



**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.016/2020
3rd day of September, 2020**

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

Oxygen By Urban Tree Apartment Owners ... Complainant
Association

Versus

M/s. Urban Tree Infrastructures Private ... Respondent
Limited

This Complaint came up for final arguments before this Authority in the presence of the President and Secretary of the Complainant Association and of the Managing Director of the Respondent Company and upon hearing the arguments of both the parties this Authority passes the following order.

FINAL ORDER

The Complainant Association has prayed to direct the Respondent to register Phase-1 and Phase-2 Blocks comprising (B to H) and (J to M) with TNRERA immediately and complete the pending works as promised in the sale agreement expeditiously.

2. The Complainant Association has prayed for the following reliefs:

- To direct M/s. Urban Tree Infrastructures Pvt. Ltd. to register Phase-I and Phase-2 Blocks in TNRERA immediately in the same way they have registered the Phase-3 Block.
- Complete the pending activities and compensate for losses.

3. In the Counter Affidavit the Respondent has stated that the project, "Oxygen by Urban Tree" has been approved by CMDA vide P.P.No.8838 (B/SPL BLDG/232/1-47/2014) dated 21.10.2014 and Perumbakkam Panchayat vide B.P.No.K.Dis.166/2014-15 dated 19.11.2014 for 523 units (512 dwelling units and 11 commercial units).

4. The Respondent has also stated that after revision in the plans, it has been approved by CMDA vide P.P.No.9522 (B/SPL BLDG/84/1-43/2016) dated 13.04.2016 and Perumbakkam Panchayat vide B.P.No.K.Dis.5/2016-17 dated 06.05.2016 for 647 units (636 dwelling units and 11 commercial units). The Respondent further stated that though sanction has been accorded for the entire project comprising 647 units they are developing the project into 4 phases as described below:

Phase-1 - Comprising Blocks 'E', 'F', 'G', 'H', 'J', 'K' & 'LIG'

Phase – II comprising Blocks 'B', 'C' & 'D'

Phase – III comprising Blocks 'N', 'P' & 'R'

Phase – IV comprising Block 'A'

5. The Respondent has further stated that they have got partial Completion Certificate for Phase-I of the said project from CMDA vide letter No.EC/S-II/6553/2016 dated 22.08.2016. Also they have applied for partial Completion Certificate for Phase-II of the said project on 26.04.2017 and received completion certificate vide letter No.EC/S-II/6553/2016 dated 07.08.2017. Phase-III has been registered under RERA vide Registration Certificate No.TN/01/Building/0243/2017 dated 29.12.2017 and Phase-IV has been registered under RERA vide Registration Certificate No.TN/01/Building/0113/2019 dated 01.08.2019.

6. The Respondent has further submitted that Section-3(1) of the Real Estate (Regulation & Development) Act, 2016 and Clause-2(h)(ii) of the Tamil Nadu Real Estate (Regulation & Development) Rules, 2017 specifically excludes the projects for which Completion Certificate has been issued as well as the projects for which application for Completion Certificate has been filed with CMDA as on 22.06.2017 on which the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017 has come into force. Also the Respondent stated that they have already handed over the apartments constructed under Phase-I and Phase-II to the respective purchasers and possession was also taken by them.

7. The Respondent has further submitted that in view of the above facts, they are of the view that Phase-I and Phase-II under the said project comprising Blocks 'E', 'F', 'G', 'H', 'J', 'K' & 'LIG' and Blocks 'B', 'C' & 'D' respectively do not require registration in TNRERA since Completion Certificate in respect of Phase-I has been received on 22.08.2016 i.e. prior to Section-3(1) under Real Estate (Regulation & Development) Act, 2016 and Tamil Nadu Real Estate (Regulation & Development) Rules, 2017 have

come into force and Application for Completion Certificate in respect of Phase-II has been submitted to CMDA on 26.04.2017 i.e. prior to Tamil Nadu Real Estate (Regulation & Development) Rules, 2017 has come into force.

8. Therefore, the Respondent has prayed that the Complaint may be dismissed.

9. The Authority has examined the Complaint and Counter Affidavit filed by the Respondent carefully.

10. It is seen that the Complainant has not furnished any reason with documentary evidence as to why the Phase-I and Phase-II Blocks of this project should be registered with TNRERA. They have merely attached some letters addressed to the Housing and Urban Development Dept. and CMDA. Even in the letter addressed to CMDA, they have mentioned that handover was declared as 1st January, 2017.

11. The Respondent has stated that Partial Completion Certificate for Phase-I of this project was obtained from CMDA vide its letter dated 22.08.2016. The Respondent has also further stated that they had applied for Partial Completion Certificate for Phase-II of the said project on 26.04.2017 and received the Completion Certificate vide CMDA letter dated 07.08.2017. They have also registered Phase-III and Phase-IV of this project with this Authority. They have also submitted that they have already handed over the apartments constructed in Phase-I and Phase-II to the respective purchasers and possession was also taken by them.

12. Also, nowhere the Complainant Association has made out a case that Phase-I and Phase-II are ongoing projects as per the Act and Rules and the rulings of the Hon'ble Tamil Nadu Real Estate Apellate Tribunal.

13. Therefore, this Complaint is not maintainable and is disposed of accordingly.

Sd/-...03.09.2020
MEMBER (M), TNRERA

Sd/-...03.09.2020
MEMBER (J), TNRERA

Sd/-...03.09.2020
CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

3/9/2020
3.9.2020
ADMINISTRATIVE OFFICER (i/c)