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 10.02.2021

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

Appeal No. 69 of 2020

M/s.Phoenix Serene Spaces Pvt. Ltd.,
(Formerly known as M/s. Phoenix Hodu Developers Pvt. Ltd.)
Rep. by duly Authorized Signatory
Mr.PVRK Chaithanya Raju

... Appellant

-Vs-

1. Col.K.M.G.Panicker,
2. Mrs.Radhika Panicker
3. Deepak Panicker

... Respondents

This appeal was taken on file on 09.11.2020. The appellant appeared through its counsels M/s.T.Sai Krishnan, L.Poovendra Perumal, K.Kumaraguru. The application under Section 43(5) of the Act in M.A.No.132/2020 came up for final hearing on 11.01.2021 and heard the appellant counsel through video

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conferencing and this Tribunal passed an order by directing the appellant to pay 50% of the total amount as ordered by the court below on or before 09.02.2021 failing compliance to deposit, the appeal will be dismissed automatically and posted for compliance on 10.02.2021. On that day the appellants' counsel represented that conditional order not complied with. Hence this Tribunal passed the following:

ORDER

2. The appellant and the respondents entered into agreement of sale and construction of apartment on 09.11.2015. The appellant agreed to complete the construction on or before December 2015. The total sale consideration fixed at Rs.51,10,902/- out of which the respondents pad a sum of Rs.48,55,355/- Even after the expiry of the time limit the appellant failed to complete the construction. On intimation by the appellant that the flat is ready the respondents inspected the flat to find out that it was not in order and without promised quality hence the respondents withdrew from the project and came forward with the complaint before the Adjudicating Officer in C.C.P.No.210 of 2019. After contest the Adjudicating Officer allowed the complaint in part. Aggrieved upon the same the appellant preferred this appeal along with waiver application. In the waiver application this tribunal ordered the appellant to deposit 50% of the amount ordered by the court below on or before 09.02.2021. Since the appellant failed to comply the order this Tribunal passed the following order:

> *"The Advocate for the appellant states that the conditional order passed under Section 43(5) has not been complied with by the appellant. As the conditional order to deposit the amount as*

contemplated under Section 43(5) has not been complied with the appeal is dismissed for non-compliance."

The connected Miscellaneous applications are closed.

This Order is directly dictated to the Stenographer and typed in the computer by her, corrected and pronounced by us in the open court on 10th Day of February 2021.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
ADMN. MEMBER

Sd/- xxxx
JUDL. MEMBER

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