BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL (TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Island)

(Under the Real Estate Regulation and Development Act 2016)

Dated : 21st November 2019

Coram : Mr.Justice B.Rajendran, Chairperson
Mr.N.Balasubramanian, Judicial Member
Ms.Leena Nair, Administrative Member

Appeal No.59 of 2019

M/s.Green Avenue Homes
And Gardens
Rep.by its Proprietor
D.Dhinakaran
Dakshin City Site Office
Unamancherry
Chennai – 600 048. ... Appellant

...Vs...

1. Mrs. P.Rani Vellammal
   No.106/1, Praghya Park View
   Flat C, Second Floor,
   Seventh Avenue
   Ashok Nagar,
   Chennai – 600 083.

2. Bennett Property Holdings
   Company Limited
   No.41, Vandalur- Kelambakkam Road,
   Pudupakkam,
   Chennai – 603 103.
   (Amended as per order in M.A.No.63/2019 in A.No.59 of 2019 dated 23.09.2019)
   ... Respondents

This appeal was coming up for final hearing in the presence of appellant in person and the 1st respondent in person and 2nd respondent through its counsel M/s.Tatva Legal Chennai and upon perusing the available records and upon settlement

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arrived between the parties and recorded the same and this Tribunal delivered the following :

ORDER

2. The home buyer is the 1st respondent/allottee herein. The developer is the appellant and the 2nd respondent is the marketing agent for the appellant/promoter.

3. The home buyer entered into a sale cum construction agreement with the promoter on 22.03.2012. The sale price was fixed at Rs.62,22,500/-. The promoter agreed to deliver the constructed house within 15 months with a grace period of 3 months from the date of registration. Except Rs.6,41,448/- the balance sale amount was paid by the allottee to the promoter. The role of the marketing agent only with regard to marketing the villas in the project on an exclusive basis. The said marketing agent and the promoter entered into an agreement to complete the booking of the villas within a period of 15 months from the date of signing of agreement with a further period of 3 months. According to the marketing agent the promoter alone is responsible for the construction of 23 villas with all amenities as agreed by him with a prospective buyer. The marketing agent is no way responsible to the development of the project. The responsibility of the marketing agent rests only with procuring sale on villas and ends once the registration of the said villas is completed.

4. The promoter has not completed the construction and failed to hand over the possession of the house. Hence the allottee came forward with the complaint before the RERA in C.No.165/2018 against the promoter as well as the marketing agent. In the mean time during the pendency, the allottee and the promoter entered into a compromise on 15.03.2019. Wherein the developer agreed to complete the remaining works in the villa within 120 days from the date of signing of compromise letter and will hand over the villas on receipt of Rs.6,41,448/-. The pending common amenities also been listed in the compromise letter and the developer assured to complete the common amenities within 6 months from the date of handing over the villas. Since the promoter fails to comply the terms of compromise the allottee came forward with the

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complaint before RERA. After contest the Regulatory Authority directed the promoter to complete the construction and hand over the possession of the house on or before 15.07.2019 and directed the marketing agent to pay a penalty of Rs.1,00,000/-.

5. Aggrieved upon that the marketing agent filed separate Appeal No.57 of 2019 against the allottee and promoter. The promoter has also filed separate this Appeal No.59 of 2019.

6. After entering appearance of the respondents on 15.10.2019, the appellant/promoter undertook to complete the pending works before 15.11.2019 and the case was posted on 18.11.2019. On 18.11.2019 the promoter informed the court that he has completed the pending works and is ready to hand over the keys. At this juncture, the buyer wanted to verify the work done by the promoter and then he will be ready to receive the keys. Hence, the allottee was directed to verify the works on 20.11.2019 and promoter is directed to hand over the keys on 21.11.2019 in the court. On 21.11.2019 the promoter has produced the following before the court :

i. Possession certificate
ii. No due certificate
iii. Key certificate
iv. Receipt for payment for service tax
v. Receipt for payment of balance property dues

In the above said five documents both the promoter and allottee have signed and the allottee agreed to receive the keys of the villa and satisfied that the promoter complied the order of the Regulatory Authority. Hence keys are handed over to the allottee/1st respondent in the open court.

7. The 2nd respondent/marketing agency is no way concerned with the settlement reached between the promoter and allottee. The 2nd respondent concerned with his appeal with regard to penalty imposed against him and for which a separate appeal 57 of 2019 is pending and the same to be heard separately in the next hearing.

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8. As far as this appeal No.59 of 2019 is concerned, the allottee is the contesting party and the 2nd respondent/marketing agent is only a formal party and no relief was claimed against him. Hence the settlement between the promoter and allottee is recorded and this appeal is disposed accordingly and closed. Of course the 2nd respondent and his counsel are present in Court and they have no objection over the settlement.

This order is dictated to the stenographer directly to the computer and typed by her and corrected and pronounced in the open court on 21st day of November 2019.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
ADMINISTRATIVE MEMBER

Sd/- xxxx
JUDICIAL MEMBER

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