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 07.03.2022

Coram : Mr.Justice B.Rajendran, Chairperson
Ms.Leena Nair, Administrative Member

Miscellaneous Application No.30/2022
in
A.No. 103/2021

P.Anandasundaresan ... Applicant/home buyer

-Vs-

M/s. Akshaya Pvt.Ltd.,
Rep. by its Director, J. Ravi ... Respondent/promoter

This Miscellaneous Application was taken on file on 1.3.2022 and came up for final hearing on 2.3.2022 in the presence of M/s. W.R. Subhashini and R. Annamalai, Counsels for the applicant and M/s. Mani Sundargopal and Shree Aadya.S, Counsels 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

1. This Miscellaneous application has been preferred by the home buyer against the promoter for the relief of receiving additional document under Order 41 Rule 27 CPC and in support of his application the home buyer filed an affidavit and stated that he is having sufficient proof to establish that the building has not been completed in 2014. The promoter has filed a false document to mislead this forum. Therefore, it is just and necessary to receive this document as additional evidence on the side of the home buyer.

2. The learned counsel for the promoter would submit that the document relied by the home buyer is the email given by the promoter and it is not disputed. But, that letter alone is not sufficient to disprove the completion certificate issued by the competent authority.

3. Points for consideration:

Whether the application is deserves to be allowed or not?

Point:

4. Perused both sides contention. On perusal the home buyer relied the email sent by the promoter which was not produced by the home buyer before the Adjudicating Officer hence sought for reception of that document. The promoter has admitted the document which was issued by the promoter. In such circumstances, the validity of the document has to be analyzed.

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5. In the above said document dated 13.11.2017 email in which it has been stated as follows: "with reference to your mail on apartment, readiness the apartment will be ready for handing over by end of December 2017. Once the apartment is ready, we will be inviting you for the final inspection and will proceed with the handing over. Looking forward for your extended cooperation." According to the home buyer, completion means handing over of apartment to him. Therefore, the home buyer relied this document. In such circumstances, this Tribunal comes to a conclusion that the document relied by the home buyer has to be received or not alone has to be considered in this application and validity of that document has to be decided only after the reception of document. Hence this Tribunal comes to a conclusion that the application is deserves to be allowed.

6. In the result, M.A.No.30 of 2022 is allowed. No costs. The registry is directed to receive the additional document and mark the same as Ex.A9.

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 07th Day of March 2022.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
ADMN. MEMBER

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