



**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.Nos.61 & 62/2022

9th day of February, 2023

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

1. Siva Kumar G. & S.L.G.B.Deepthi	61/2022]	Complainants
2. Somya Preeti Jena	62/2022]	

Versus

M/s. Selene Estate Limited]	Respondent
Represented by its Authorised Signatory]	
Thiru G. Natarajan]	

The above Complaints came up for final hearing before this Authority in the presence of M/s.Chennai Law Associates – Counsel for Complainants and of M/s. A.R.Vishwaram – Counsel for Respondent. This Authority passes the following order.

COMMON FINAL ORDER

Complaint No. 61 of 2022

The Complainant has submitted that the he was allotted flat bearing No.E51102 having a carpet area of 812 sq.ft., 2 BHK flat on the 11th floor (as per plan 10th floor) in Tower E5 at Jalladianpettai Village, Sholinganallur Taluk, Chennai – 600 100.

2. It is further submitted by the Complainant that the Respondent informed the Complainant to pay the total sale consideration for the said flat under 50:50 scheme wherein the Complainant paid a sum of Rs.27,86,080/- at the time of booking and the Complainant has entered into a Construction Agreement dated 06.11.2020 registered as Document No.8103 of 2020 before the Sub Registrar. The Complainant has also submitted that there was not much progress in the construction of the above flat except the tiles, plastering and electrical works in these years.

3. It is further submitted by the Complainant that the total Sale Consideration for the said flat is Rs.51,47,832/- and as per the Schedule-C - Payment Plan of the Construction Agreement dated 22.12.2016, 50% of total Sale Price (less booking amount) + applicable taxes within 30 days from the date of booking and 50% of the total sale price and other applicable charges + applicable taxes, on intimation of possession. The Complainant has further submitted that surprisingly the Respondent and their officers in charge in June, 2019 asked the Complainant to pay 40% of a sum of Rs.24,03,565/- payment of the remaining 50% which was the balance to be paid at the time of taking possession of the flat. The Complainant has further stated that the Respondent and their officers

in charge promised to pay the Complainant interest at the rate of 9.2% on 40% amount until handing over the possession of the flat. The Complainant has submitted that the Respondent paid cheque for couple of months and then stopped making interest payments as committed.

4. The Complainant has further submitted that as the Respondent informed the Complainant that it cannot make payment by cheque and can issue only credit note, the Complainant left with no other option agreed to receive credit note, upon approval of the Complainants, the Respondent has issued credit note only until May, 2020, and thereafter issuance of the credit had stopped.

Complaint No. 62 of 2022

5. The Complainant in C.No.62 of 2022 has submitted that he was allotted a flat bearing No.E51605 having carpet area of 434 sq.ft., 1 BHK on the 16th Floor (as per plan 15th floor) in Tower E5 at Jalladianpettai Village, Sholinganallur Taluk, Chennai – 600 100.

6. The Complainant has further submitted that the Respondent and the Complainant had entered into an Agreement for Sale dated 21.11.2019 and Construction Agreement (though not registered) dated 21.11.2019 under 90:10 scheme for Rs.26,88,234/- and had entered into an Agreement and according to this Agreement initially the Complainant had to pay 90% of the total amount i.e. Rs.24,28,849/- and rest of the amount at the time of handing over of the flat. The Complainant has also submitted that the Respondent assured the Complainant that the flat would be handed over by 31.12.2019 which is also stated in the

Construction Agreement dated 21.11.2019, whereas the Respondent is still not showing any interest in completing the Complainant's flat.

7. The complainant has further stated that he has paid a total sum of Rs.24,28,849/- till date and the Complainant had not been handed over the flat despite paying such huge money.

8. Both the Complainants have prayed for the following reliefs in respect of their flats booked by them.

- a) Direct the Respondent to hand over the fully constructed flat bearing No.E5 1102 (C.No.61/2022) and E5 1605 (C.No.62/2022) in habitable condition with promised facilities and amenities as mentioned in construction agreement dated 22.12.2016 (C.No.61/ 2022) and 21.11.2019 (C.No.62/2022)
- b) Direct the Respondent to pay a sum of Rs.5,00,000/- towards mental agony and severe hardship caused by the Respondent

9. In the Counter Affidavit filed by the Respondent in respect of the Complaint No.61 of 2022, it has been submitted that the Complainant and Respondent had entered into Construction Agreement and Sale Agreement dated 06.11.2020 with respect to residential unit No.E5 1102. The mutual obligations were captured in the agreements, subject to payment of sale consideration and force majeure exceptions; the indicative date of hand over the apartment was 31.12.2020. the Respondent has further stated that the construction had been progressing as per the terms and

conditions of the said agreement but there were some unforeseen hindrances beyond the control of the Respondent which in turn caused delay in completing the construction and handing over the apartment within the time frame specified in the Agreement. The Respondent has also seeks eight months time to provide the unit in liveable condition as they are speeding up the construction.

10. In the Counter Affidavit filed by the Respondent in respect of Complaint No.62 of 2022, it has been submitted by the Respondent that the Complainant and the Respondent had entered into Construction Agreement and Sale Agreement dated 18.11.2020 with respect to residential unit No.E5 1605. The mutual obligations were captured in the agreements, subject to payment of sale consideration and force majeure exceptions; the indicative date of hand over the apartment was 31.12.2019. The Respondent has also submitted that the construction had been progressing as per the terms and conditions of the said agreement but there were some unforeseen hindrances beyond the control of the Respondent, which in turn caused delay in completing the construction and handing over the apartment within the time frame specified in the agreement. The Respondent further seeks eight months time to provide the unit in live-able condition as they are speeding up the construction.

11. This Authority has examined both the Complaints and the Counter Affidavits filed by the Respondent Promoter in respect of both the Complaints and written arguments filed by both sides carefully.

