



**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.107/2023

29th day of January, 2024

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

Mahindra Lifespace Developers Limited]
Represented by its Authorised Signatory] Complainant
Thiru KK. Viswanathan]

Versus

Thiru Kumaran N. ... Respondent

The above Complaint came up for final hearing before this Authority in the presence of M/s. Aishwarya S Nathan - Counsel for Complainant. The Respondent called absent. This Authority passes the following order.

FINAL ORDER

The Complainant Developer M/s. Mahindra Lifespace Developers Limited (MLDL) has submitted in the Complaint that in 2018 it has promoted a residential project known as HAPPINEST AVADI, situated at Avadi, Chennai consisting 1272 residential apartments. The Complainant

Developer has also submitted that this project was duly registered vide Registration No.TN/02/Building/0284/2018 dated 10.09.2018 with Tamil Nadu Real Estate Regulatory Authority (TNRERA).

2. The Complainant Developer has further submitted that the Respondent Allottee presented a booking application dated 30.08.2019 and paid the booking amount of Rs.1,92,022/-. Based on this, the apartment bearing Apartment No.C-219 in Second Floor in C wing of C building of HAPPINEST AVADI was allotted to the Respondent Allottee.

3. The Complainant Developer has further submitted that an Agreement for Sale has been executed between MLDL and the Respondent Allottee on 24.10.2019 and the same has been registered as Doc. No.15215 /2019 in Sub-Registrar office at Avadi in respect of the said Apartment No.C-219 in Second Floor in C-wing of C building of HAPPINEST AVADI. Further, it is submitted by the Complainant Developer that the construction Agreement was executed on the same day i.e. 24.10.2019 and the same was also registered as Doc.No.15216/2019 in the Sub-Registrar Office at Avadi. Under the said Agreement a sum of Rs.1,81,169/- (excluding interest) is due and pending for payment.

4. The Complainant Developer has further submitted that the Respondent Allottee is contractually obligated to pay further payment as per the payment schedule mentioned in Schedule-D of the Agreement for Sale and Schedule-E of the Construction Agreement. However the Respondent Allottee has only made a sum of Rs.17,79,022/- It is also stated by the Complainant Developer that even though the Complainant

attempted to reach the Respondent several times, for further payments, no response has been received from the Respondent allottee. In the meantime, the project has been completed on 30.04.2021 and on 24.06.2021, the Complainant Developer called upon the Respondent Allottee to make balance payments and take over the possession of the apartment.

5. The Complainant Developer has further stated that it had demanded the Respondent Allottee to pay a sum of Rs.1,81,169/- in its e-mails dated 20.08.2021 and 26.08.2021. Left with no option the Complainant Developer called upon the Respondent Allottee to make payment of Rs.1,81,169/- excluding interest failing which the Agreement will be cancelled and also the forfeiture Clause was also brought to Respondent Allottee's attention in e-mail dated 21.01.2022.

6. The Complainant Developer has finally sent the cancellation/ termination letter on 24.01.2023 to the Respondent Allottee through Courier and requested the Respondent Allottee to come forward and cancel the Agreement of lease and Construction Agreement. The said letter was delivered to the Respondent Allottee and the Respondent Developer has remained silent till date. It is further stated by the Complainant Developer that upon cancellation, a sum of Rs.15,87,000/- is refundable by the Complainant Developer to the Respondent Allottee through his HDFC Bank account without interest.

7. The Complainant Developer has also stated that the apartment project construction has been completed within the timeline as agreed

under RERA and possession has been handed over to the Allottees from 24.06.2021. However, due to the above stated encumbrance, the Complainant Developer is unable to sell the said flat to any other willing purchaser, since the project has been completed and has been in occupation from June 2021, substantial loss is being caused to the Complainant Developer in keeping the said flat vacant due to failure of the Respondent.

8. The Complainant Developer has prayed for the following relief in its Complaint.

This Authority to pass an order cancelling the Agreement for Sale and Construction Agreement dated 24.10.2019 executed between Mahindra Lifespace Developers Limited and the Respondent allottee registered as Doc.No.15215 of 2019 and 15216 of 2019 on the file of Sub-Registrar Office at Avadi and thus render justice.

9. The Respondent Allottee has been absent during the hearings conducted by this Authority on 19.10.2023 and 23.11.2023 and also not filed Counter affidavit so far as directed by this Authority.

10. This Authority has examined the Complaint carefully.

11. The Respondent Allottee has not appeared during the hearings and has not filed the Counter Affidavit so far. Therefore this Authority proceeds to pass orders ex-parte.

12. As the Respondent Allottee has defaulted his payment obligation, the Complainant Promoter has no option but to issue the cancellation/termination letter, as the Complainant Promoter is not able to sell the flat allotted to the Respondent Allottee to any other willing purchaser.

13. Therefore this Authority directs the Respondent Allottee to execute the Agreement for Cancellation of the Sale and Construction Agreements dated 24.10.2019 registered as Document Nos.15215/2019 and Document No.15216/2019 in the Office of the Sub Registrar at Avadi, before 31.03.2024 failing which this Authority under Rule 19 of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017 authorizes Thiru K. Ravi Prasad, Assistant Director of this Authority to execute the cancellation agreements on behalf of the defaulting party namely the Respondent Allottee Thiru Kumaran N.


14. With the above findings and direction, this Complaint is disposed of.

Sd/-...29.01.2024
MEMBER (J), TNRERA

Sd/-...29.01.2024
CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

N. 
28/1/2024
LAW OFFICER, TNRERA


29-1-2024