BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL
CHENNAI

Friday the 16th day of September 2022

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

Appeal No.35 of 2022

K.Leslie Jose David ... Appellant

-Vs-

M/s. Casa Grande Civil Engineering Private Limited
Represented by its Managing Director ... 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 Regulatory Authority in C.No.197 of 2021 dated 27.04.2022.

K.Leslie Jose David ... Complainant

-Vs-

M/s. Casa Grande Civil Engineering Pvt. Ltd.,
Represented by its Managing Director ... Respondent

This appeal was taken on file on 10.08.2022 and came up for final hearing on 09.09.2022 in the presence of M/s S.V.Subramanian, N.V.V.Krishna and M.Venkatachalapathy, Counsels for the appellant.

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Having heard the arguments on the side of the appellant through video conferencing and having stood over for consideration till this date and this Tribunal delivered the following:

ORDER

The facts that are relevant for the disposal of this appeal in brief are as follows:

1. This is an appeal against the order passed by the TNRERA in C.No.197 of 2021 dated 27.04.2022. The appellant was an allottee of the respondent project by name "Casagrand Bellissimo". The appellant has preferred the complaint for a limited purpose with regard to allotment of two covered car parking. The appellant demanded two covered car parking as per the construction agreement. But the respondent allotted one covered car parking and one open area car parking. The respondent was unable to provide two covered car parking due to short fall of covered parking area. Hence the appellant preferred the complaint before RERA.

2. Simultaneously, the Resident's Association represented by its General Secretary Thiru.N.Soundararaj also filed a separate complaint in C.No.202 of 2021 against the same respondent for various reliefs as many as 11 reliefs. The issue of car parking was also one among the reliefs prayed in the said complaint. Both the complaints were tried by the RERA and disposed on the same day i.e., on 27.04.2022 by separate orders. The appellant herein preferred this appeal as against the order passed in the complaint filed by him. The order passed by TNRERA in both the cases were perused. The appellant had full knowledge of the other compliant

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filed by the Resident's Association as he is the active member of the said Association.

3. The Resident's Association has not preferred any appeal so far as against the order passed in their complaint in C.No.202 of 2021. After hearing both sides and while disposing the same the TNRERA has issued various directions including the car parking issue at page 25 paragraph 43 of the order passed in C.No.202 of 2021 dated 27.04.2022. Consequently the TNRERA has disposed the complaint filed by the present appellant herein without issuing any directions or rejecting the complaint in respect of the car parking issue. In page 5 paragraph 8 & 9 of the impugned order passed by the TNRERA in C.No.197/2021 the TNRERA has observed as follows:

> "8. This Authority has given its findings in the compliant in C.No.202/2021 filed by the Association of Allottees in this real estate project regarding allotment of car parking area. Therefore, the complainant allottee is at liberty to await for the final outcome of the car parking allotment process initiated by the Respondent Promoter and then claim for the refund of amount paid by the allottee, in case of non compliance with reference to the Construction Agreement, with the Single Member Bench of this Authority and compensation, if any, from the Adjudicating Officer of this Authority.
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> 9. With the above findings and directions, this Complaint is disposed of."

4. The TNRERA has neither granted nor denied any reliefs in the order passed in the complaint filed by the appellant herein. The rights and interest of the appellant was in no way affected by the order of the RERA. The appellant, having decided to file the complaint independently, ought to have impleaded the Resident's Association as one of the respondent in his complaint. For the reasons best known to him he did not do so. As already stated the Resident's Association, in which the appellant is an active member, have preferred a separate complaint in C.No.202/2021 for and on behalf of the members of the Association. The issue of Car parking was also raised in that complaint among other issues. In it's order the TNRERA had also issued some directions to the Respondent / Promoter, in respect of the issue of Car parking. As such there is no scope for this Tribunal to entertain this appeal. The appellant if he so desires he can pursue his relief through the Resident's Association. In the above facts and circumstances this appeal is not fit for admission. Consequently the same is dismissed at this admission stage itself.

5. In the result, the appeal is dismissed. Connected Miscellaneous Applications pending if any are closed.

6. 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 16th Day of September 2022.

Sd/-xxxxx
ADMINISTRATIVE MEMBER

Sd/-xxxxx
JUDICIAL MEMBER

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