



**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.130/2021

18th day of November, 2021

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

Tvl. Raunaq Rungta Complainant
S/o Sudarshan Kumar Rungta

Versus

M/s. Amar Prakash Developers Pvt. Ltd. Respondent
Represented by its Authorised Signatory
Chennai-44

This Complaint came up for final hearing before this Authority in the presence of Tvl. N.S.Tanvi and P.Balaji - Counsels 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 Sale Deed and the Construction Agreement have been executed by the Respondent on 17.08.2017 for his Apartments F-104 and F-304 at SRO, Padappai. As per Clause 17 of the Construction Agreement, the constructed apartments i.e. F-104 and F-304 had to be handed over in December, 2019. However, till date, the handover had not taken place. In December, 2019 when the Complainant contacted the Builder through his agent, the Builder promised to handover the apartments by June, 2020. However, the Complainant has reliably learnt that there has been no progress in the construction. The Complainant has also stated that the Complainant has only recently learnt that in early 2019, the entire construction came to a standstill in the construction site.

2. The Complainant has prayed for the following reliefs in the above Complaint.

- a. Direct the Respondent to register the F Block of the Venizian Palm Riviera project with TNRERA.
- b. Impose penalty on the Respondent for the non registration of Block-F of "The Venizian – The Palm Riviera" project under Section 59 of the Real Estate (Regulation and Development) Act, 2016.
- c. Direct the Respondent to complete the project in a stipulated timeframe and handover apartments F-104 and F-304 to the Complainant without further delay.

3. In the Counter Affidavit, the Respondent had submitted that the Complainant had filed the above Complaint before this Authority seeking for immediate possession of his flat No.F-104 in the project Palm Riviera. The Respondent has further submitted that the construction of the Block-F, in which the above mentioned apartments are 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 apartments fall with the completed project, the same has been exempted from TNRERA Registration and therefore, this Authority lacks jurisdiction to entertain the present Complaint.

4. The Respondent has further submitted that the concerned Apartment F-104 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 Responder herein which is beyond the control of the Respondent herein.

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

6. In the written submissions, 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. Therefore, the present Complaint pertaining to the completed and exempted project is not maintainable. The Respondent has also stated that the concerned apartment 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 herein, which is beyond the control of the Respondent herein.

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 these flats 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 apartment 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 Allottee 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-104 and F-304 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