BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL
CHENNAI

Friday the 30th day of September 2022

CORAM : Justice. M.DURAISWAMY, CHAIRPERSON
Miss. LEENA NAIR, ADMINISTRATIVE MEMBER
Mr.R.PADMANABHAN, JUDICIAL MEMBER

Appeal No.28 of 2022

1. M/s.Home Finders Housing Ltd.,
   Represented by its Managing Director,
   Mr.K.S.Ramalingam

2. M/s.L'amicale Club & Resort Pvt. Ltd.
   Represented by its Director
   Mrs. Kalaichelvi ... Appellants

-Vs-

Mr.Jeganathan Tennis Missier ... 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 Single member, Tamil Nadu Real Estate Regulatory Authority in C.C.P.No. 94 of 2020 dated 21.04.2022.

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C.C.P.No. 94 of 2020

Jeganathan Tennis Missier ... Complainant

-Vs-

1. M/s.Home Finders Housing Ltd.,
   Represented by its Managing Director,
   Mr.K.S.Ramalingam

2. M/s.L'amicale Club & Resort Pvt. Ltd.
   Represented by its Director
   Mrs. K.Kalaichelvi ... Respondents

This appeal was taken on file on 14.07.2022 and came up today for for report of compliance as to the pre deposit. M/s. P Mano Rajan and Mithreyi Kasthurirangan, are on record for the appellant. Neither the Counsel for the appellants nor the appellants appeared through video conferencing. Reportedly the appellant failed to comply with the directions of this Tribunal to deposit the amount as per Section 43(5). After perusal of records this Tribunal delivered the following:

ORDER

The facts of the case that are relevant for the disposal of the appeal are as follows:

1. The respondent/allottee in this appeal was allotted a villa by the appellants/promoters in their villa project near Tindivanam, Villupuram District. The construction agreement was executed on 15.08.2012. The total cost of the villa including the value of undivided share was fixed at Rs.1,06,36,000/-. The appellants/promoters agreed to hand over the villa

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within 18 months from the date of the agreement. The respondent/allottee paid a sum of Rs.65,34,910/- towards the cost of the villa. The appellants/promoters failed to hand over the villa as agreed by him. Hence, the respondent/allottee opted to withdraw from the project and demanded refund of the amount paid by him along with interest and compensation. Hence the Complaint seeking refund and compensation.

2. The appellants/promoters contended that the total sale consideration for the villa was fixed at Rs.1,06,36,000/. The respondent/allottee has so far paid Rs.65,34,910/- only. After deducting the proportionate GST of Rs.2,56,100/- the respondent/allottee has paid Rs.62,78,810/- only. No payments were made thereafter. The appellants/promoters sent several reminders from March 2013 to June 2013 but there was no response on the side of the respondent/allottee. Despite default in payment the appellants/promoters completed the construction during December 2014 and the same was informed to the respondent/allottee vide registered letter dated 20.12.2014. The respondent/allottee was requested to pay the balance outstanding amount within 15 days.

3. Thereafter, after exchange of legal notices the appellants/promoters terminated the agreement dated 15.8.2012. The respondent/allottee preferred a police complaint and after intervention of the Hon'ble Madras High Court, FIR was registered against the appellants/promoters in Crime No.48 of 2019 on the file of Marakanam Police Station. After enquiry the police referred the complaint as a false one. The respondent/allottee preferred a complaint before the State Consumer Disputes Redressal

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Commission, Chennai in C.C.No.116/2018. Hence the complaint is liable to be dismissed.

4. After hearing both sides the Single Member of TNRERA has passed the impugned order on 21.04.2022, directing to refund a sum of Rs.65,34,910/- along with interest 10.05% p.a. Further, a sum of Rs.25,000/- was fixed towards litigation expenses.

5. Aggrieved over the same the appellants/promoters preferred this appeal before this Tribunal. On 05.08.2022, when the matter came up for admission, the appellant was directed by this Tribunal to deposit the entire amount (100%) under section 43(5) of the Real Estate (Regulation and Development) Act, 2016. Initially one month time was granted till 09.09.2022. Subsequently, the appellant filed an application and sought extension of time to deposit the amount. The same was allowed and the time was extended till 28.09.2022 and the matter was posted for report of compliance on 30.09.2022.

6. Today when the matter was taken up through video conferencing, there was nobody to represent the appellant, inspite of the video conferencing link sent in advance to the counsel for the appellant. The Registry of the Tribunal informed that the appellants have not made the pre deposit as ordered by this Tribunal. Consequently, the appeal is liable to be dismissed for non compliance of Section 43(5) of the Act.

7. In the result, the appeal is hereby dismissed for non compliance of Section 43(5) of the Real Estate (Regulation and Development) Act, 2016.

No costs. Connected Miscellaneous applications pending if any are hereby 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 30th Day of September 2022.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
ADMINISTRATIVE MEMBER

Sd/- xxxx
JUDICIAL MEMBER

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