



**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.94/2022

23rd day of March, 2023

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

Thiru S. Ashok Kumar

... Complainant

Versus

- | | | |
|--|---|-------------|
| 1) M/s. S dot G Housing |] | |
| Rep. by its Chairman, Thiru Sivashanmugam |] | |
| 2) M/s. S dot G Housing |] | Respondents |
| Rep. by its Vice Chairman, Thiru I.S. Santhosh |] | |
| 3) M/s. S dot G Housing |] | |
| Rep. by its Partner, Tmt. Gowri |] | |

The above Complaint came up for final hearing before this Authority in the presence of M/s.R.Thomas – Counsel for Complainant and of M/s.N.Umapathi – Counsel for Respondents. The Authority passes the following order:

FINAL ORDER

The Complainant has submitted in the Complaint that the Respondents herein solicited through the web advertisement in their web site address <https://sdotghousing.in> for marketing the following Housing Projects in Erode District as mentioned below:

- 1) S dot G Liberty @ Elumathur – 49 House Poonthurai to Elumathur Road
- 2) S dot G Prime Town, Thudupathi – 375 Plots
- 3) S dot G Flora, Veppampalayam – 21 Villas
- 4) S dot G Kumaran Nagar @ Velampalayam – 80 Villas
- 5) S dot G Grand City @ Vaillkkal Medu – 49 Villas

2. It is further submitted by the Complainant that in addition to the above, the Respondents have made Face Book posts and Instagram posts to promote the layout developed by them.

3. The Complainant has further submitted that based on the above web solicitation, the Complainant approached the Respondents viz. Mr.Sivashanmugam, Chairman and Mr.I.S. Santhosh, Vice Chairman during January, 2021 for the purchase of a Villa Plot at S dot G Flora, Veppampalayam and based on further discussions it has been agreed to purchase Plot No.20 measuring 1650 sq.ft. and 200 sq.ft. from Plot No.21 measuring to the total extent of 1850 sq.ft. The Layout pan of S dot G Flora at Veppampalayam was approved as DTCP Layout 51/2020 by the Deputy Director of Town and Country Planning in his proceedings No.1456/2020/ED-3 dated 23.10.2020.

4. It has been further stated by the Complainant that the Respondents fixed the land cost at Rs.29.60 lakhs towards the cost of

1850 sq.ft. of land at the rate of Rs.1,600/- per sq.ft., but in fact the sale consideration of the land was Rs.2,48,500/- and thus the Respondents siphoned off Rs.27,11,500/- from the Complainant. The Complainant has also submitted that in his email dated 24.12.2021 and 25.12.2021 requested the Respondent-1 to enter into an agreement for construction and the Respondent-1 to register with the Tamil Nadu Real Estate Regulatory Authority in respect of the project S dot G Housing Flora in order to ensure the rights of the stakeholders. The Respondents failed to enter into any construction agreement or register with the Real Estate Regulatory Authority.

5. Further, the Complainant has submitted that the Respondents fixed the construction cost of the buildings at Rs.46.30 lakhs for the construction of 2437 sq.ft. house at the rate of Rs.1,900/- per sq.ft. with ground floor, first floor, covered car parking and other amenities and easement rights. The Complainant has stated that he paid Rs.71.15 lakhs so far as against the sum of Rs.75.90 lakhs towards land cost and construction. The target period of completion of construction was 15.12.2021 in all respects. Except structurally completing the buildings, other works such as plastering, plumbing, electrical, sanitation, white and color washing, flooring and other amenities are still pending to be completed by the Respondents. The other houses in the same Project area were completed except the Complainant on the reason that Complainant sought for registration of construction agreement and registration with the Real Estate Regulatory Authority.

6. The Complainant has also submitted that the pending works are valued by a Registered Valuer appointed by the Complainant and this valuer in his report dated 2.5.2022 assessed the cost of the entire project as Rs.41,99,555/- of this estimated value, the works completed by the Respondents has been estimated at Rs.24,43,743/- and further the remaining works to be completed by the Respondents has been estimated at Rs.17,55,812/- and the total percentage of works completed was only 58%. The Complainant has further stated that the Respondents in having received payment from the Complainant for the lands and cost of construction and in respect of lands, the e-mail correspondence clearly reveals the fact that the Respondent-1 had oral and implied agreement with the Complainant in this connection. Finally, the Complainant has submitted that number of Houses to be constructed is 27 and the area of construction approx. 4500 sq.mtrs. in respect of S Dot G Flora.

7. The Complainant has prayed for the following reliefs in the Complaint that this Authority may direct that:

- a) To order imposing penalty on the Respondents as per sub clause (1) of Section 59 of the Real Estate (Regulation and Development) Act, 2016.
- b) To direct the Registry to register a criminal complaint against the Respondents as per Section 59 read with 80 of the Real Estate (Regulation and Development) Act, 2016 with the Chief Judicial Magistrate, Erode.
- c) To pay legal expenses of Rs.2,00,000/- (Rupees Two lakhs only) towards the cost for prosecuting this complaint and

d) Any other relief as this Hon'ble Authority deem fit in the circumstances of the case.

8. In the Counter Affidavit, the Respondents have submitted that the building construction is only for the building of the Complainant and hence registration with TNRERA is not required. Further, the Respondents-1 to 3 have submitted that this Authority does not have jurisdiction to entertain the complaint of the Complainant as the subject building is a standalone construction Unit. The extent of the property also proposed to be developed is less than 500 sq.mtr. and hence does not fall within the purview of Section 3(2) of the Act. Plot area as per the sanctioned plan is 224.5 sq.mtr or 2437 sq.ft.

9. The Respondents have further submitted that the Respondent S dot G Housing is doing marketing and Labour Construction for the person who is selling the lands. The land vendors will develop the land as per DTCP norms and get approval plan from DTCP and once the land vendors get approval plan finally from DTCP, the Respondent will start labour construction after the purchaser purchasing the land and handing over the land to the Respondent.

10. In respect of the project S dot G Flora Veppampalayam, the Respondents have submitted that in this project land vendor obtained approval vide DTCP No.51/2020 and the Respondents started marketing and commenced labour construction based on the request made by the landowners by virtue of DTCP approval. The Respondents have further submitted that the Complainant Mr. Ashok Kumar is well aware of the fact

that the Respondents are not owners of land at the time of registering his plot No.20 and he clearly knows and consciously purchased the lands from the seller and has also engaged the Respondents as a labour contractor and they are not Promoters.

11. Further, in the month of December 2021, he suddenly requested the Respondent not to enter into the building and informed the Respondents that he handed over the building with one Mr.Shivalingam for further construction of building by handing over the amount of Rs.5,25,000/- to him as a labour contract and he has not been impleaded as a necessary party.

12. The Respondents have also submitted that Mr.Shivalingam informed the Respondents that Mr.Ashok Kumar sent an amount of Rs.5,25,000/- for his further work. Subsequently the said Mr.Shivalingam had started construction of the building. Later Mr.Shivalingam inspected Mr.Ashok Kumar's building and sent the balance amount of Rs.2,00,000/- for already completed work and relieved the Respondents from Complainant Mr.Ashok Kumar's building. It is also pointed out by the Respondents that on 06.03.2022 at 5.30 p.m. the Respondents received an e-mail sent by Mr.Ashok Kumar which clearly states that he handed over to his friend Mr.Shivalingam. Later Mr.Ashok Kumar created controversy with Mr.Shivalingam also and Mr.Shivalingam stopped and got relieved from building.

13. This Authority has examined the Complaint, common Counter Affidavit filed by the Respondents, arguments and written submission of arguments of both sides carefully.

14. The main prayer of the Complainant is to take action against the Respondents for non registration of this real estate project (S dot G Flora, Veppampalayam).

15. In the typed set of papers filed by the Complainant, the advertisement of the real estate project S dot G Flora at Veppampalayam in the website of the Respondents has been furnished (page No.1 to 41 of the typed set of papers filed the Complainant).

16. It is seen on page No.2 of the same typed set of papers, this real estate project S dot G Flora at Veppampalayam has been advertised as an ongoing project with 3 vacant houses.

17. On page No.5 of the typed set of papers the House No., extent of plots in square feet have been furnished for 27 houses with total extent of 48,431 sq.ft.

18. On page No.10 and 11 of the typed set of papers, S dot G Flora has been advertised by S dot G Housing stating that it has more amenities namely large swimming pool, open air theatre, landscaped garden, children play area, shuttle court, common septic tank, underground drainage system, 33 feet wide road, intercom phone for each house with LED monitor with CCTV camera, etc.

19. On page No.38 of this typed set of papers, S dot G Housing has stated in their website that S dot G Flora has 27 houses of which 3 are vacant (not yet sold).

20. Therefore, it is abundantly clear that this real estate project called S dot G Flora involving construction of 27 independent Villa houses at Veppampalayam with a number of promised amenities such as

swimming pool, etc. is very much a real estate residential villa project in which total land to be developed exceeds 500 sq.mtr. and number of dwelling units exceed eight thereby requiring registration under Section 3 of the Act.

21. Therefore, this Authority does not accept the contention of the Respondent that they are only a construction contractor for the building of the Complainant.

22. In the Counter Affidavit, the Respondents themselves have admitted that they are also marketing this project. Therefore, the Respondents are promoters as per Section-2(zk) and Section 3 of the Act.

23. Accordingly this Authority directs the Respondent Promoter S dot G Housing to register the real estate project S dot G Flora, Veppampalaym with this Authority before 30.06.2023.

24. With these findings and direction, this Complaint is disposed of.

Sd/-...23.03.2023

MEMBER (M), TNREA


Sd/-...23.03.2023


MEMBER (J), TNRERA

Sd/-...23.03.2023

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER


ADMINISTRATIVE OFFICER


23.3.23