BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL CHENNAI

Friday the 24th day of June 2022

CORAM : Miss.LEENA NAIR, ADMINISTRATIVE MEMBER
&
Mr.R.PADMANABHAN, JUDICIAL MEMBER

Appeal No. 142 of 2021

E.Sundaravadivelu ... Appellant

Vs

M/s BSR Builders Engineers &Contractors
Represented by it's Managing Partner
B.Ragavendra Reddy ... Respondent

This is an appeal U/s 44(1) of the Real Estate (Regulation and Development) Act 2016 as against the Order passed by the T.N.Real Estate Regulatory Authority, Chennai in C. No. 36 of 2021 dated 06.10.2021.

E.Sundaravadivelu ...Complainant

Vs

M/s BSR Builders Engineers &Contractors
Represented by it's Managing Partner
B.Ragavendra Reddy ...Respondent

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This appeal was taken on file on 08.12.2021 and came up for final hearing on 13.06.2022 in the presence of the Appellant Mr E.Sundaravadivelu, who himself is an Advocate and M/s P. Subba Reddy, T.Sri Krishna Bhagavat, N.C. Thirumalai Balaji Counsel for the respondent. Having heard the arguments of both sides through video conferencing and having stood over for consideration till this date and this Tribunal delivered the following,

ORDER

The parties hereinafter will be referred to as per their rank and status before the TNRERA, for convenient understanding.

The case of the complainant in brief is as follows:

1. The complainant without any prior booking and without entering into any construction agreement straight away purchased a flat from the respondent promoter vide sale deed dated 25.07.2019 along with the corresponding undivided share in the common properties. The completion certificate was obtained by the respondent on 05.02.2019 itself as mentioned in the sale deed dated 25.07.2019. The respondent agreed to provide metro water and sewerage connection and collected a sum of Rs.2,00,000/- from the complainant. But, till date the metro water and sewerage connection was not provided. There is huge crack between the two blocks and the quality of construction is very very

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poor. The original documents such as completion certificate, approved plan, electrical wiring plan and other plans were not handed over to the allottees association. The respondent failed to provide the GST paid receipt to the complainant. The complainant issued notice on 06.01.2020 demanding to rectify the defects as stated above. But the respondent turned a deaf ear. Hence this complaint.

The case of the respondent in brief is as follows:

2. The complainant purchased two BHK house measuring 1228 sq. ft. bearing flat No.E6. He had also purchased another flat measuring 962 sq. ft. in flat No.D6. Both the flats are lying adjacent to each other. After purchase the complainant has combined the two flats into one. He himself made some alterations without the knowledge of the respondent. For this purpose, he carried out some alterations in the flooring and by doing plastering and painting works. The respondent cannot be made responsible for all the alterations made by the complainant himself for his convenience. There is no agreement between the parties to provide metro water and sewerage connections. Moreover, in the particular locality so far there is no feasibility to provide metro water and sewerage connections. Since there was no construction agreement between the parties no GST was collected from the complainant. Hence the question of providing GST paid receipt does not arise. Hence the complaint is liable to be dismissed.

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3. After hearing both sides and after perusal of the records the learned Members of the RERA disposed the complaint without granting any reliefs in favour of the complainant by their order dated 06.10.2021 in C.No.36/2021. Aggrieved over the same the complainant preferred this appeal before this Tribunal.

4. Heard both sides.

5. Points for consideration:-

1. Whether the appeal is to be allowed or not?

Point:

6. Admittedly, there was no construction agreement entered into between the parties. The complainant straight away purchased flat No.E6 from the respondent. For reasons best known to the complainant he has not stated anything about the purchase of flat No.D6 in the name of his wife. The flat No.D6 and E6 are located on the same floor and lying close to each other. The complainant is a practicing advocate and also doing tax consultations. To get more space for his professional activities it appears that he combined the two flats into one for his convenience. In this connection he made some alterations in the flooring and by doing some plastering and painting works without consulting the respondent promoter. The respondent cannot be made responsible for the activities carried on by the complainant to suite his convenience and for the consequences thereon.

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7. Admittedly the respondent had provided drinking water facilities by installing 14 deep bore wells in the project with water treatment plant as per Chennai Metropolitan Development Authority sanctioned plan. There is no metro water or sewerage connection facility provided by the CMWSSB in that locality. During the course of arguments the counsel for the appellant admitted the same. Moreover, there was no construction agreement between the parties. The complainant failed to establish in which document the respondent agreed to provide the metro water and sewerage connections. Unless and until there is an agreement the respondent cannot be compelled to provide metro water and sewerage connections to the building project. There is no proof also for the payment of Rs.2,00,000/- towards providing metro water and sewerage connection. Hence the repayment of Rs.2,00,000/- by the respondent does not arise.

8. Regarding handing over of GST paid receipt to the complainant, no GST was collected from the complainant. Again the complainant failed to establish the fact that he had paid for GST. He has not even mentioned what is the amount of GST paid by him. As there was no construction agreement entered into between the parties the payment of GST does not arise. Therefore, the question of handing over of GST paid receipt also does not arise.

9. During the course of argument the complainant had stated that some hindrance was created by the respondent at his car parking. As a result

of the hindrance he was not able to utilize the car parking conveniently. This issue was not raised in the complaint preferred before the RERA. Therefore it cannot be raised before this Appellate Tribunal for the first time to the shock and surprise of the other side.

10. It appears that the complainant was acting as a treasurer of the allottees association for some time. The respondent had stated that a sum of Rs.74,460/- was due from the complainant towards maintenance charges in respect of both the flats purchased by the complainant and his wife. Instead of paying the huge maintenance charges due to the association, the complainant had preferred this complaint just to harass the respondent for the reasons best known to him only.

11. With regard to the handing over of the original documents pertaining to the building project such as original plan, stability certificate etc., all those documents said to have been handed over to the allottees association already. The allottees association has not come forward with any complaint against the respondent in this regard.

12. For all the above reasons we find no merits in this appeal. Consequently we have no hesitation to dismiss the appeal.

13. In the result, the appeal is hereby dismissed. Both parties are directed to bear their own costs. Connected Miscellaneous Applications pending if any are closed.

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This Order is directly dictated to the Stenographer and typed by her in the computer, corrected and pronounced by us in the open court on 24th day of June 2022.

Sd/xxxx
ADMN. MEMBER

Sd/xxxx
JUDICIAL MEMBER

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