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 21.01.2022

Coram : Mr.Justice B.Rajendran, Chairperson
Mr.N.Balasubramanian, Judicial Member

Appeal No. 131 of 2021

M/s BBCL Developers (India) Pvt. Ltd.
Rep. By Managing Director Vummidi Ananth,

... Appellant

-Vs-

1. Deepak Mehta,
2. Chandan Bala
3. HDFC Bank, (HDFC Limited)
   Rep. by Authorized Signatory

... Respondents

This Appeal was preferred against the order of Adjudicating Officer in C.C.P.No.58 of 2020 dated 6.8.2021. This Appeal was taken on file on 18.11.2021 and came up for hearing on 1.12.2021 in the presence of appellant's counsels M/s P.H.Manoj Pandian and N.Zahid Ahmed, AAV Partners in M.A.No.181/2021 under Section 43(5) of the Real Estate (Regulation and

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Development) Act, 2016 and ordered to pre-deposit of entire amount (100%) ordered by the court below on or before 4.1.2022 for compliance call on 5.1.2022. On that date the appellant came forward with M.A.No.6/2022 for extension of time and as a last chance time was extended by allowing that application and posted the matter for compliance on 21.1.2022. On that date also again the appellant came forward with another M.A.No.13/2022 for extension of time. But this Tribunal not extended the time and dismissed the application. Considering the non compliance of the pre-deposit order this Tribunal delivered the following:

ORDER

1. The respondent in this appeal has preferred complaint before the Adjudicating Officer in C.C.P.No.58 of 2020 for the relief of refund of sale consideration with interest and for compensation. After contest the Adjudicating Officer allowed the complaint in part and directed the appellant/promoter to refund the sale consideration Rs.5,37,00,000/- with interest Rs.6,06,24,796/- and further ordered under Rule 18 of TNRERA Rules 10.15 % per annum along with compensation for mental agony and awarded Rs.10,00,000/- and Rs.50,000/- towards litigation cost. Aggrieved upon the same the appellant/promoter herein has preferred this appeal along with waiver application. In the waiver application this Tribunal ordered 100% of the total amount ordered by the court below. Since the appellant failed to comply the order this Tribunal delivered the following order:

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"The applicant has come forward with an application seeking for extension of time to pay conditional order to pay 100% of the amount. The order itself was passed only as per the judgment of the Hon'ble Supreme Court reported in M/s.Newtech promoters and developers Pvt. Ltd. Vs State of UP and Ors. Etc. The Original order was passed as early as on 1.12.2021 citing the Supreme Court order and granted 5 weeks time up to 5.1.2022 for payment of money. Within that time they did not pay the amount. Further they filed an application in M.A.No.6/2022 for extension of time that application was allowed on 5.1.2022 granted further two weeks time to pay. In that application the following order has been passed "

"Appellant counsel present. Time extended till 20.1.2022 as last chance. No further extension. Call on 21.1.2022 for compliance."

Inspite of the order dated 5.1.2022 granting final time to pay amount, the appellant has not chosen to pay any amount till date. They have come forward with the present application in MA.No.13/2022 seeking for further extension of time. So far as to the payment of pre deposit under Section 43(5) after the judgment of the Hon'ble Supreme Court, as sufficient time has already been granted and as the amount has not been deposited the appellant seeking for extension of time in M.A.No.13/2022 is dismissed.

Consequently A.No.131/2021 is dismissed for non compliance of deposit of the amount under Section 43(5) which is a mandatory one.

Appeal dismissed. No costs."

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 21st Day of January 2022.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDL. MEMBER