



**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.50, 51 and 52/2022

05th day of January, 2023

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

M. Thiripurasundari & ST. Shanmuganand	50/2022]	Complainants
]	
Balachander	51/2022]	
S. John Levin	52/2022]	

Versus

M/s. CSK Builder]	Respondent
Represented by Thiru K. Sivakumar]	

The above Complaints came up for final hearing before this Authority in the presence of the Complainants party in person and of M/s. R.T. Shyamala – Counsel for Respondent. The Authority passes the following order:

COMMON FINAL ORDER

The Complainants have submitted in their above Complaints that they have purchased flats in Old S.No.102/2A3A, as per Patta No.4406, present sub-division S.No.102/2A3A3 in a total extent measuring 18 Cents or 7848 sq.ft. from Tvl. C.S. Surya and M. Little Flower and entered into Memorandum of Understanding with the Respondent herein represented by its Proprietor, Thiru Sivakumar for construction of flats.

2. The Complainants have also submitted that the Builder Mr.Sivakumar used low quality materials and has done improper masonry works which led to damp on entire building while raining. Likewise, walls are also breaking and falling down while executing small plumbing and electrical works.

3. The Complainants have prayed for the following reliefs in their Complaints.

Common Prayer: The Builder to issue INR 10 lakhs to do the entire Building re-masonry works or to rectify all the damages.

4. In the Counter Affidavit, the Respondent Builder has submitted that the Respondent is the sole proprietor of M/s.CSK Builder and they have entered into a Memorandum of Understanding with the Complainants to construct their individual house at Plot No.11, No.41, Eechangaadu, Pudupakkam main Road, Pudupakkam, Chennai-603 103. The Respondent has also submitted that it had entered into a Construction Agreement by

supplying materials and labour and he is not a promoter as defined in the Act. The Respondent has further stated that it has nothing to do with the land and the Sale Deed was already executed by the Complainants on 21.08.2017 in Document No.8616 of 2017 in the office of Sub-Registrar at Thiruporur with Mrs. C.S. Surya and another and after the purchase, they approached the Respondent for construction of the individual house. Also the Respondent has submitted that this Complaint will not come under the Real Estate (Regulation and Development) Act, 2016 and this was also not registered under RERA.

5. The Respondent has further submitted that this Respondent is not a promoter of the site and planning permission was obtained from the concerned authority by the Complainants themselves and the Respondent was asked to construct the building as per their direction. Hence, it is nothing but material and labour contract and this will not come under the purview of RERA, therefore, this Authority has no jurisdiction to entertain this complaint and the complaint itself is not maintainable under law.

6. It is further submitted by the Respondent that it had completed the construction of the individual house and handed over possession on 24.12.2020 and thereafter the contract came to an end. If they are aggrieved by that contract their remedy is elsewhere and not before this Authority to make the complaint. As pointed out by the Complainants, the hairline cracks in the house were immediately attended and it was set right within the building and the roof top of the building.

7. In the written submission of arguments, the Respondent has reiterated its submissions made in the Counter Affidavit.

8. In the Petition filed by the Complainants in C.No.50 of 2022, the Complainants have submitted that the Respondent entered into a Memorandum of Understanding on 17.03.2020 by constructing the individual house at Rs.1500/- per sq.ft. and he quoted all the details in the Memorandum of Understanding, whereas in the Counter Affidavit, the Respondent has stated that it supplied materials and labour only.

9. This Authority has examined the Complaints, the Counter Affidavit filed by the Respondent, the Petition filed by the Complainants and the written submission of arguments filed by Respondent carefully.

10. In the typed set of papers filed by the Complainant, a copy of the Memorandum of Understanding for Construction entered into between the Complainants individually with the Respondent Builder has been furnished (page No.1 to 6 of the typed set of papers filed by the Complainants).

11. It is seen that this MoU is a Construction Agreement between the Complainant and the Respondent Builder. The land for the construction has already been purchased by the Complainants from a third party by getting a Sale Deed registered in their favour.

12. It is also seen that the Planning Permission has also been obtained by the Vendor who has sold the plot to the Complainants. The Memorandum of Agreement indicates that it is a construction contract only.

13. Therefore, this Respondent is not a Promoter who is constructing for the purpose of selling individual house to other persons.

14. As the element of sale is absent in this construction agreement, the Respondent is not a Promoter as per the Act.

15. Therefore, these Complaints are outside the scope of the Act. The Complainants have to seek remedy for deficiency in service in terms of quality of construction, defects, etc. from an appropriate legal forum under Consumer Protection Act; accordingly these complaints are not maintainable.

16. With the above findings, these complaints are disposed of.

Sd/-...05.01.2023

MEMBER (M), TNRERA

Sd/-...05.01.2023

MEMBER (J), TNRERA

Sd/-...05.01.2023

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

N. Anand
5/1/2023
ADMINISTRATIVE OFFICER

M
5-1-23