



**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.476 of 2019

11th day of February, 2021

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

Thiru S.Pattabiraman ... Complainant

Versus

M/s. Dugar Housing Limited ... Respondent
Chennai

This Complaint came up for final hearing before the Authority in the presence of M/s.R.Munuswamy, E.Prabu and V.Surya Sankar – Counsel for Complainant and of M/s. K.V.Bhashyam Chari and P.Vijay – Counsel for Respondent and upon hearing the arguments of both the parties, this Authority passes the following:

FINAL ORDER

The Complainant is the Allottee of Flat No.304 in Tower-8 of "Sky Dugar" project at Chennai-600 095.

2. The Complainant has stated that the Completion of the project was delayed by 31 months and the Completion Certificate was issued by CMDA on 17.10.2018. The Complainant Allottee took possession on 16.10.2018. The Complainant has also stated that several amenities are yet to be provided or incomplete by the Respondent Promoter.

3. The Complainant has sought the following reliefs:

- (i) The Respondent be directed to register this project "Sky Dugar" under RERA immediately.*
- (ii) The Respondent be directed to provide the following amenities.*
 - a. Gymnasium, Club house and Swimming Pool*
 - b. Own generator back up*
 - c. Intercom facility*
 - d. Cricket net practice facility*
 - e. Proper lighting of common areas*
 - f. All exposed electrical cables to go underground for safety*
 - g. To give final coat of painting to the exterior surfaces in all common areas and lobbies in each tower.*
 - h. CCTV surveillance system be installed in all the towers.*
 - i. Common toilet in each tower for the use of drivers, security and servants*
 - j. Erection of name board and arches for the property*
 - k. To take immediate remedial measures for attesting the seepage on the walls in Tower 8*

4. In the Counter Affidavit, the Respondent has stated that the application for Completion Certificate in respect of this project was filed on 29.05.2017. In a similar case filed by one Mr.Mahendran in C.No.401/2019, this Authority has ordered on 19.03.2020 concluding that the Complaint is not maintainable. This project also finds place in Serial No.53 in the list of projects for which application for Completion Certificate has been filed before CMDA as per Rule-2(h)(ii) of Tamil Nadu Real Estate (Regulation and Development) Rules, 2017.

5. In the written arguments, the Counsel for the Complainant has argued that the following amenities are not provided by the Respondent Promoter so far.

- i. Club house, swimming pool and indoor game facility*
- ii. Sufficient generator's back up to the flats*
- iii. Intercom facility between security and apartments*
- iv. Cricket net practice facility*
- v. Installation of appropriate A/C water drain pipes*
- vi. Traffic lanes, sign boards and speed barkers at right places inside the project site which results the whole place as accident prone.*
- vii. The compound wall is not constructed in certain stretch*
- viii. No provision of water for the use of car washing*
- ix. Common toilets for securities and drivers*
- x. The solar panels*
- xi. Cement fixed blocks for holding water pipes*
- xii. Fire extinguishers not provided in appropriate places*
- xiii. Arch showing the name of flat at the main gate is not provided*
- xiv. CCTV surveillance system not provided.*

6. Regarding the maintainability of the Complaint, the Counsel for the Complainant has argued that the orders of the Division Bench of the Hon'ble High Court of Madras dated 15.09.2020 in CMSA No.22 of 2019 in Subashini Thulasiram Vs. M/s. SPR & RG Constructions Pvt. Ltd. are squarely applicable to this case also. As per this judgment, the Rule gives an exemption only to the Developers who have applied for Completion Certificate on or before 01.05.2017 and hence the Complaint is maintainable.

7. In the written submissions, the Respondent has reiterated its earlier submissions regarding maintainability of the Complaint. Regarding the present status of completion/progress of common amenities, the Respondent has furnished the status of completion/progress of common amenities as below:

Common Infrastructure & Amenities Status

A. COMMON AREA SPECIFICATIONS (Photos Produced)

- | | | |
|-------|--|-----------|
| (i) | Staircase & Lobby floorings with granite | Completed |
| (ii) | Car Parks & driveways paved blocks | Completed |
| (iii) | Common toilet for servant & drivers in each blocks | Completed |
| (iv) | Campus Lighting | Completed |
| (v) | Generator Back up for Common Area and Amenities:
Generator back up for common area and amenities is in place. New generator will be replaced by 30.10.2020. Its taking time due to spread of Covid-19 | Completed |

- B. LIFTS – Six passenger lifts in each Blocks – completed
All lifts are installed, completed and fully functional more than 24 months ago and before they occupied.
- C. Landscaping status (Photos attached)
Entire project is landscaped with complete walkways and water bodies. Task is completed in all respect
- D. SECURITY – Intercom between security and apartments have been completed
- E. WATER SUPPLY & SEWAGE STATUS
- (i) Underground sumps : Completed
 - (ii) Adequate bore wells : Completed
 - (iii) Water treatment plant : Completed
 - (iv) Rain water harvesting system : Completed
 - (v) Sewage treatment plant : Completed

LIFESTYLE / FITNESS / RECREATION FACILITIES

- F. CLUB HOUSE ZONE (Photos produced)
- (i) Swimming Pool – Due to Government Policy, NOC for operating swimming pool is pending / awaited from CMWSSB, Government of Tamil Nadu, Swimming pool structure has already been constructed. The same will be ready within 03 months of according of approval by CMWSSB, Government of Tamil Nadu
 - (ii) Gymnasium - Completed
 - (iii) Aerobics – Completed

G. INDOOR GAMES (Photos Produced)

- (i) Snooker – Completed
- (ii) Carrom – Completed
- (iii) Chess – Completed
- (iv) Kids Gaming Zone – Completed

H. MULTIPURPOSE HALL (Photos Produced)

- (i) Party Hall – Completed
- (ii) Library – Completed

I. OUTDOOR GAMES ACTIVITIES IN OSR I & II (Photos Produced)

- (i) Badminton Open Court – Completed
- (ii) Cricket Net Practice: Will be completed by 31.10.2020.
Time being taken due to spread of Covid 19
- (iii) Basket ball practice Court : Completed
- (iv) Open Air Theatre : Completed
- (v) Walking Track : Completed
- (vi) Children Play Area : Completed
- (vii) Gazebos : Completed

8. Regarding the prayer of the Complainant to include all Flat Owners of this Real Estate Project as members of "Sky Dugar Apartment Owners Association" (Registration No.359/2017) forthwith and to disclose the affairs of the Association to the Flat Owners. The Respondent Promoter has stated when the bye laws of the Association itself provide for automatic membership, the question does not arise for the Respondent to include all the members in the Association. Further as regards disclosure

of affairs of the association to the members, it is the duty of the office bearers of Sky Dugar Apartment Owners Association which is a registered association and by itself is an independent entity. The Respondent has no privity to the functioning of Sky Dugar Apartment Owners Association. Hence, the question of disclosing the affairs of the Association to the members does not arise either in law or on fact.

9. The Authority has examined the Complaint, Counter Affidavit of the Respondent and the written submission of arguments by both sides carefully.

10. The recent judgment dated 15.09.2020 passed by the Division Bench of the Hon'ble High Court of Madras in CMSA No.22 of 2019 in Subashini Thulasiram Vs. M/s. SPR & RG Constructions Pvt. Ltd. holds the field and hence the Complaint is maintainable.

11. Regarding provision of common amenities as promised in the Construction Agreement, the Respondent Promoter has furnished the present status.

- Therefore, the Authority directs the Respondent Promoter to ensure that the installation of new backup generator before 28.02.2021. Similarly, the cricket net practicing facility shall also be ensured by 28.02.2021.
- Regarding Swimming pool as and when the Respondent Promoter gets No objection Certificate from the Competent Authority it shall be completed within 3 months from the date of approval.

- Regarding the prayer of the Complainant to include all flat owners of the project as members of the Association of Allottees of this project and to disclose the affairs of the Association, this Authority finds merit in the explanation of the Respondent. If the Complainant has any grievance regarding the affairs of the society, he is at liberty to move the concerned Registrar of Societies.

12. With these directions, the above Complaint is disposed of.

Sd/-...11.02.2021

MEMBER (M), TNRERA


Sd/-...11.02.2021

MEMBER (J), TNRERA

Sd/-...11.02.2021

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER


ADMINISTRATIVE OFFICER

Handwritten initials and date
11.2.2021