BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL (TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Islands)

(Under the Real Estate Regulation And Development Act 2016)

DATED 18-03-2020

Coram : Mr.Justice B.Rajendran, Chairperson
Mr.N.Balasubramanian, Judicial Member

Appeal Nos. 13/2019, 14/2019, 15/2019, 16/2019, 17/2019, 18/2019, 19/2019, 20/2019, 21/2019, 22/2019, 23/2019, 24/2019, 25/2019, 26/2019, 27/2019, 28/2019, 29/2019, 30/2019, 31/2019, 32/2019, 33/2019, 34/2019, 35/2019, 36/2019, 37/2019, 38/2019, 39/2019, 40/2019, 41/2019, 42/2019, 43/2019, 44/2019, 45/2019, 46/2019, 47/2019, 48/2019, 49/2019, 50/2019, 51/2019 and 52/2019

S.Jayalakshmi
Proprietrix, M/s. Lakshmi Builders,
through her power agent V.T.Selvan ... Appellant
(Appellant in all 40 cases from A.No.13/ 2019 to A.No.52/2019)

-Vs-

1. D.Prabhanandan
2. S.Ramar
3. M.Sakthivel
4. D.Ramalingam
5. R.Kamala
6. S.Muthukrishnan

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7. S.S.Manikandan
8. R.Dinesh Babu
9. R.Anandhan
10. R.Maran
11. Ethiraj. R
12. C.Jothi
13. Mathana Gopal
14 P.Arrunagiri
15. V.Ramesh Babu
16. S.David Raj
17. S.Francis
18. R.Maran
19. R.Asokan
20. K.Srithar
21 M.Jothi
22. K.Mani
23. M.P.Ponmudi
24. S.Abdul Kareem
25. P.Ragupathy
26. C.Arun Kumar
27. N.Loganathan
28. V.Velavan
29. R.Rajendran
30. M.Duraipandian
31. A.Arokiaraju
32. B.Raju
33. P.Sekar
34. G.Gajendran
35. P.M.Clara
36. K.Ravichandran
37. B.Arun Kumar
38. S.Deepa
39. D.Gangatharan
40. K.Parthasarathy

... Respondents
(Respondents in all 40 cases from A.No.13/2019 to A.No.52/2019)

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These appeals were taken on file on 06.06.2019 and came up for final hearing on 03.03.2020 in the presence of M/s. Rank Associates, Counsel for the appellant and M/s. R. Karthikeyan, K. Kulandaivelu, M.Vijendrakumar, V. Prabakaran, T. Divya, Advocates for the respondents. Having heard the arguments and perused the case records and having stood over till this date for consideration and this Tribunal deliver the following:-

COMMON ORDER

2. The appellant is the builder and the respondents are the allottees. The allottees preferred separate complaints against the builder for the relief of registration of project, handing over of possession, compensation for the delay and for costs. After contest the Learned Authority has passed orders with regard to the maintainability of the complaint and found that the complaint is maintainable and directed the builder to register the project within two weeks. Aggrieved upon that, the builder preferred these appeals against all the 40 allottees.

3. According to the allottees even they have entered into the construction agreement much earlier, the promoter failed to complete the construction and handed over the flats as agreed by him. Hence they came forward with the complaint before the Learned Authority for the relief of registration of project and direction to hand over the possession. According

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to the promoter he denied the allegations of the allottees and stated that he is not at all a promoter and he is only a contractor to construct the flats. For each and every flats constructions separate approval and subdivision were obtained. There is no group development by the builder. Further more the construction area only 1540 sq. ft and total number of houses only five. In such circumstances the construction of the flats does not come under the purview of RERA Act. So he raised the admissibility as preliminary issue. Since the authority refused to accept the claim of the promoter he came forward with these appeals on the following grounds:

(i) **The promoter has not done anything as contemplated under Section 3 of the RERA Act namely advertising, marketing, booking, selling, or offering for sale or inviting persons for purchase in any manner any plot or apartment or building. After the commencement of the RERA. So the project does not come under the purview of the Act.**

(ii) **Obtaining approval for the plot of an extent of 1540 sq. ft on behalf of the individual owners does not in any manner tantamount to the activity as one falling within the purview of the act.**

(iii) **There is no common amenity that has been provided or there is no Group Development which has been under taken in any manner contrary to the approved plan.**

(iv) **The non existence of the compound wall between the two buildings which are constructed pursuant to two different plan approvals will not render them as part of Group Development.**

(v) **The authority has passed an order without taking into account the hardship and inability of the appellant to proceed with the construction without necessary payments.**

(vi) **Granting two weeks time of registration of the project is not workable since order itself was served on the appellant only after two weeks of the passing of the same.**

4. The Learned counsel for the appellant would submit that the appellant entered into agreement with the respondent, before the commencement of the Act, for the area of 763 sq. ft out of 1540 sq. ft for each flat. Within that extent of 1540 sq ft only five houses were proposed to construct. So the required measurement of 500 sq. m. and required

number of houses eight not reached by the appellant. Hence RERA Act is not applicable to the appellant. The appellant constructing the houses on the basis of the individual agreement between the parties. He has not done any group development. The appellant has not obtained any common approval and no common amenities provided for which the order of the authority is not sustainable.

5. The Learned counsel for the respondent would submit that the appellant issued advertisement in a newspaper for construction of 250 flats. He has obtained plot approval for 7 plots and he has also obtained sub division for 10,142 sq. m. The intention of the appellant to construct houses to all the 40 allottees by collecting money from the allottees and also obtained separate plan approval in the name of the appellant and not in the name of the individuals. Hence the authority has passed order on merits so the appeal is not sustainable.

6. Points for consideration :

1. Whether the project of the appellant attracts Section 3 of the RERA Act?
2. Whether the appeal is deserves to be allowed or not?

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Point No.1 :

7. The appellant and the respondents entered into construction agreement but styled as 'memorandum of agreement' for the construction of flats on the 'A' schedule property. As per the plan and specifications obtained in the schedule 'D' along with the flats intended for the other purchasers who hold or may hereafter hold the flats at the estimated costs and further do hereby undertake to construct for the purchasers, the residential flats including car park and other amenities described in schedule 'C'. The appellant agreed to complete the construction within a period of 18 months. In the agreement in clause no. 29 it has been specifically contemplated that the purchasers shall pay such proportionate share of maintenance charges and repair charges for all common amenities, in the 'A schedule property and further in clause 31 of the said agreement it has been specifically stated that the purchasers commit default in the payment of the purchaser's dues for the common benefits or amenities, the owners of the flats shall have a right to remove or withdraw such benefits or amenities from the purchaser's enjoyment.

As per the agreement 'A' schedule property mentioned as

> **'measuring an extent of 1540 sq. ft comprised in Survey No.277/2, (Part) in the layout named R.E.Nagar (Phase-V) situated in No.64, Kavanoor Village, Sriperumanthur Taluk and Kanchipuram District.**
>
> **'B' schedule described as 385 sq. ft undivided share in all the piece and parcel of the land in 'A' schedule property.**
>
> **The 'C' schedule described as flat in Brundhavanam floor measuring 763 sq. ft.**

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Schedule 'D' described as items of work in 'C' schedule flat namely

Structure : RCC framed structure without pile foundation.

Walls : Load bearing Brick Walls 9' thick and other partition walls 41/2 thick.

Floor finish : Good Quality verified tiled flooring.

Doors, windows, kitchen, loft, plumbing, electrical, water supply, painting and fixtures.

8. The following items are common in all flats namely common septic tank for all flats, PVC pipe line for water supply, PVC pipe line for sanitary, Weathering course with content floor finish, cement plaster to exterior surface of walls, snowcem to exterior surface of walls, compound walls in front and back side. Steel gates with enamel paint, concealed electrical wiring for external lighting and staircase landing corridors, common borewell and pump for 20 blocks (80 flats).

9. The appellant described him as a builder in the top of the agreement and in bottom of the agreement in each page described as promoter and signed as proprietrix. First of all whether the appellant is a builder or the promoter to be decided.

As per Section 2(zk)

'Promoter' means -

(i) A person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or

(ii) A person who develops land into a project, whether or not the person also constructs on any of the plots, for the

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purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or

(iii) .. ..

(iv) .. ..

(v) Any other person who acts himself as a builder, colonizer, contractor, developer, estate developer or by any other name or claims to be acting as a holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or

(vi) Such other person who constructs any building or apartment for sale to the general public.

Explanation - For the purpose of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the person who sells apartments or plots are different persons both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder;

Section 2(zn)

'Real Estate Project' means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement rights and appurtenances belonging thereto;

10. As per Section 2(zk)(i) a person to be construed as promoter there are two ingredients. The 1st one is the person who constructs an independent building or a building consisting of apartments. The 2nd one for the purpose of selling all or some of the apartments to other persons. As per section 2(zk)(5) the person who acts himself as a builder or claims to be act as a holder of a power of attorney from the owner of the land of which the building or apartment is construction for sale is also a promoter. In clause (6) it is further contemplates that the person who construct any building or apartment for sale to the general public also comes under the

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definition of promoter. Now in the case in hand, the appellant even though designated as a builder she is doing construction work through her power agent/contractor constructing apartments for sale. So both the appellant as well as her husband designated as the contractor or builder are also come under the definition of promoter.

11. The learned counsel for the appellant would submit that the appellant is doing only construction work in the plot purchased by different persons and doing the construction work collectively and separately so the appellant cannot come under the purview of the RERA Act. How far this argument is acceptable is to be analysed. First let us go to the memorandum of understanding between the appellant and the respondent. In the memorandum of understanding at page no.2, it has been stated as follows:

> ***Whereas the purchaser is one of the absolute purchasers of the land described in the 'A' schedule hereunder.***
> ***Whereas the purchasers had purchased an undivided share in the land described in schedule 'A' and the said undivided share is hereinafter referred to as schedule 'B' hereunder.***
> ***Whereas the 'B' schedule property is to be expressly made subject to the condition that the purchasers shall be entitled to have residential flat(s) constructed for the purchasers in the apartments to be constructed by the Builder on the 'A' schedule property.***
>
> ***The description of the property is stated as follows:***
> ***Schedule 'A'***
> ***All that piece and parcel of house sites bearing No.M, (Planning permit No.2207/2012, D.Dis No.1700/2012 dated 21.05.2012) measuring an extent of 1540 sq. ft comprised in Survey No.277/2 (part), in the layout named R.E. Nagar (Phase-V) situated in No.64, Kavanoor Village, Sripermantur Taluk and Kanchipuram District lying within the Registration District of South-Chennai and in the Sub-Registration District of Kundrathur.***
>
> ***Plot No.M bounded on the***
> ***North by : Plot No.F***
> ***South by : 24 feet road***
> ***East by : Vacant land***

West by : Plot No.L.

Schedule 'B'
385 sq. ft undivided share in all the piece and parcel of the land in 'A' schedule property.

Schedule 'C'
Flat in Brundhavanam floor measuring 763 sq. ft.

Schedule 'D'
Items of work in 'C' schedule flat

12. In page No.3 of the memorandum of agreement with regard to terms of agreement it reads as follows:

> ***"It has been mentioned that the purchasers appoint the builder as contractor to construct for the purchasers residential flat(s) for the purchasers on the 'A' schedule property as per plan and specifications contained in schedule 'D' along with the flats intended for the other purchasers who hold or may hereafter hold".***

As per the memorandum of agreement itself for 'B' schedule alone sale deed was executed for 385 sq. ft. It is also undivided share of the 'A' schedule and further it is not an absolute property. The proposed construction will be constructed only in the 'C' schedule. Regarding 'C' schedule property measuring 763 sq. ft is concerned no sale deed was executed by the owner of the land in favour of the purchaser. The specific case of the appellant is that he is only a building contractor and he is proposed to construct in the land of the purchaser. On the date of agreement the purchaser is not the owner as per the same agreement. At page no.3 as covenant no.3 it has been specifically agreed that the purchasers hereby agrees to a sum stated in the agreement namely,

1. Advance booking	***– 20%***
2. Plinth (basement) level	***- 20%***
3. Ground floor roof concrete	***– 20%***
4. First floor roof concrete	***– 20%***
5. Brick work completion	***– 15%***
6.Before completion	***– 5%***

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13. On the date of memorandum of understanding neither the builder nor the purchaser is not a owner of the 'C' schedule as per the following recitals. The appellant has produced sale deed which is in page no.47 to 58 of the appellant typeset: the above said document reads as follows:

> கடலூர் மாவட்டம், நெய்வேலி நகரம், வட்டம் __20, அரவிந்தர் சாலை, **NRB** 2ல் இயங்கிவரும் **VTS** கம்பெனியின் உரிமையாளரும் திரு.**R.**தனவேலு அவர்களின் குமாரருமான சுமார் 49 வயதுள்ள் திரு.**V.T.**செல்வன் ஆகிய நான் சென்னை 69, குன்றத்தூர், வெங்கடாபுரம், பண்டாரத் தெரு, கதவு எண் 2/54, ஸ்ரீ ஆண்டாள் இல்லம் __ல் வசிக்கும் திரு.**A.K.**அருணாசலம் அவர்களின் குமாரர் திரு.**A.**செந்தாமரை கண்ணன் (1), சென்னை 69, சிறுகளத்தூர் அஞ்சல், காவனூர் காந்தி தெருவில், 1/.276/__ஆம் நெம்பர் வீட்டில் வசிக்கும் திரு.**C.**குணவேலு அவர்களின் குமாரர் திரு.**G.**செந்தில்நாதன் (2) ஆகியவர்களின் பொது அதிகாரம் பெற்ற ஏஜெண்ட் என்ற முறையில் மனப்பூர்வமாய் சம்மதித்து எழுதிக் கொடுக்கும் காலிமனை சுத்த விக்கிரையப் பத்திரம் என்னவென்றால்

In page No.4 of the above said sale deed it has been specifically mentioned about the power deed obtained by the said V.T.Selvan

> மேற்படி நிலத்தினையும் இன்னும் பிற நிலங்களையும் சேர்த்து மனைப்பிரிவுகளாக பிரித்து அதற்கு **'R.E.**நகர் பேஸ்-**V'** (இராமநாதீஸ்வரர் நகர் பேஸ் **-V')** என பெயரிட்டு அரசு அங்கீகாரம் பெற்ற **Planning permit No.**2213.2012 **D.Dis No.**1702.2012 **dated 21.05.2012**-ல் அடங்கிய மனை எண்.**F** விஸ்தீரணம் 1540 சதுரடிக் கொண்ட மனையில் **'B'** ஷெட்டியூலில் கண்ட சொத்தினை விற்க தீர்மானித்து தாங்கஞ்ம் கிரையம் பெற சம்மதித்து அதன்படி நாம் இருபார்டிகஞ்ம் விலையற விலை நிச்சயத்த முழு கிரையத் தொகை .....

14. As per the above said recitals the owner of the land is one Mr.Chenthamarikannan and G.Senthilnathan. The husband of the appellant V.T.Selvan has acted as power agent for the said two persons. As per Section 2(zk)(5) the power of attorney for the owner of the land is also a promoter. In the explanation of Section 2(zk)(6) the person who constructs any building or apartments for sale and the person who sells

apartments are different persons both of them shall be deed to be the promoters and shall be jointly liable under RERA. So the builder as well as the promoter both of them are termed as promoters. Now let us discuss about the planning permission.

15. The promoter V.T.Selvan had applied for sub division and sub division was ordered by the Commissioner Kundrathur Panchayat Union on 21.05.2012. The plot obtained in S.no.277/2 at Kavanoor village was sub divided as Plot Nos. A,B,C,D,E,F,G The sub divided part was measured and approved by the Sirugalathur Panchayat which is shown in page no.12 of the typeset filed by the respondent in which the measurements all of the plots namely A to G totally measuring 10,800 sq.ft. equivalent to 1001.42 sq. m for the above said 7 plots building plan approval obtained in the name of promoter V.T.Selvan. The planning permission was granted on 08.06.2012 by the Commissioner, Kundrathur Panchyat Union as per ப.மு.எண் 2084/2012. On the date of planning permission allottees are not the owners of the 'C' schedule property. So, for all the 7 plots the planning permission was obtained in the name of the promoter V.T.Selvan and not in the name of the individual purchasers. On the side of the appellant it was contended that planning permit was obtained for sub division of property cannot be construed as a group development. The promoter obtained sub division order, planning permission order in his name only. After obtaining all planning permission he proposed to construct the apartment for the price fixed by the promoter to the individual purchasers.

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Admittedly he is not an outright purchaser. The promoter entered into power of attorney agreement with the owner of the land namely so called Senthamari Kannan and Senthilnathan and on the strength of the said power of attorney he proposed to construct apartments and agreed to sell the same to the respondent. For which the respondents paid amount towards cost of the apartments stage by stage. If really the project of the appellant is stand alone project the building plan approval, sub division order must be stand in the name of the individual buyers. On the date of planning permission the individual purchasers are not the owners of the property or not the power agent of the owner. For obtaining planning permission and building permit the Tamil Nadu Rules contemplates as follows:

As per the Tamil Nadu Panchayats Building Rules 1997, consent of the land owner is mandatory for obtaining planning permission. The relevant rules are as follows:

Tamil Nadu Panchayats Building Rules, 1997
(G.O. (Ms) No.255, Rural Development (C2) Department, Dated 18.08.1997)
4. Application for approval of sites for building and huts -
(1) .. ..
(2) The application as well as plan specifications and the information as required under items (a), (b), (c) and (d) of sub-rule (1) shall be signed by the owner of the site or accompanied by a letter of authority or consent from the owner of the site, if the applicant himself is not the owner.
(3) .. ..
(4) .. ..
(5) .. ..
(6) .. ..

In this case the promoter has obtained the consent of the land owner or not, for which no proof was adduced by the appellant. Admittedly the

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approval obtained in the year 2012, the agreement entered into with the respondents in the year 2013 so there is no possibility for obtaining consent of the respondents since, on the date of obtaining permission namely in the year 2012, even still now the respondents are not the owner of the property for 'C' schedule. Hence the consent of the respondents is not necessary. In such situation whether the appellant obtained planning permission by complying Rule 4(2) of the Tamil Nadu Panchayts Building Rules 1997 is an unanswered question.

16. Furthermore, as per the sale deed executed by the promoter to the respondent dated 21.09.2013 in which the Power of Attorney was given to the appellant for limited purpose of selling the plot alone and not for any construction. Therefore it can be easily inferred that the appellant has not obtained any consent from the land owner. Now let us discuss about the sustainability of the grounds putforth by the appellant to setaside the order of the authority.

17. According to the appellant she entered into an agreement with the respondent and made advertisement, marketing booking offering for sale or inviting persons to purchase, all are done before the commencement of the RERA Act. After the commencement of the Act she has not done anything. Hence the project of the appellant does not come under the purview of the section 3 of RERA Act. Before going to discuss the applicability of the Section 3 of the RERA Act it is relevant to reproduce the section 3 hereunder.

3. Prior registration of real estate project with Real Estate Regulatory Authority:- (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act.

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act.

Proviso .....

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required-

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases.

Proviso .....

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act.

(c) ....

Explanation - .....

18. The ground put forth by the appellant is absolutely correct if the appellant completed the project. If the project is not completed, for which the proviso clause is applicable, the promoter shall make an application to the authority for registration within a period of three months from the date of commencement of this Act. In this case the appellant has not done so. Hence the respondents approached the RERA for grievance on 07.12.2018 so the first ground is not sustainable.

19. The second ground with regard to obtaining approval for a plot of an extent of 1540 sq. ft only on behalf of the individual owners, does not in any manner tantamount to the activity as one falling within the purview of the Act.

20. According to the appellant he has obtained planning permission only to the extent of 1540 sq. ft on behalf of individual owners the planning

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approval application filed on 22.05.2012 and approval granted on 12.06.2012. The appellant and the respondents entered into a memorandum of understanding on 25.09.2013.

21. The approval obtained before 1 ½ years of the agreement. At that time there is no privity of contract between the appellant and the respondent. The appellant has obtained approval on 27.11.2012 as per G.O.Ms.No.255/97, dated 18.08.1997 for the seven plots each measuring 1540 sq. ft equivalent to 143.06 sq. m. each, totally 10800 sq. ft. equivalent to 1001.42 sq. m. At the time of approval of building plan the respondents have not entered into any agreement with the appellant. In such circumstances the allegation of approval on behalf of individuals is unbelievable and not sustainable and it is only a make belief affair. So the appellant has obtained planning permission more than 500 sq. m. for construction. Therefore obtaining approval for more than 500 sq. m. namely 1001.42 sq. m certainly comes under the purview of the Section 3(2)(1) of the TNRERA Act.

22. Moreover, the appellant has also proposed to construct 5 apartments in each 1540 sq. ft and he proposed to construct 35 houses in all the plots. It is also more than the eight houses. Hence on this ground also the project of the appellant comes under the purview of the Section 3. Therefore this ground is also not sustainable.

23. The next ground with regard to group development. According to the appellant he has not done any group development. His project is only

housing. As per plan, as stated supra, for seven flats namely A to G to the extent of 1001.42 sq. m number of houses also 35 in numbers. But the appellant has specifically stated that there is no common amenity. Hence it is not group development. In the agreement between the appellant and the respondent in the Typeset of the appellant at page no.6 clause no.29 and 31 they have spoken about the common amenities. The sale deed is with regard to 'B' schedule only. It is undivided share which is part and parcel of 'A' schedule property. Building approval was also obtained for all the seven plots before entering into agreement with the respondents each and every plot the proposal for constructing five houses. In such circumstances there is no possibility for an individual approval for each house. Common amenities are mandatory one regarding the apartments are concerned. Admittedly the appellant has proposed to construct apartments if really there is no need or necessity for clause 29 and 31 in the agreement. So the claim of the appellant as there is no common amenity is not sustainable since it is false.

24. The next ground is with regard to the compound wall. According to the appellant the non existence of the compound wall between two buildings which are constructed pursuant to two different plan approvals will not render them as a part of Group Development. So the main ingredient is that appellant has two different plan approvals. Regarding this point the Learned Counsel for the respondent submitted that the intention of the appellant is to be considered and relied in page nos. 88, 89 of the typeset produced on the side of the respondent. Page no. 88 of the typeset

of the respondent is with regard to advertisement made by the appellant. In page no.89 it has been specifically stated that

'**2 Bed Room** உள்ள 250 அடுக்கு மாடி குடியிருப்புகள் உதயமாகிறது.'

So the proposal of the appellant to construct 250 apartments, that is the intention. In page no.88 of the typeset he has described the distance from the proposed site. He also offered duplex bungalows. In page no. 12 of the typeset of the respondent sub division of house site A to G and got approval on 27.11.2012. On the same date he has obtained building approval for the above said plots. On the date of approval i.e. on 27.11.2012 individuals namely the respondents are not parties to the contract. They are not in picture with the appellant and they came to picture only in September 2013. So the plan approval obtained only in the name of appellant's husband V.T.Selvan and not in the name of purchasers. The purpose of obtaining approval in the name of the appellant's husband to construct 250 apartments in the name of Brindavanam. So the advertisement itself clearly reflects the intention of the appellant to propose about the group development. That is why he has not put up any compound wall. If really he has obtained any individual plan approval for the respondents alone certainly he would have constructed compound wall separately for each plot. From the documents produced by the respondent and the appellant it can be easily inferred that it is only a group development and not an individual housing scheme. So this ground is also not sustainable.

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25. The 5th ground is only a grievance of the appellant and not the ground for the appeal. The appellant has stated that direction to register the project but without directing the respondent to pay the balance amount. The person who seeks equity must do equity. It is the principle. If the appellant obey the section 3 of the RERA Act certainly he will be protected under the umbrella of Section 3. But he evaded from the clutches of Section 3 of the RERA Act. In such circumstances the grievances of the appellant is not sustainable, at present, if he registered the project the appellant can very well claim balance amount from the respondents by way of separate prayer.

26. The last prayer is also the grievance of the appellant. The time granted for registration is not sufficient. The authority has ordered to register the project on 16.04.2019. Now nearly one year lapsed even then the appellant has not preferred to register the project. If really the appellant is willing to register the project he can approach RERA and got time or even before this Tribunal. If the appellant requested time for registration certainly it would be granted. But the appellant vehemently opposed the applicability of section 3 all along the appeal. Hence this ground is also not sustainable.

27. From the above discussions this Tribunal found that the appellant and her husband are the promoters and the respondents are allottees and the project of the appellant certainly comes under the purview of the Section 3 of the RERA Act. The point is answered accordingly.

Point No.2 :

28. In point no.1, it was decided that the appellant's project attract section 3 of the RERA Act, since the grounds raised by the appellant are not sustainable. In such circumstances the arguments put forth by the appellant's side is not acceptable and not sustainable to set aside the findings of the Regulatory Authority since there is no infirmity in that finding. Therefore this tribunal comes to a conclusion that this appeal is not deserves to be allowed. The point is answered accordingly.

29. In the result these appeals A.Nos.13/2019 to A.No.52/2019 are dismissed. No costs. The order of the Regulatory Authority dated 16.04.2019 in the batch of 40 complaints in C.Nos.1/2019, 2/2019, 3/2019, 4/2019, 5/2019, 6/2019, 7/2019, 8/2019, 9/2019, 10/2019, 11/2019, 12/2019, 13/2019, 14/2019, 15/2019, 16/2019, 17/2019, 18/2019, 19/2019, 20/2019, 21/2019, 22/2019, 23/2019, 24/2019, 25/2019, 26/2019, 27/2019, 28/2019, 29/2019, 30/2019, 31/2019, 32/2019, 33/2019, 34/2019, 35/2019, 36/2019, 37/2019, 38/2019, 39/2019 and 40/2019 are confirmed.

This Order is dictated to the Stenographer, transcribed and typed in the computer by her, corrected and pronounced by us in the open court on 18.03.2020.

Sd/- XXXX
CHAIRPERSON

Sd/- XXXX
JUDICIAL MEMBER

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