



**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.129/2021

18th day of November, 2021

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

Thiru Naresh Kumar R.
S/o Mr. Rangaraj

.... Complainant

Versus

M/s. Amar Prakash Developers Pvt. Ltd.
Represented by its Managing Director
Chennai – 600 044

.... Respondent

This Complaint came up for final hearing before this Authority in the presence of Mr.N.S.Tanvi and Mr.P.Balaji - Counsel for Complainant and of Mr.Dineshkumar - Counsel for Respondent and upon hearing the arguments of both the parties, this Authority passed the following order:

FINAL ORDER

The Complainant has submitted in the Complaint that the Respondent is the Promoter for the "The Venezian – Palm Riviera" township. The Respondent constructed the township and they promoted residential apartments under the name and style of "Palm Riviera" which was later renamed as "The Venezian Palm Riviera" at Thirumudivakkam village, Sriperumbudur Taluk, Kancheepuram District. The Complainant has further submitted that the Respondent has executed a Sale Deed and Construction Agreement for both F-105 and F-303 at SRO, Padappai.

2. The Complainant has further submitted that as per Clause 17 of the Construction Agreement, both the constructed apartments, i.e. F105 and F303 had to be handed over in December, 2019. However, till date, the handover had not taken place. In 2019, December when the Complainant contacted the Builder through his agent, the Builder promised to handover the apartment by June, 2020. However, the Complainant has reliably learnt that there has been no progress in the construction. The Complainant has only recently learnt that in early 2019, the entire construction came to a standstill in the construction site.

3. The Complainant has prayed for the following reliefs.

- a) Directing the Respondent to register the F Block of "The Venizian Palm Riviera" project with TNRERA.
- b) Impose a penalty on the Respondent for the non registration of Block-F of "The Venezian – The Palk

Riviera" project under Section 59 of the Real Estate (Regulation and Development) Act, 2016.

- c) Directing the Respondent to complete the project in a stipulated timeframe and handover apartments F105 and F303 to the Complainant without further delay.

4. In the Counter Affidavit, the Respondent has submitted that the Complainant has filed the above Complaint before this Authority seeking for immediate possession of his flat No.F-105 in the project "PALM RIVIERA". The Respondent has further submitted that the construction of the Block-F in which the above mentioned apartment is situated at Kundrathur Village, Kundrathur Taluk and Kancheepuram District was completed and Completion Certificate for the above mentioned Block-F was obtained and therefore, the present complaint is not maintainable as the concerned apartment falls with the completed project, the same has been exempted from TNRERA Registration and therefore this Authority lacks jurisdiction to entertain the present complaint. The Respondent has also stated that it is true that the Complainant had booked a flat bearing F-105 in the above project and the concerned Apartment F-105 is fully completed with respect to civil work and other amenities, except EB power supply which is delayed by TANGEDCO in processing the application filed by the Respondent, which is beyond the control of the Respondent.

5. In the written submission of arguments, the Complainant has reiterated his submissions made in the Complaint.

6. In the written submission of arguments, the Respondent has submitted that the Completion Certificate for the concerned Block in which the subject apartment is situated was obtained on 18.12.2018. The said Completion Certificate was applied on 31.05.2017. Tamil Nadu Real Estate (Regulation & Development) Rules, 2017 came into force only on 22.06.2017. Rule 2(h)(ii) excludes projects in Chennai Metropolitan Area for which application for Completion Certificate has been filed from the definition of ongoing project. In the instant case, application for Completion Certificate was made on 31.05.2017 itself. Therefore, with effect from 22.06.2017 when the aforementioned Rule 2(h)(ii) came into force, the instant project stands exempted from the RERA Registration under Section 3 of the said Act. Therefore, the present Complaint pertaining to the completed and exempted project is not maintainable.

7. This Authority has examined the Complaint, Counter Affidavit filed by the Respondent and the written submissions of argument by both sides carefully.

8. The crucial date for determination of whether a real estate project is completed or not is 01.05.2017 the date of commencement of Section 3 of the Real Estate (Regulation and Development) Act, 2016.

9. It is seen that the Respondent Promoter has not obtained the domestic electricity service connection from TANGEDCO for this flat even at the time of filing the Counter Affidavit on 02.08.2021.

10. It is also seen that even the application for obtaining Completion Certificate was applied only on 31.05.2017 which is after 01.05.2017 the

date of commencement of Section 3 of the Act. The Respondent Promoter has also stated that the Completion Certificate was obtained only on 18.12.2018.

11. The Rules cannot override the Act. Therefore, having regard to the fact of not obtaining electricity connection so as to make the apartments habitable and the correct legal position as per Section 3 of the Act, this Authority holds that this Block-F in which the apartments booked by the Complainant are located is registrable and accordingly directs the Respondent Promoter to register the 'F' Block of this real estate project with this Authority before 31.01.2022.

12. The Authority directs the Respondent Promoter to hand over the booked apartments F-105 and F-303 to the Complainant Allottee completed in all respects strictly as per the Construction Agreement before 31.12.2021 without fail.

13. The Authority also directs that the Respondent Promoter shall provide electricity connection to these apartments for consumption by the Complainant Allottee through Genset at the cost of the Respondent promoter till the domestic service connection is obtained from TANGEDCO by the Respondent Promoter.

14. With the above directions, this Complaint is disposed of.

Sd/-...18.11.2021

MEMBER (M), TNRERA

Sd/-...18.11.2021

MEMBER (J), TNRERA

Sd/-...18.11.2021

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER


ADMINISTRATIVE OFFICER

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