



**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.25/2023 in C.No.18/2022

30th day of October, 2023

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

Thiru G. Baskaran] Execution Petitioner/
] Complainant

Versus

1) M/s. Optima Homes Pvt. Ltd.]
2) Thiru P. Abhishek]
Director of M/s. Optima]
Homes Pvt. Ltd.]
3) Thiru S. Venkatesan] Respondents/
Director of M/s. Optima] Respondents
Homes Pvt. Ltd.]
4) Thiru C. Shanthilal Jain]
Rep. by their Power Agent]
M/s. Optima Homes Pvt. Ltd]
5) Tmt. Usha Kumari]
Rep. by their Power Agent]
M/s. Optima Homes Pvt. Ltd]

The above Execution Petition came up for final hearing before this Authority in the presence of M/s. Sendhil Kumar – counsel for the Execution Petitioner and of M/s.Sarvabhauman Associates – Common Counsel for 2nd & 5th Respondents and the Respondents 1 & 3 called absent set ex-parte. This Authority passes the following order.

ORDER

The above Execution Petitioner has filed this Execution Petition for enforcement of the orders passed by this Authority in Complaint No.18/2022 dated 09.02.2023.

2. The 5th Respondent Tmt. Usha Kumari has filed her Counter Affidavit stating that she is only a landowner and she has not received any amount from the Complainant/Execution Petitioner and even as per the allegations the sum of Rs.40,26,210/- was paid only to the 1st Respondent Company.

3. In the Counter Affidavit filed by the 2nd Respondent Thiru P.Abhishek, he has submitted that he was only a non executive Director of the 1st Respondent Company and has resigned from the Company in the year 2019.

4. This Authority notes that the Respondent Promoter Company M/s. Optima Homes Pvt. Ltd. has not filed Compliance Affidavit till date.

5. As the 1st Respondent Promoter Company has neither provided the original flat allotted to the Complainant nor an alternative flat as directed by this Authority, the 1st Respondent Company should have refunded to the

Complainant Allottee/Execution Petitioner Rs.40,26,210/- paid by the Complainant Allottee before 31.03.2023 with interest thereon upto the date of settlement. The RERA rate of interest was indicated as 9.30% per annum. This has also not been complied with by the Respondents.

6. Therefore, under Section 40(1) of the Real Estate (Regulation and Development) Act, 2016 read with Rule 26 of the Rules under the Act, this Authority directs recovery of Rs.40,26,210/- under Tamil Nadu Revenue Recovery Act as an arrear of land revenue by the District Collector, Chennai from the 1st Respondent Company M/s. Optima Homes Pvt. Ltd., No.6&7A, 1st Floor, SSVK Sangamam, Periyar Salai, Gnanamurthy Nagar, Ambattur, Chennai-53.

7. This Authority also issues recovery warrant for recovery of interest on the above sum from 11.01.2018 till the date of recovery at 9.30% per annum.

8. This Authority also directs that the principle amount along with interest as indicated above may be paid to the Execution Petitioner Thiru G. Baskaran, Plot No.70, Thamayanthi Street, ETTY Annal Nagar, Poonamallee, Chennai-600 056.

9. In addition, this Authority also notes that the 1st Respondent Company has not paid the penalty of Rs.1.50 lakhs which was directed to be paid before 31.03.2023.

10. Therefore, under Section 40(1) of the Real Estate (Regulation and Development) Act, 2016 read with Rule 26 of the Rules under the Act,

this Authority also issues recovery warrant for recovery of Rs.1.50 lakhs from the 1st Respondent Company under Tamil Nadu Revenue Recovery Act as an arrear of land revenue and this penalty shall be remitted to the Tamil Nadu Real Estate Regulatory Authority (TNRERA), 1st Floor, No.1-A, Gandhi-Irwin Bridge Road, Egmore, Chennai – 600 008 after recovery.

11. With the above directions, this Execution Petition is disposed of.

Sd/-...30.10.2023

MEMBER (M), TNRERA

Sd/-...30.10.2023

MEMBER (J), TNRERA

Sd/-...30.10.2023

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

N. Nimmayya
30/10/23
(x) hon
LAW OFFICER, TNRERA
30-10-23