



**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.114/2022**

**13<sup>th</sup> day of September, 2023**

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

1. Mr. Imran Mallik Zafrulla Mallik
2. Mrs. Nafeesatal Misria Packir Mohamed

.....Complainants

Versus

- 1) M/s. Casa Grande Shelter LLP  
Rep. by its Authorised Signatory  
Thiru G. Sethupathy
- 2) M/s. Vijay Shanti Builders Ltd.  
Represented by its Managing Director
- 3) M/s. Propel Holdings Ltd.  
Represented by its Managing Director

.....Respondents

The above Complaint came up for final hearing before this Authority in the presence of M/s. M.R.Gokul Krishnan - Counsel for Complainants and of M/s. Ganesh & Ganesh - Counsel for 1<sup>st</sup> Respondent and of the 2<sup>nd</sup> & 3<sup>rd</sup> Respondents called absent.

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## **FINAL ORDER**

The Complainant has submitted in the Complaint that he has booked an apartment No.J-108 comprising a total of 1901 sq.ft of super built up area with a carpet area 1277 sq.ft. with UDS of 993 sq.ft. and 103 sq.ft. of open terrace and 2 closed car parks in the project called "Casa Grand Asta" situated at Ward D, Block 8, Srinivasa Nagar, Karukku Main Road, Korattur, Chennai-600 049 developed by the Respondent Promoter.

2. The Complainants have further stated that they entered in to a Sale Agreement dated 10-08-2018 for the purchase of 993 sq.ft. of undivided share of land plus 103 sq.ft. of open terrace. The construction agreement dated 10-08-2018 was entered into between the Complainants and M/s. Casa Grande Shelter LLP by which the M/s. Casa Grande Shelter LLP has agreed to construct and allot Apartment No.J-108, comprising a total of 1901 sq.ft. of super built-up area with a carpet area of 1277 sq.ft. plus 103 sq.ft. open terrace and 2 closed car parks, in favour of the Complainant.

3. The Complainants have further submitted that as per Clause 2 of the Construction Agreement dated 10.08.2018 which deals with construction clause and other related payments, the total construction cost for the said apartment J-108 as quoted by M/s. Casa Grande Shelter LLP was Rs.98,47,988/- As per Clause 4a of the Construction Agreement, the promoter M/s. Casa Grande Shelter LLP specifically agreed that it shall complete the construction of the apartment by August 2019.

4. It is further submitted by the Complainants that out of the total consideration, the Complainants have paid 10% on booking and a sum of Rs.92,71,989/- on various dates. The Respondent has not honoured any of their obligations and has not completed the construction of the Apartment by 1<sup>st</sup> August 2019 as agreed.

5. The Complainants have further stated that, while booking the apartment, they were charged 12% GST amounting to Rs.10,33,713/- towards GST tax and whereas from April 2019, the Government announced and reduced the GST from 12% to 5% and instructed the builders to pass on the benefit to its customers. But the Respondent had not refunded the excess 7% GST that they have claimed from the Complainants.

6. The Complainant has further stated that he had already filed a Complaint in CCP No.10/2021 before the Learned Adjudicating Officer, TNRERA claiming compensation for the delay in delivery of constructed flat, tax liability on GST and other reliefs from the Respondent filed under Section 31 read with Section 71 of the Real Estate (Regulation and Development) Act, 2016 in CCP No.10/2021.

7. It is further submitted that the Hon'ble Adjudicating Officer, TNRERA had passed a final order dated 27-05-2022 wherein the Respondent was directed to pay the Complainants the compensation for delay in delivery of the apartment, compensation for the mental agony and inconvenience and costs as per the finding in Point No.(iii) Para 8 of the said order within 30 days from the date of issue of the Order.

8. The Complainants have prayed for the following relief(s) in the Complaint.

- a. Direct the Respondent to execute sale deed in favour of the Complainants after receiving the balance amount of Rs.39,29,035.95/- within a time frame fixed by this Authority.
- b. Hand over possession of Flat No.J-108, Casa Grand Asta, situated at Ward D, Block 8, Srinivasa Nagar, Karukku Main Road, Korattur, Chennai, Tamil Nadu -600 049 within time frame fixed by this Authority.

9. In the Counter Affidavit filed by the 1<sup>st</sup> Respondent has submitted that the 10% of the consideration was paid by the Complainants on 03.08.2021 and the construction agreement dated 10.08.2018 was shared with the Complainants seeking for the registration of the same. As the Complainants were staying abroad they preferred to register the Agreements when they visit India. Further the 1<sup>st</sup> Respondent has stated that it has sent several e-mails dated 15.08.2021 with regard to the requirements of the registration of the Agreements (copies of the said e-mails are filed in the typed set of documents).

10. the 1<sup>st</sup> Respondent has also submitted that as per the terms of the Construction Agreement it was agreed to be delivered in August 2019 but due to several unforeseen circumstances, the completion of the apartments was slightly delayed which was mainly caused due to the non-availability of sand and scarcity of water. It is also mentioned by the 1<sup>st</sup> Respondent that Clause 4(a) of the Construction Agreement which is



being referred by the Complainants for the completion and handing over of possession itself provides the applicability of force majeure.

11. The 1<sup>st</sup> Respondent has further submitted that the Complainants have also required modifications and entered into a modification agreement dated 09.09.2019. The delay as claimed by the complainants shall not arise as the time taken for modifications which are substantial in nature as evidenced by the details of the modifications as recorded thereof.

12. Further, it is submitted by the 1<sup>st</sup> Respondent that as per the discussions with the Complainants it has been agreed that a discount of Rs.1,20,000/- was also provided by the Respondent. The Complainants have also duly accepted the same and therefore the Complainants are estopped from making any further claims and demands in this regard. As far as the allegation of GST is concerned, the Respondent has also not availed excess input tax credit for the entity as a whole.

13. The 1<sup>st</sup> Respondent has further submitted that the project is completed during January, 2020 and the Completion Certificate was applied on 23.01.2020 has been received by the Respondent on 14.07.2020 evidencing the completion of the construction. In fact the Respondent had already handed over the possession of completed apartments to several purchasers/allottees of the project.

14. With regard to the submissions made by the Complainants relating to the order passed by Adjudicating Officer in CCP 10 of 2021, the

Respondent has submitted that it has filed an appeal against the said order before the Hon'ble Appellate Tribunal.

15. In the I.A.No.72 of 2022, the Complainants have prayed that this Authority may be pleased to allow the Petitioner/Complainant seeking to amend the prayer in Complaint as "Direct the Respondent to execute sale deed in favour of the Complainants after receiving the balance amount of Rs.6,96,023/- within a time frame fixed by this Authority" instead of "Direct the Respondent to execute sale deed in favour of the Complainants after receiving the balance amount of Rs.39,29,035.95/- within a time frame fixed by this Authority" and pass such further or other Orders as this Authority may deem fit and proper in the facts and circumstances of the case and thus render justice.

16. This Authority has examined the Complaint, the Counter Affidavit filed by the Respondent Promoter, the Interim Application filed by the Complainants and the written submission of arguments file by the Complainants carefully.

17. The prayer of the Complainant is to direct the Respondent Promoter to execute the sale deed and handover possession of the flat No.J-108 in Casa Grand Asta real estate project.

18. It is seen that the Respondent Promoter has obtained "Completion Certificate" on 14.07.2020.

19. The Respondent Promoter has also stated that he has already handed over the possession of the completed flats to several Allottees of this real estate project.

20. It is noted that in the written submission of arguments, the Complainants have stated that they have made a payment of Rs.91,51,965/- as against the total consideration of Rs.98,47,988/- which consists of construction cost of Rs.78,64,275/-, car park and other EB/water connection charges of Rs.8,50,000/-, corpus fund of Rs.1,00,000/- and GST charges of Rs.10,33,713/- The Complainants have also stated that the balance to be received by the Promoter is Rs.6,96,023/-

21. Therefore, this Authority directs the Respondent Promoter to execute the Sale Deed in favour of the Complainant Allottees and hand over the flat No.J-108 in "Casa Grand Asta" project to the Complainant Allottees before 30.11.2023 after receiving the balance sale consideration strictly as per the construction agreement.

22. With the above direction, this Complaint is disposed of.

Sd/-...13.09.2023  
MEMBER (M), TNRERA

Sd/-...13.09.2023  
MEMBER (J), TNRERA

Sd/-...13.09.2023  
CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

  
ADMINISTRATIVE OFFICER  
13.9.23