



**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]

E.P.No.7/2022

in

C.No.130/2020

9th day of February, 2023

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

Thiru T.V. Seetharaman] Execution Petitioner/
] Complainant

Versus

Thiru Y. Gangadhar, Managing Director]
M/s. Ananyakrishnaa Constructions] Respondent/
Pvt. Ltd.] Respondent

The above Execution Petition came up for final hearing before this Authority in the presence of M/s. N. Ramiah - Counsel for Execution Petitioner/Complainant and of M/s. Waraon & Sai Rams Counsel for Respondent.

ORDER

The Execution Petitioner Mr. T.V. Seetharaman has prayed in the Execution Petition that this Authority may be pleased to enforce the order passed in its Order dated 19.08.2021 in C.No.130 of 2020 under Rule 27 of the TNRERA Rules and Section 40 of the Act and thus render justice.

2. Also the Execution Petitioner has recalled the directions of this Authority as under:

- a) That the project promoted by the Respondent was very much an ongoing project as per Section 3 of the Real Estate (Regulation & Development) Act, 2016 and the Tamil Nadu Real Estate (Regulation & Development) Rules, 2017 and the Respondent Promoter is directed to register this project with this Authority before 30.9.2021.
- b) CMDA has to issue the Completion Certificate only in terms of compliance with the Planning Permission issued by CMDA.
- c) On obtaining Completion Certificate from CMDA, the Respondent Promoter shall obtain permanent electricity domestic service connection from TANGEDCO, Water and Sewerage connection from CMWSSB and handover the apartments to the Complainant Allottee Landowners without further loss of time
- d) The Respondent Promoter shall also furnish the interiors, etc, strictly as per the Joint Venture Agreement and deliver possession.

- e) The Respondent Promoter shall also handover all the building related documents such as Planning Permission, Property tax assessment, electricity, water and sewerage connection, etc. to the Allottees / Association of Allottees as the case may be.
- f) The Respondent Promoter shall also comply with the payment of non refundable deposits to the owners as agreed in the Joint Venture Agreement.
- g) The Respondent Promoter shall pay rent arrears upto 10.12.2018, since the Promoter has admitted that the building is ready from 10.12.2018 for occupation.

3. The Execution Petitioner has also submitted that though the Order came to be passed by this Authority on 19.8.2021 itself and the Respondent had full knowledge and notice of the said Order and despite this Complainant having called upon the Respondent to comply with the said Order of the TNRERA several times, the Respondent has failed to comply with the Order till date. To the knowledge of the Complainant, the Respondent has not filed any Appeal against the said Order and hence the Respondent is bound to perform the directions as Ordered by this Authority on 19.8.2021.

4. The Execution Petitioner has further submitted that after concerted efforts of the Execution Petitioner, the CMDA issued the Completion Certificate on 3.3.2022 as per the Orders of this Authority. Even after obtaining the Completion Certificate, the Respondent has willfully

disobeyed the Order passed by this Authority dated 19.8.2021 in C.No.130 of 2020.

5. The Execution Petitioner has prayed for the following reliefs:

The Authority may be pleased to enforce the Order passed by this Authority dated 19.8.2021 in C.No.130 of 2020 under Rule 27 of the TNRERA Rules and Section 40 of the Act and thus render justice.

6. In the Affidavit filed by the Respondent, it has been submitted that this Authority directed the Respondent in E.P.No.7 of 2022 to comply the Order passed in C.No.130 of 2020. The Respondent has further stated that the Complainant has not specifically mentioned in the Execution Petition as to which direction was not complied by the Respondent. However, the Respondent has submitted that for the best belief and knowledge to Respondent and the as per the Order of this Authority, the following are their liability:-

A. Para No.21 non refundable deposit Rs.5,00,000/-

B. Para No.22 arrears of rent up to 10.12.2018 – 9 months x Rs.18,000/- = Rs.1,62,000/-

Since the Respondent paid rent till 12.03.2018, the total Rs.6,62,000/- which the Respondent has to pay to the Complainant.

7. The Respondent has further submitted that the Respondent has paid the GST amount Rs.6,42,000/- towards Mr. P.V.Seetharaman which can be deducted from the refundable deposit as rent of Rs.6,62,000/- after deducting the GST amount, the Respondent now tendering a sum of

Rs.19,400/- to the Complainant as Compliance for the direction issued by this Authority.

8. In the Memo filed by the Execution Petitioner, it is been submitted that the Respondent has not complied with the Order dated 19.08.2021, this Authority has granted time to the Respondent till 29.09.2022 to comply with the Order and then file a Compliance Affidavit. The Respondent has failed to comply with the Order of this Authority dated 19.08.2021 till date. However, without complying with the Order, just to mislead this Authority and avert an adverse order, the Respondent has belatedly filed Compliance Affidavit on 27.09.2022 claiming false compliance when not even a single operative direction of the order has been complied with.

9. Further, the Execution Petitioner has stated that the GST is not attracted since there is no money transaction between the Complainant and the Respondent. The GST payment receipt as referred by the Respondent, does not even contain the GST number, not mentioned the company name, amount is not specifically mentioned. Similarly, the Respondent has not issued any TDS Certificate. Even if it is issued belatedly it is of no use.

10. This Authority has examined the Execution Petition, Affidavit filed by the Respondent Promoter and the Memo filed by the Complainant to reject the Compliance Affidavit filed by the Respondent Promoter carefully.

11. This Authority in its order dated 19.08.2021 in respect of Complaint No.130, 143 and 145 of 2020 has given certain directions to the Respondent Promoter. The first direction is to register this real estate

project with this Authority before 30.09.2021. This direction has not been complied with by the Respondent Promoter so far, thereby contravening Section 3 of the Act.

12. Therefore, under Section 59(1) and Section 63 of the Act, this Authority imposes penalty of Rupees Three lakhs only on the Respondent Promoter for non-registration of this real estate project. This penalty shall be paid before 30.04.2023.

13. It is seen that the Completion Certificate has been issued by CMDA on 03.03.2022 for this real estate project. Also this Authority had directed the Respondent Promoter to obtain permanent electricity domestic service connection from TANGEDCO and water and sewerage connection from CMWSSB. It is seen that this direction has also not been complied with by the Respondent Promoter.

14. Therefore, under Section 63 of the Act, this Authority imposes penalty of Rupees One lakh only on the Respondent Promoter for failure to comply with the above direction of this Authority. This penalty shall be paid before 30.04.2023.

15. The Respondent Promoter was also directed to furnish the interiors, etc. strictly as per Joint Venture Agreement and deliver possession. The Respondent Promoter has not given any indication in the Compliance Affidavit that he has complied with this direction.

16. Therefore, under Section 63 of the Act, this Authority imposes penalty of Rupees One lakh only for non compliance of the above direction of this Authority. This penalty shall be paid before 30.04.2023.

17. This Authority had directed the Respondent Promoter to handover all the building related documents such as planning permission, Property tax assessment, etc. to the Allottees/Association of Allottees as the case may be. This direction has also not been complied with by the Respondent Promoter. Therefore, under Section 63 of the Act, this Authority imposes penalty of Rupees One lakh only for non-compliance of the above direction of this Authority. This penalty shall be paid before 30.04.2023.

18. This Authority had also directed the Respondent Promoter to comply with the payment of non refundable deposits to the owners as agreed in the Joint Venture Agreement and to pay the rent arrears to the original landowners up to 10.12.2018. The Respondent Promoter has submitted that there is a liability of repayment of non refundable deposit of Rs.5 lakhs and rent arrears of Rs.1.62 lakhs to the Execution Petitioner and he has deducted Rs.6,42,600/- towards GST and is tendering a sum of Rs.19,400/- to the Execution Petitioner.

19. The Execution Petitioner has stated that GST is not attracted. It has been stated in Clause-7 of the Development Agreement dated 13.11.2015 as below.

07 – Consideration: In consideration of the Owners transfer/convey/sell the Schedule "D" Land to the Developer and/or its nominee/s, the Developer, in addition to the aforesaid payment stipulated in Clause 06 supra, shall construct and deliver 1600 sq.ft. of the super built up area of the proposed Residential

Apartments to be constructed over the Schedule "B" Land together with 1 covered car park in the stilt floor to each of the Owners to be owned, possessed and enjoyed by each of the Owners absolutely. The Owners jointly shall own, possess and enjoy 75% undivided share in the Schedule "B" Land together with super built up area earmarked for Owners absolutely i.e. each owner having 1600 sq.ft. super built up area together with 873 sq.ft. undivided share of land out of 6988 sq.ft.

20. Therefore, the question of charging GST on the Execution Petitioner does not arise.

21. The Respondent Promoter has not complied with this direction of this Authority as well.

22. Therefore, this Authority directs the Respondent Promoter to pay the non-refundable deposits of Rupees Five lakhs and the rent arrears to the Execution Petitioner. This shall be complied with before 30.04.2023.

23. With the above findings and directions, this Execution Petition is disposed of.

Sd/-...09.02.2023

MEMBER (M), TNRERA

Sd/-...09.02.2023

MEMBER (J), TNRERA

Sd/-...09.02.2023

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

N. Ananya
9/2/2023
ADMINISTRATIVE OFFICER

4.2.23