of Rs.15 lakhs paid on 31.07.2019 to the proposed 3rd Respondent is for the Villa No.55A. It is pertinent to note that the villa No.55A was registered on 19.09.2018 and No due Certificate

was issued and handing over of Villa was completed by 11.04.2019 by the Respondent. Hence, this contention of the Respondent is frivolous.

17. The Complainant has further submitted that there has been no sale agreement between the parties for any of the Villas conveyed so far. The Respondent has however, issued the booking receipt for 7 Villas in favour of the Complainant which includes this Villa No.101B. So far 5 Villas have been conveyed by the 1st Respondent in favour of the Complainant and completed as early as on May 2019.

18. The payment of Rs.15 lakhs towards Villa No.101B is made on 31.07.2019 is only at the request of the 1st Respondent. Hence the 1st Respondent is under obligation to convey the said villa No.101B in favour of the Complainant.

19. The Authority has examined the prayer of the Complainant in the IA to implead the Sub Registrar, M/s. Religare Housing Development Finance Corporation Ltd. and IDBI Bank and the Counter Affidavit filed by the Respondent and the written submission of arguments filed by the Complainant carefully.

20. It is seen that the 1st Respondent has also admitted in the Counter Affidavit that the amount paid by the Complainant to M/s. Religare Housing Development Finance Corporation Ltd. is for the plot No.55A, 99A, 99B, 100A, 100B and 101B (para-8 of the Counter Affidavit filed by the Respondent).

21. It is beyond comprehension as to why the Respondent should ask the Complainant to pay Rs.15 lakhs on 31.07.2019 in respect of Villa No.101B which he is not planning to sell to the Complainant. Also the allegation of the Complainant is that this NOC issued in favour of the Complainant has been manipulated and the Villa No.101B has been registered in favour of one Mr.Giftson Samuel.

22. Therefore, this Authority directs that M/s. Religare Housing Development Finance Corporation Ltd. be impleaded as a Respondent in this Complaint.

23. Regarding the prayer of the Complainant to implead the Sub Registrar, this Authority considers that it is not necessary to do so, since the Sub Registrar is a statutory authority whose job is to register property documents as per the relevant Act, Rules and Regulations and also there is no allegation that the Sub Registrar has not acted in accordance with law. Therefore, the jurisdictional Sub Registrar need not be impleaded.

24. The IDBI Bank is only a financier of Mr. Giftson Samuel who is the purchaser of Villa No.101B from the 1st Respondent. Therefore, there is no need to implead M/s. IDBI Bank as a Respondent and the Authority directs accordingly.

25. The Complainant is directed to serve a copy of the Complaint as well as copy of Interim Application along with typed set of documents on M/s. Religare Housing Development Finance Corporation Ltd. within 2 weeks from the date of this order.

26. M/s. Religare Housing Development Finance Corporation Ltd. is directed to file Counter Affidavit within 2 weeks from the date of service of Complaint and the Interim Application by the Complainant.

Sd/-...30.09.2020 Sd/-...30.09.2020 Sd/-...30.09.2020
MEMBER (M), TNRERA MEMBER (J), TNRERA CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER


ADMINISTRATIVE OFFICER


30.9.2020