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. 132 of 2021

M/s BBCL Properties Private Limited
Rep. By its Director Vummidi Barath ... Appellant

-Vs-

1. A.Prashanth
2. Karthiga
3. M/s.Sameeraa Foundation Private Limited
   Represented by its Director
   M.Sumitha ... Respondents

This Appeal was preferred against the order of Adjudicating Officer in C.C.P.No.297 of 2019 dated 11.3.2021. 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.

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under Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 in M.A.No.182/2021 and ordered to pre-deposit of entire amount (100%) ordered by the court below on or before 4.1.2022 and posted for compliance on 5.1.2022. On that date the appellant came forward with M.A.No.7/2022 for extension of time and time extended for deposit and posted the matter for compliance on 21.1.2022. On that date also again the appellant came forward with another M.A.No.14/2022 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.297 of 2019 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.19,68,363/- with interest @ 10.05% per annum under Rule 18 of TNRERA Rules. Further awarded Rs.25,550/- towards registration charges and stamp duty and awarded Rs.2,00,000/- towards compensation for mental agony hardship and litigation costs Rs.25,000/-. 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:

> ***"This present application M.A.No.14/2022 has been filed seeking for extension of time. The original order was passed on 1.12.2021 in M.A.No.182/2021 the appellant was directed to deposit the entire amount as ordered by the court below pursuant to the Judgment of the Hon'ble Supreme Court in M/S.Newtech Promoters and Developers Pvt Ltd.–Vs-State of UP in that order itself it was very clearly stated the amount can be deposited by the appellant and or by the third respondent as they were jointly and severally liable to pay the amount as ordered by the court below. The time granted to pay was till 4.1.2022 and for compliance the matter was posted for hearing on 5.1.2022. On 5.1.2022 they came forward with an application in M.A.No.7/2022 seeking to further extension of time, they were granted further time up to 20.1.2022 for payment and posted for compliance on 21.1.2022. Even then they have not complied with the order and they have come forward with the present application for extension of time.***
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> ***At this time it is pertinent to point out here the third respondent has filed a separate appeal in A.No.148/2021 on 5.1.2022 and both were directed to deposit the amount on or before 20.1.2022 who is jointly and severally liable to pay who has also not deposited the amount till date.***
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> ***In that view of the matter, as both the matters have arisen out of the very same order and both are jointly and severally liable to pay and the present appeal has been filed by this appellant belatedly and brought on the same day when they sought for time. Both the appellants in A.No.132/2021 and appellant in the present appeal A.No.148/2021 pursuant to their application in M.A.No.1/2022 was granted time till 20.1.2022 to pay the amount and for compliance both the cases were posted on 21.1.2022.***
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> ***Since neither the appellant in A.No.132/2021 nor the appellant in A.No.148/2021 who were jointly and severally liable to pay have not chosen to deposit the amount and both has now come forward with respective applications for extension of time and as the original order passed by the adjudicating officer is early as on 11.3.2021 and as it is nearly one year from the date of that order no further time can be granted. Hence the present application M.A.No.14/2022 is dismissed seeking for extension of time.***

Consequently the A.No.132/2021 is dismissed for non compliance of the deposit of the amount as ordered under Section 43(5)."

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

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