



**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.116/2022

17th day of August, 2023

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

Thiru R.C. Naveen Nayar] Complainant
Rep. by his Authorised Power of Attorney]
Thiru R. Chandrasekar]

Versus

1) M/s. Aysha Real Estate Pvt. Ltd.]
Rep. by its Managing Director]
Thiru V.M. Sulthan Mohideen] Respondents
2) M/s. SMS Foundations and Investments LLP]
Represented by its Director]
Thiru Manish B Shah]
3) M/s. RHL Realities Pvt. Ltd.]
Represented by its Director, Thiru Murali]

The above Complaint came up for final hearing before this Authority in the presence of M/s. S. Janarthanan – Counsel for Complainant and of M/s. M. Kamaraj – Counsel for 1st Respondent. The 2nd and 3rd Respondents called absent.

FINAL ORDER

The Complainant has submitted in the Complaint that as he was interested in buying a land or property and on upon visiting the site being developed by M/s. RHL Realities Pvt. Ltd. 3rd Respondent herein, he had booked plot bearing No.552 in the project "Sri Krishna Nagar-I" to an extent of 1012 sq.ft. in Melakondaiyur Village, Tiruvallur Taluk and District bearing Survey No.50/16.

2. The Complainant has further submitted that the Complainant and the Respondents had agreed for the price of Rs.26,00,000/- on a condition that the Complainant would have to give Rs.20,00,000/- as an advance before the start of construction. The Complainant has further submitted that he has agreed to the same and has paid the amount of Rs.20,00,000/- between 11.11.2019 and 15.11.2019 and the Construction Agreement was signed on 14.11.2019 between the 3rd Respondent and within that time, an amount of Rs.20,49,000/- was paid by the complainant out of the agreed consideration.

3. It is further submitted by the Complainant that on 15.11.2019, the land was registered between Aysha Real Estate Pvt.Ltd. the 1st Respondent herein represented by its Power of Attorney Agent M/s.SMS Foundation and Investments LLP the 2nd Respondent herein represented by its director

Mr.Manish B Shah and the Complainant and the same was registered bearing Document No.13416 of 2019, on the file of the Sub-Registrar Office, Thiruvallur at a value of Rs.5,06,000/- and the same payment was made to the 1st & 2nd Respondents by way of cheque bearing No.442697 dated 14.11.2019 for Plot No.552, 1012 sq.ft. Survey No.50/16 Layout named "Sri Krishna Nagar – I" approved by DTCP No.122 (R)/2018 situated at No.45, Melakondaiyur Village, Thiruvallur Taluk and District.

4. The Complainant has stated that the Construction began at the site by RHL Realities Pvt. Ltd. and the vasakkal pooja was held on 05.03.2020. Further the Complainant has submitted that during June 2020, the Complainant had paid Rs.2,00,000/- in parts, but subsequent to the same, no further work was done on the site. On enquiring about this, RHL Realities Pvt. Ltd. cited reasons such as lockdown and rain for the non-completion of the project. On 06.05.2021, the Complainant received a letter from the 3rd Respondent stating that the Complainant had to pay a total of R.34,71,012/- instead of the previously decided amount of Rs.26,00,000/- citing reasons such as lockdown and rain.

5. The Complainant has further submitted that on deliberation, the Complainant had agreed to pay Rs.3,50,000/- additionally from the previously decided amount of Rs.26,00,000/- In response to the same, the 3rd Respondent agreed to complete the project in a span of 45 days. It is further stated by the Complainant that after the agreement has been made between the 3rd Respondent, an amount of Rs.2,00,000/- and Rs.1,50,000/- have been paid respectively to the 3rd Respondent and the

Complainant has due of Rs.2,00,000 only, which is to be paid on the handover of the building by the 3rd Respondent. But still, there has been no progress with regards to the construction of the project.

6. The Complainant has sought for the following relief in the Complaint.

- a) To Direct the Respondents to complete construction in all aspects and handing over of the Residential House unit to the Complainant without demanding any additional cost of construction beyond agreed amount in the construction agreement.
- b) To Direct the 1st to 3rd Respondents to pay a sum of Rs.5,00,000/- to the Complainants as damages caused by mental agony, stress and torture faced by the Complainant due to the dragging on the constructions.
- c) To direct all the Respondents jointly and severally to pay of the cost of Complainant in filing the present complaint.
- d) To pass such other order or orders as this Authority deems fit and proper under the circumstances and thus render justice.

7. In the Counter Affidavit, the 1st Respondent has submitted that the project of this Layout was registered with TNRERA vide registration No.TN/002/Regularization-Layout/0799/2022, dated 25.02.2022, Project Name: "Sri Krishna Nagar Extension" and Form 'C' issued on 25-02-2022.

8. The 1st Respondent has further submitted that he is the owner of the vacant land comprised in survey Nos.50/15, along with adjacent land in survey No.50/16, totally measuring an extent of 16 Acre 32 cents situated at No.45, Melakondaiyur Village, Tiruvallur Taluk. The 1st Respondent has also submitted that they have converted the said lands along with other extent of lands totally 16.32 acres and formed a layout by named "Sri Krishna Nagar-I" and the said Layout approved by DTCP under order No.122 (R)/2018 from Assistant Director, DTCP, Thiruvallur.

9. The 1st Respondent has also submitted that the 1st Respondent has executed a General Power of Attorney dated 10.05.2018, registered as Document No.5330 of 2018, in the S.R.O.Thiruvallur for the vacant housing Plot Nos.570, 586 to 618 measuring about 36181 sq.ft. in the layout "Sri Krishna Nagar-1" in favour of 2nd Respondent M/s.SMS Foundation and Investments LLP, represented by its Director Thiru.Manish B.Shah and empowering them to deal with the said plots in all respects including sale.

10. The 1st Respondent has also stated that 2nd Respondent M/s. SMS Foundation and Investments LLP, represented by its Director Thiru Manish B.Shah has executed a sale deed with regard to the Plot No.552 in "Sri Krishna Nagar-1" layout to an extent of 1012 sq.feet in favour of the Complainant on 15.11.2019 vide document No.13411 of 2019 on the file of S.R.O.Thiruvallur. Further the said payment was made to the 2nd Respondent, since the 1st Respondent empowered the 2nd Respondent in all matters dealing with the said plots.

11. It is further submitted by the 1st Respondent that the Complainant has not made any agreement with the 1st Respondent for promoting the land and construction of house. The 1st Respondent did not advertise to any of the prospective purchasers that it has the expertise to build houses over the plots that is to be sold at "Sri Krishna Nagar-1". The 1st Respondent has further submitted that the Complainant entered into the construction agreement with the 3rd Respondent and paid money to the 3rd Respondent at his whims and wishes and the 1st Respondent is no way responsible or liability for the acts of the Complainant and the 3rd Respondent.

12. The 2nd Respondent, GPA holder of 1st Respondent landowner and the 3rd Respondent Promoter have not appeared in any of the hearings conducted by this Authority. In spite of news paper publication effected by the Complainant directing the 3rd Respondent for appearance before this Authority in the hearing scheduled on 05.01.2023, the 3rd Respondent has not turned up for the hearing. Therefore, this Authority ordered Ex-parte in respect of 3rd Respondent in its Day Order dated 09.02.2023.

13. This Authority has examined the complaint, the Counter affidavit filed by the 1st Respondent and the written submission of the arguments filed by the complainant carefully.

14. The main issue in this complaint is the non completion of the construction of the independent house by the 3rd Respondent as per the construction agreement executed between the Complainant and the 3rd Respondent.

15. As far as the 1st and 2nd Respondents are concerned they have already executed the sale deed for the plot No.552 on which the independent house is to be constructed by the 3rd Respondent. The construction agreement is also only between the Complainant and the 3rd Respondent and the 1st and 2nd Respondents are not parties to this construction agreement.

16. Therefore, this Authority holds that the 1st and 2nd Respondents are in no way responsible for completion of the house as prayed for by the Complainant.

17. As per the Construction agreement, the 3rd Respondent is solely responsible for construction of the house as well as the basic amenities for a consideration of Rs.20.94 lakhs to be paid by the Complainant to the 3rd Respondent.

18. The Complainant has submitted that they have already paid Rs.20.49 lakhs and thereafter an additional sum of Rs.3.50 lakhs as agreed by the Complainant to pay to the 3rd Respondent. In spite of this, the 3rd Respondent has not completed the construction of the independent house and the basic amenities.

19. It is also seen from page No.13 to 17 of the Complaint that the 3rd Respondent has advertised this real estate project as 24 Carat Smart City Villa project with various common amenities.

20. The 3rd Respondent has not appeared in any of the hearings and has not filed counter affidavit so far.

21. Therefore, this Authority holds that the 3rd Respondent is responsible for completion of the house as per the Construction Agreement dated 14.11.2019 and accordingly directs the 3rd Respondent to complete the construction of the house along with the amenities promised in the construction agreement in all respects before 31.12.2023 and handover the same to the Complainant without fail.

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

Sd/-...17.08.2023

MEMBER (M), TNRERA

Sd/-...17.08.2023

MEMBER (J), TNRERA

Sd/-...17.08.2023

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

N. Prasad
17/8/2023
ADMINISTRATIVE OFFICER

dm
17.8.23