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. 70 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-

Mrs. Bhuvanadevi Jayakumar ... Respondent

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.134/2020 came up for final hearing on 11.01.2021 and heard the appellant counsel through video 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 respondent booked row houses with the appellant in their project namely 'The commune in the village'. The sale consideration was fixed at Rs.1,20,00,000/-and the respondent paid a sum of Rs.1,02,96,028/- out of the sale consideration. Since the respondent was residing in UAE entered into agreement only on 04.07.2016. The appellant undertook to complete the construction within 18 months from the date of agreement, which ended in January 2018. Only on 18.02.2019, the appellant informed regarding the delivery of row houses for the first time. But on inspection of the constructed houses, the respondent found several structural defects. Hence the respondent withdrew from the project and demanded refund of the amount by way of complaint before the Adjudicating Officer. 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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