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 03.02.2021

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

Appeal No. 80 of 2020

M/s.Sare Realty Projects Private Limited
(Formerly known as Sare Jubilee Kolathur Private Limited)
Rep. by its Authorized Signatory

... Appellant

-Vs-

Mr. Ajith Kumar ... Respondent

This appeal was taken on file on 16.12.2020. The appellant represented through Mr.G.Sriram, Practicing Company Secretary. The respondent appeared through M/s.Mothilal & Goda, G.Revathy, S.Mothilal, S.Shailasri, Advocates. The Miscellaneous application under Section 43(5) of the Act in M.A.No.155/2020 came up for final hearing on 06.01.2021 and after hearing both sides through video conferencing this Tribunal ordered by directing the appellant to pay 40% of the total amount as ordered by the court below on or before 25.01.2021 failing compliance to deposit, the appeal will be dismissed automatically and posted for

compliance on 27.01.2021. On that day the appellants' representative represented that due to non availability of certified copy of the order the appellant is not able to comply and sought for further time. Considering the request this Tribunal granted one week time to comply 6.1.2021 Order on or before 02.02.2021 call on 03.02.2021. On that day the appellant's representative represented that the appellant has not complied with the conditional order. Hence this Tribunal passed the following:

ORDER

2. The respondent and the appellant entered into sale and construction agreement on 22.10.2014. The sale consideration was fixed at Rs.47,23,831/-. The appellant agreed to hand over possession on or before December 2014. The respondent paid Rs.44,94,662/- out of the sale consideration. Till December 2014, there was no commencement of construction work in the site. On enquiry, the appellant assured to hand over villa by November 2015. Since the appellant failed to comply the assurance of delivery of possession, the respondent came forward with the complaint for refund with interest and compensation. After contest, the Adjudicating Officer allowed the claim in part. Aggrieved upon that the appellant preferred this appeal.

3. The appellant failed to comply the pre-deposit order under Section 43(5) of the Real Estate (Regulation and Development) Act, 2016, dated 6.1.2021, this Tribunal passed the following order:

"The respondent's counsel Mr.Motilal present. The appellant's representative present and states that the appellant has not obeyed the

order of the Hon'ble Tribunal in depositing the amount which is mandatory under section 43(5) of the Act.

In view of the non compliance of the conditional order, the M.A.No.155/2020 is dismissed. Consequently the appeal is dismissed for non-compliance of depositing the prerequisite amount as contemplated under Section 43(5) of the Act."

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 03rd Day of February 2021.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
ADMN. MEMBER

Sd/- xxxx
JUDL. MEMBER

Verified RealEstate