



**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.040/2017
5th day of March, 2020**

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

Hazel Realty Home Buyers Welfare Association ... Complainants

Versus

M/s. Hazel Realty Pvt. Ltd. ... Respondent

This Complaint came up for final arguments before this Authority in the presence of the M/s. K.R.Ramesh Kumar, Counsel for Complainants Association and of Thiru Krishna Ravindran, Mr.A.Charles Darwin, Mr.Siddharth Puthoor – Counsel for Respondent and upon hearing the arguments of both the parties this Authority pass the following order:

FINAL ORDER

The Complainants, the Executive Members of the Hazel Realty Home Buyers Welfare Association had complained that the Respondent M/s. Hazel Realty Private Limited commenced their project in Paruthipattu, Avadi in 2010. The Project was started as Joint Venture between VGN

Property Developers and Pragnya to form VGN Pragnya Realty Pvt. Ltd. The project has 6 Blocks, Block-A, B, C, D, E and F. Each Block has 112 flats and the total number of flat is 782. The completion date committed to customers was September, 2015. Most of the buyers had invested in this project because of Pragnya funds, foreign investment and VGN brand. Later VGN quit the project.

2. The Respondent Builder in their Affidavit filing objections had stated that the Respondent Company itself was started only in the year 2012. The Planning Permit was obtained on 16.05.2012 and further extended on 14.10.2015 by CMDA. The Building Permit was obtained on 08.08.2012 and extended on 31.03.2017.

3. The Respondent had cited the force majeure events such as Chennai floods during December, 2015, demonetization, unexpected cyclone Vardah in December, 2016, implementation of GST, paucity of essential construction materials like sand and the impact of the collapse of the multi-storeyed building at Moulivakkam as the main reasons for non completion of the project. The Respondent had also stated that 140 flats had been completed in Block-B.

4. In the rejoinder filed on 29.12.2017, the Complainant had stated that the various reasons cited by the Respondent have no relevance to this project and reiterated their prayer to direct the Respondent to indicate the date of delivery and pay the compensation for the delay.

5. The Respondent in their Affidavit filed on 08.04.2019 had submitted that the Respondent Company will not impose any condition

regarding claiming of compensation as per the Development Agreement/Construction Agreement. The Respondent also undertook to charge only the original allotment rate per square foot as agreed with the respective complainants, and for any additional area by swapping apartments and further undertook to bear the registration charges with respect to Construction Agreement in case any individual Complainant is opting for swapping to other earlier delivery Block.

6. The Authority has been continuously monitoring the mobilization of the required funds, men and materials for early completion of this project. The Hon'ble Member (M) of this Authority conducted a Technical Review meeting on 23.04.2019 in this regard.

7. During the final arguments, the Complainant submitted that out of total 781 flats, the Respondent has already sold 630 flats and by virtue of the said sale, the Respondent has collected funds which exceeds the project cost and had they invested the entire funds so collected by maintaining separate bank account for the project alone as per the provisions of the Tamil Nadu Real Estate (Regulation and Development Act and the project would have been completed by now.

8. The Respondent had further stated that though the Respondent has collected huge amount towards the amenities except the Club House, none of the amenities are completed as per the construction agreement. The Respondent has collected a sum of Rs.1,75,000/- from each member of the Association as lifetime club house maintenance which is still at the

disposal of the Respondent. Therefore, the delay in completion of the project by the Respondent is willful, deliberate and intentional.

9. The Complainant further submitted during the course of arguments, that the Respondent had stated that they would complete the entire project by March, 2020.

10. The Complainant concluded that the Authority may be pleased to direct the Respondent to complete the project in all respects including the common amenities and deliver the same as per their last commitment given vide Memo filed on 08.04.2019 before this Authority without prejudice to the rights of the members of the Complainants Association to proceed against the Respondent for damages and due compensation in manner known to law and thus render justice.

11. In the written submission of arguments, the Respondent has submitted that the Respondent Company is committed to complete and hand over the project Hazel to its customers and for this reason it has invested all the moneys received from the customers into the project and over and above this, it has obtained a construction loan from M/s. Reliance Housing Finance Ltd. The Respondent Company has shown significant progress in the project and as a first phase, 140 apartments have been handed over to the customers in Block-B with completion certificate for the said Block and they have started living there.

12. Subsequently, the E Block consisting of 126 apartments has been completed and most purchasers in the said Block have taken possession and have started their interior works and some have even

occupied for living. The entire project has been structurally completed and the Respondent Company after making rigorous efforts for additional funding has obtained a construction loan of Rs.41.83 crores from ICICI Bank Ltd. at high rate of interest only to complete the project and handing over the homes to the customers in good faith and to their utmost satisfaction.

13. The Respondent further submitted that the first tranche of Rs.29,91,96,398 was disbursed as a take over funding from ICICI Bank Ltd. through which dues of M/s. Reliance Housing Finance Limited have been cleared on 29.06.2019 and the balance amount has been defrayed to vendors to meet the construction expenses for the project Hazel.

14. The Respondent Company is making all possible efforts to complete and hand over the apartments as early as possible as per the schedule submitted to this Authority.

15. The Respondent has submitted that the Hon'ble Member (M) of this Authority has also visited the site on 28.10.2019 in the presence of both the complainants and the officials of the Respondent Company and reviewed the progress of work at site.

16. The Respondent has further submitted that as on date 94% of the work has been completed in Block-C, 97% of the work has been completed in Block-F, 86% of the work has been completed in Blocks-D and A. The applications for Completion Certificate for Block-C and Block-F have been submitted to CMDA.

17. While the Respondent Company has paid Rs.3.5 crores towards delay compensation, several customers are withholding payments and causing severe financial strain on the Respondent Company. As on date Rs.12,90,82,679/- is due and payable by the existing customers. Another issue is that the Respondent Company is yet to sell about 235 flats in the said project and hence funds inflow in the Company has reduced causing financial strain on the Respondent Company.

18. Finally, the Respondent has submitted that Block-B and E are completed and handed over to the purchaser/complainants. The completion and handing over of F-Block will begin at the end of February, 2020. The completion and handing over of C-Block will begin at the end of March, 2020. The completion and handing over of D Block will begin at the end of April 2020 and the completion of A Block would be at the end of May 2020.

19. The Respondent has submitted that the details of completion and handing over of the common amenities as given below.

- a. Club House – completed and functional
- b. Swimming Pool – Structure has been completed. Only tiling and after proofing and equipment fixing is pending and the same will be handed over at the time of handing over of A Block.
- c. Children play area – Completed and handed over
- d. Multipurpose Hall – completed and functional

- e. Indoor games – Completed and functional'
- f. Gymnasium – completed and functional
- g. Sewage Treatment Plant – completed
- h. Water Treatment Plant - Completed

20. The Authority has examined the Complaint, various Affidavits, Interim applications filed by the Complainant, Affidavits and Interim Application filed by the Respondent and the written submission of arguments filed by both sides carefully and pass the following order:

21. This Complaint is being heard by this Authority in several hearings since 2018. With continuous monitoring, the Authority has been able to ensure that the Respondent has brought in necessary funds to complete the project.

22. Technical Review at the office of the Authority as well at project site have been conducted by the Hon'ble Member (M).

23. It is undeniable that there has been inordinate delay in construction and completion of various Blocks in this project. Various reasons stated by the Respondent for the delay in construction are not acceptable to this Authority. Therefore, the home buyers in this project are at liberty to move the Adjudicating Officer of this Authority for interest on the delayed construction and compensation as per the Act.

24. The Authority directs that the Respondent shall adhere to the dates of completing and handing over various blocks and common

amenities as indicated in the written submission of arguments without prejudice to the rights of the complainants/home buyers for claiming interest and compensation as per their agreement with the Respondent and under the Act.

25. With these directions, the Complaint and the Interim Applications stand disposed of.

Sd/-...05.03.2020 Sd/-...05.03.2020 Sd/-...05.03.2020
MEMBER (M),TNRERA MEMBER(J),TNRERA CHAIRPERSON,TNRERA

/TRUE COPY/FORWARDED/BY ORDER


ADDITIONAL DIRECTOR (OPERATION), TNRERA

9/3/2020