



**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.155/2022

20th day of July, 2023

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

Perambur Royal Palace Flat Owners]
Welfare Association, Represented by] Complainant
its President Thiru Y. Feroz]

Versus

1) M/s. Royal Builder & Promoters]
Represented by its Managing Partner]
Thiru Roshan Nawaz] Respondents
2) Tmt. Sajeda Begum, Partner]
M/s. Royal Builder & Promoters]

The above Complaint came up for final hearing before this Authority in the presence of M/s.S.Shujath – Counsel for Complainant and of M/s. G.Peranban – Counsel for Respondent. This Authority passes the following order:

FINAL ORDER

The Complainant Association has submitted in the Complaint that this Association is a registered Association and approved by the Government of Tamil Nadu vide Registration No.161/2020 and this Association consist of resident flat owners of Royal Palace Building.

2. The Complainant Association has further submitted that the Respondent Builder had in the year 2018-2019 constructed Apartments in the name and style of Royal Palace in an area of 7217 sq.ft. involving A, B and C Blocks comprising 6 residential units in A Block, 9 residential units each in B and C Blocks i.e. in total 24 residential units of 2 Bedroom, Hall, Kitchen and toilet facilities with all other usual amenities at No.20 & 21, New No.47, Sabapathy Mudali Street, Sembiam, Chennai-11.

3. The Complainant Association has further submitted that the Respondents have promoted the said apartment through a brochure wherein they canvassed the sale of residential units as approved by CMDA with usage of quality construction materials, car park, lift to each Block, CCTV surveillance and offered all amenities that became part of an apartment consisting 24 residential units.

4. Further it is submitted in the Complaint that the new Apartment could not withstand the rains during the year 2020. As a result the walls have got damaged and thus rain water seepages found in the interior and exterior of the flats. Further, the Resident Flat Owners to their shock and surprise have received Lock & Seal Notices, dated 05.09.2022 from Greater

Chennai Corporation and on the second week of September, 2022, to their respective address. The Complainant Association has also stated that the Respondents have not taken any steps to regularize the Building and the Resident Flat Owners have once again received De-occupy Notice, dated 18.10.2022 on the 4th day of November, 2022.

5. The Complainant Association has prayed for the following reliefs in their Complaint.

- 3rd floor construction to be stopped in Block "A" immediately.
- Regularisation of deviations committed by the Respondents.

Repair/rectification to be carried out by the Respondents are as follows:

Stilt:

- Complete incomplete flooring
- Rain water harvesting to be constructed
- EB Box Panel Board to be installed
- Second coating of paint on the wall to be done in the entire building
- Surrender Security Guard Room

A-Block:

- Provide Lift
- Weather coating work has to be done
- Overhead water tank plumbing line incomplete
- Wall cracks and leakages found in the walls and roofs

B-Block:

- Wall cracks and leakages found in the walls and roofs
- Rain water seepage in the lift be corrected
- EB Box Panel Board to be installed

C-Block:

- Lift to be installed
- EB Panel Board to be installed
- No 3-phase connection to lift
- Wall cracks and leakages found in the walls and roofs

6. In the Counter Affidavit, the Respondents have submitted that the complaint is not maintainable with regard to the reliefs in the complaint before this forum. Also the Respondents have stated that the main relief of stoppage of Block A construction in 3rd floor does not arise since the Corporation of Chennai already initiated Lock and Seal Proceedings against the premises. The Respondents have further submitted that the claim of the Complainant is totally unfair because after completion of entire structure with necessary amenities the handing over process started and respective Allottees occupied the premises.

7. It is also submitted by the Respondents that the Complainant suppressed the entire facts of the case. The Complainant already filed Writ Petition before the Hon'ble Madras High Court for the interim relief (2) against the Corporation of Chennai. Therefore for the very same barred relief is not maintainable.

8. In the Rejoinder filed by the Complainant Association, it is submitted that the Respondents themselves categorically admitted that it was only because of Greater Chennai Corporation's Lock & Seal Notices to the Flat Owners they have stopped third floor construction work in Block A. The Complainant Association has further stated that 17 of the approved Flat Owners approached Hon'ble Madras High Court by their Writ Petitions.

The Hon'ble Madras High Court gave the Petitioners the Flat Owners 6 months stay and directed the Principal Secretary Housing & Urban Development Dept., State of Tamil Nadu to consider 19-12-2022 dated Revision Petitions filed by the Flat Owners. The Respondents are still liable to clear whatever deviations committed by them with respect to approved Flats and pay penalties to the Corporation directly by them.

9. The Authority has examined the Complaint along with typed set of papers filed by the Complainant, the Counter Affidavit filed by the Respondent Promoter, Rejoinder filed by the Complainant and arguments and written submission of arguments filed by both sides carefully.

10. The Authority notes that the Greater Chennai Corporation which is the competent authority is taking appropriate action regarding stopping of construction of unapproved floors, if any.

11. The Authority also notes that the issue of regularization of deviations, if any, is also in the domain of the competent authority.

12. Therefore, this Authority is concerned only with the 3rd prayer namely repair/rectification to be carried out by the Respondent Promoter.

13. The Authority also notes that the Complainant Association has furnished a copy of the Construction Agreement dated 12.02.2019 (page No.631 to 642 of the typed set of papers filed the Complainant). This registered Construction Agreement is executed on 08.02.2019 (Document No.503/2019). The Schedule D of the Construction Agreement gives general specifications of the building.

14. Therefore, this Authority directs the Respondent Promoter to rectify the defects as per Section 14(3) of the Act.

15. In case of non completion of the building as per specifications in the Construction Agreement and the approved plan, the Authority directs the Respondent Promoter to complete the construction of the building in this real estate project strictly as per the construction agreement and the approved plan before 31.10.2023.

16. This real estate project requires to be registered under Section 3 of the Act. Therefore, this Authority directs the Respondent Promoter to register this real estate project with this Authority before 30.09.2023.

17. Also under Section 59(1) of the Act, this Authority imposes a penalty of Rs.5 lakhs (Rupees Five Lakhs only) on the Respondent Promoter for contravention of Section 3 of the Act. This penalty shall be paid before 30.09.2023.

18. With the above findings and directions this complaint is disposed of.

Sd/-...20.07.2023
MEMBER (M), TNRERA

Sd/-...20.07.2023
MEMBER (J), TNRERA

Sd/-...20.07.2023
CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

N. Nimmur
20/7/2023
ADMINISTRATIVE OFFICER

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20.7.23