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 29.10.2020

Coram : Mr.N.Balasubramanian, Judicial Member
Ms.Leena Nair, Administrative Member

Miscellaneous Application No.93 of 2020

in

Appeal No. 52 of 2020

1) Evita Constructions Private Limited
   Rep. by its Authorized Signatory
   Mr.A.Prabhakaran

2) Lucifer Constructions Private Limited
   Rep. by its Authorized Signatory
   Mr.R.Suresh ... Petitioners/Appellants

..vs..

1) Mrs. Bhoomijha Murali
2) Mr.K.V.Murali ... Respondents/Respondents

This Miscellaneous Application was taken on file on 16.09.2020 and came up for final hearing on 28.10.2020 in the presence of M/s.P.Arivudai Nambi, S.Vijayakumar, P.Senthil Kumar, Counsels for the Petitioners/Appellants and M/s.T.S.Vijaya Raghavan and R.Rubeshwari, Advocates for the Respondents. Having heard the arguments of both sides through video conferencing and having stood over for consideration till this day and this Tribunal delivered the following:

ORDER

1. The respondents/homebuyers entered into an agreement with the petitioners/promoters for the purchase of undivided share of land 314 square feet of

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land and construction agreement for the construction of a residential flat measuring 1992 square feet in the 2nd floor in Tower 1 of block name Chartwell for a total consideration of Rs.73,37,440/-. As per the agreement it was agreed that the possession of the property would be handed over in January 2013. Since the developer failed to hand over the possession as agreed the homebuyer approached the RERA by way of complaint for the relief of direction for handing over possession and direction to convey an undivided share of 314 square feet of land. After contest the Learned Regulatory Authority directed the developer to hand over and execute the sale deed on or before 30.09.2020. Aggrieved upon that the developer preferred Appeal along with the stay petition before this Tribunal. When the Appeal came up for admission the Learned Counsel for the Appellant expressed his willingness to hand over the possession of the flat to the homebuyer. After appearance of the homebuyer through counsel this Tribunal directed the developer to hand over the possession on or before 28.10.2020. On 28.10.2020 the Learned counsel for the homebuyer filed a memo by stating that the developer handed over the possession of the flat and they took possession with key and the memo was recorded.

2. The Learned counsel for the developer would submit that the Order of the Regulatory Authority was complied regarding execution of sale deeds and handing over of possession were completed on 20.10.2020 itself. The further direction of the Regulatory Authority in paragraph 29 of the Order with regard to the registration of the project on or before 30.10.2020 is not able to comply by the promoter since their project has been completed before the RERA Rules came into force. For which also the Appeal has been preferred. Hence without deciding the question of registration, registration of project is not possible and hence the Learned counsel sought for hearing the Appeal in detail. Further would submit that the Learned Authority has directed the developer to register the project on or before 30.10.2020, hence till the Appeal is heard the operation of the Order of the Regulatory Authority regarding registration of project has to be stayed.

3. The Learned counsel for the respondent would submit that even though his prayer in his complaint before the Authority with regard to handing over of possession and conveyance deed,even if complied with absolutely he is entitled to put forth his

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arguments regarding registration of project. The Learned counsel for the developer vehemently opposed the argument of the respondent side.

4. Heard both side arguments and perused the records. On perusal the developer has complied the direction of the order of the Regulatory Authority as per the direction of this Tribunal regarding registration of conveyance deed and handing over of possession of flat to the home buyer. Now the only point to be decided with regard to registration of project. Already the Regulatory Authority fixed the dead line for registration of project as 30.10.2020. Now this Appeal is ripe for arguments. At this juncture without deciding the Appeal the developer cannot be insisted to comply the Order of the Authority. The developer has also complied the Order of the Regulatory Authority as per the direction of this Tribunal. In such peculiar circumstances, the claim of the developer to stay the operation of the Order of the Authority is tenable to the limited extent.

5. Therefore this Tribunal comes to a conclusion that this Miscellaneous Application for stay is allowed to the limited extent. The operation of the Order of the Tamil Nadu Real Estate Regulatory Authority in C.No.479 of 2019 dated 03.09.2020 regarding registration of project of the developer with the Tamil Nadu Real Estate Regulatory Authority, is stayed till the disposal of this A.No.52 of 2020 pending before this Tribunal. No costs.

This order is directly dictated to the Stenographer and typed by her in the computer and corrected and pronounced by us in the Open Court on 29th day of October 2020.

Sd/- XXXXX
JUDICIAL MEMBER

Sd/- XXXXX
ADMINISTRATIVE MEMBER

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