



**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.139 & 140/2021

30th day of December, 2021

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

Tvl.

1. Nilesh Modi	139/2021]	Complainants
2. Nisha Modi	140/2021]	

Versus

M/s. Amar Prakash Developers Pvt. Ltd. Respondent
Represented by its Managing Director

These Complaints came up for final hearing before this Authority in the presence of N.S.Tanvi and P.Balaji - Counsels for Complainants and of Mr.Dineshkumar - Counsel for Respondent and upon hearing the arguments of both the parties, this Authority passes the following order:

COMMON FINAL ORDER

The Complainants have submitted in the Complaints that the Respondent is the promoter for the "Venezian – Palm Riviera" township project. The Respondent constructed the township and they promoted a residential apartment under the name and style of "Palm Riviera" which was later renamed as "The Venezian – Palm Riviera" at Thirumudivakkam Main Road, Thirumudivakkam village, Sriperumbudur Taluk, Kancheepuram District.

2. The Complainants have also stated that the Respondent has executed a sale deed and construction Agreement dated 22.08.2017 and 30.06.2017 for Flat No.F-203 and F-302 at SRO, Padappai. As per Clause 17 of the Construction Agreement, both the constructed apartments had to be handed over in December, 2017. However, till date, the handover had not taken place. The Complainants are contacting the Respondent since 2017 and in December, 2019 when the Complainants contacted the Builder through his agent and the Builder promised to handover the apartments by June, 2020. However, the Complainants have reliably learnt that there has been no progress in the construction. The Complainant has only recently learnt that in 2019, the entire construction came to a standstill in the construction site.

3. The Complainants have sought the following reliefs in the Complaints:

- a) Directing the Respondent to register the F Block of 'The Venezian – Palm Riviera' project with TNRERA.

- b) Impose a penalty on the Respondent for the non registration of Block F of 'The Venizian – Palm Riviera' project under Section 59 of the Real Estate (Regulation and Development) Act, 2016.
- c) Directing the Respondent to complete the project in a stipulated timeframe and handover apartments F-203 and F-302 to the Complainants without further delay.

4. In the Counter Affidavit, the Respondent has submitted that the Complainants had filed the above Complaint in Form-M before this Authority seeking for immediate possession of their Flats No.F-203 and No.F-302 in the project Palm Riviera. The construction of the Block-F, in which the above mentioned apartments are situated at Kundrathur village, Kundrathur Taluk and Kancheepuram District was completed and Completion Certificate received on 18.12.2018 for the above mentioned Block-F was obtained and therefore the present Complaint is not maintainable as the concerned apartments 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 also stated that the concerned apartments F-203 and F-302 are 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, which is beyond the control of the Respondent.

6. In the written submission of arguments, the Complainants have reiterated their submissions made in the Complaints.

7. In the written submission of arguments, the Respondent has submitted that the Completion Certificate for the concerned Block in which the subject apartments are situated, was obtained on 18.12.2018. The said Completion Certificate was applied on 31.05.2017. Also the concerned apartments are 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.

8. This Authority has examined the Complaints and the Counter Affidavits filed by the Respondent Promoter and the written submission of arguments filed by both sides carefully.

9. The Respondent Promoter has contended that these Complaints are not maintainable since the Block-F in which the apartments of the Complainants are located have been completed and the Completion Certificate received on 18.12.2018 and hence exempt from registration with this Authority and this Authority lacks jurisdiction to entertain these Complaints.

10. The Respondent promoter has further stated that these two apartments are fully completed in respect of civil works and other amenities except electricity supply which is delayed by the TANGEDCO in processing the application filed by the Respondent.

11. This Authority does not accept this submission of the Respondent Promoter, since it is the duty of the Respondent Promoter to complete the apartments in all respects and handover the apartments in habitable condition.

12. The Hon'ble Tamil Nadu Real Estate Appellate Tribunal has also in its order dated 23.05.2018 in Appeal No.1/2018 in the case of Mr.Y.Ravishankar Vs. M/s.Marg Properties Limited held that the apartments will have to be in usable condition. Therefore, this Authority holds that these apartments have not been completed in all respects and hence the Block-F in which the Complainants' apartments are located is an ongoing project.

13. Therefore, this Authority directs the Respondent Promoter to register Block-F with this Authority.

14. This Authority also notes that the application for Completion Certificate was filed only on 31.05.2017. Hence on 01.05.2017 the date of commencement of Section-3 of the Act, this Block has no Completion Certificate. Therefore, this project is very much an ongoing project as on 01.05.2017.

15. This Authority has already held in its order dated 18.11.2021 in Complaint Nos.129 & 130 of 2021 that this Block-F has to be registered with this Authority before 31.01.2022. The Respondent Promoter is directed to comply with the directions of this Authority to register the Block-F with this Authority without further loss of time, failing which penal action will be taken as per the provisions of the Act.

16. The Authority also directs the Respondent Promoter to obtain permanent domestic electricity service connection from TANGEDCO without further loss of time before 31.03.2022 and handover the apartments completed in all respects including permanent electricity service connection from TANGEDCO and handover the apartments to the Complainant Allottees before 15.04.2022.

17. The Authority also directs the Respondent Promoter that till permanent electricity connection is obtained from TANGEDCO, the Respondent Promoter shall provide electricity to these apartments through Genset at the cost of the Respondent Promoter without charging the Complainant Allottees.

18. With the above directions, these Complaints are disposed of.

Sd/-...30.12.2021

MEMBER (M), TNRERA

Sd/-...30.12.2021

MEMBER (J), TNRERA

Sd/-...30.12.2021

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER


ADMINISTRATIVE OFFICER


30.12.2021