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 18.08.2023

Coram : Hon'ble Mr.Justice M.Duraiswamy, Chairperson
Mr.R.Padmanabhan, Judicial Member

Appeal No.40 of 2022
and
M.A.No.103 of 2022

1. M/s. Grace Gated Community LLP
   rep. by its Managing Partner
2. M/s. Casa Grand Civil Engineering Private Ltd.,
   rep. by its Managing Director ... Appellants

- Vs -

Vinishya ... Respondent

Prayer: The appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016, to set aside the order dated 02.09.2021 in CCP No.138 of 2020 passed by the Learned Adjudicating Officer, TNRERA.

For Appellants : Mr.O.L.V. Ganesan

For Respondent : Mr.S.M.Muralidharan and Mr.E.Paramasivan

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ORDER

When the matter is taken up for hearing today, Mr.O.L.V.Ganesan, learned counsel for the appellants and Mr.S.M.Muralidharan, learned counsel for the respondent submitted that the parties had settled the matter out of court and also entered into a Joint Memorandum of Compromise dated 18.08.2023.

2. The learned counsel on either side also produced a copy of the Joint Memorandum of Compromise signed by all the parties and their respective counsels.

3. The respondent, namely, Mrs.Vinishya, who is also present in the court also acknowledged the due execution of the Joint Memorandum of Compromise.

4. The learned counsel on either side submitted that the appeal may be disposed of in terms of the Joint Memorandum of Compromise and that the amount deposited by the appellants to the credit of the above appeal may be withdrawn by the respondent.

5. As per Clause 7 of the Joint Memorandum of Compromise, the unregistered Agreement of Sale dated 09.05.2018 and the registered Construction Agreement dated 15.11.2019 registered as Document No.15448/2019 on the file of SRO, Thiruporur, relating to the allotment of Apartment No.D306, shall stand cancelled.

6. Further, as per Clause 9 of the Joint Memorandum of Compromise, the respondent agreed to withdraw the Execution Petition in E.P.No.81/2021 pending on the file of the Adjudicating Officer, TNRERA.

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7. Having regard to the submissions made by the learned counsel on either side, the Joint Memorandum of Compromise dated 18.08.2023 is taken on record and shall form part of the order.

8. The appeal is disposed of in terms of the Joint Memorandum of Compromise dated 18.08.2023.

9. The respondent is permitted to withdraw the amount, together with accrued interest, deposited by the appellants to the credit of A.No.40/2022 on the file of this Tribunal.

10. Consequently, connected Miscellaneous Applications pending, if any, are closed.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDICIAL MEMBER

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BEFORE THE TAMIL NADU REAL ESTATE APPELATE TRIBUNAL (TNREAT)

CHENNAI

Appeal No.40 of 2022
In
C.C.P No. 138 of 2020

(Order passed by the Hon'ble Adjudicating officer, TNRERA, Chennai)

Between



1. M/s. Grace Gated Community LLP
2. M/s. Casa Grand Civil Engineering P Ltd
   NPL Devi, New No.111, old No.59, L.B.Road
   Thiruvanmiyur,
   Chennai – 600 041

....Appellants/Respondents

Vs

Mrs.Vinishya
No.4/281,M.A. Vaithyalingam Salai,
3rd Cross Street,, Neelankarai,
Chennai – 600 041

....Respondent/complainant

JOIN MEMO FILED BY THE APPELLANTS AND RESPONDENT

1. The Parties submit that subject case has been settled out of court as per the discussions between the parties. It is submitted that on mutual consent between the parties the amounts deposited by the Appellants by way demand drafts to a tune of Rs.34,52,644/- (Rupees Thirty Four Lakh Fifty Two Thousand Six Hundred and Forty Four only) are agreed to be handed over to the Respondent as full and final settlement of all claims raised by the respondent.

2. The Appellants submit that there is no cause to further pursue or press appeal as the matter is settled on mutually agreeable terms between the parties and this honorable tribunal may kindly close the appeal as settled out of court.

3. The respondent submits that they are withdrawing all the allegations and the claims as raised in the complaint in CCP No.138 of 2020.

4. The parties do not reserve any right, interest or liberty to agitate any further claims or issues between them and there is no cause for making any claims against each other. The parties confirm that they do not have any claims or demands against each other on any grounds or reason.

For GRACE GATED COMMUNITY LLP
Authorised Signatory

For CASA GRANDE CIVIL ENGINEERING PRIVATE LIMITED
Authorised Signatory

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5. The parties submit that the Appellants and Respondent had entered into a construction agreement dated 15.11.2019, registered as document No.15448 of 2019 on the file of the SRO thiruporur relating to the allotment of an apartment No. D306 in the project development carried out by the Appellants namely casa grand smart town at thalambur village. The claim has been made by the respondent relating to their withdrawal from the project development and for refund.

6. Considering the settlement of all claims, the allotment of flat no.D306 is cancelled on mutual terms. The agreement of sale dated 09.05.2018 entered between the parties relating to the sale of undivided share of 359sq.ft is also stands cancelled. The Respondent confirms that they have no claims relating to the said agreement of sale for sale of UDS and the allotment of flat no.D306 as per the terms of the construction agreement as both the agreements stands cancelled on mutual terms in view of the full and final settlement arrived between the parties.

7. The parties confirms that no further execution of any documents is required between them to effectuate any cancellation for cancelling the said agreements of sale and the construction agreement. The terms as submitted by the parties in this memo stands final relating to the cancellation and rescindment of the said agreement of sale and the construction agreement forthwith without any necessity for further execution or registration of documents. In the event of any further act or deed is required by the Appellants, the respondent shall duly comply with the same relating to the cancellation of the agreements.
8. The Appellants are absolutely entitled to further sell the said undivided share of land of 359 sq.ft and allot the said constructed unit of apartment D306 in favour of any party as deem fit by the Appellants for any sale consideration as deem fit by the Appellants. The respondent has no claims or demands relating to the same and no further consent, concurrence or documents are to be executed in any manner by the respondent in this regard. The terms of this memo shall be finally binding, valid, in force and prevailing between the parties for evidencing the cancellation of the agreement of sale and construction agreement and settlement of all claims/issues.

9. The respondent submits that the execution proceedings in EP no. 81 of 2021 initiated by the respondent for executing the order in CCP no. 138/20[illegible] is also withdrawn by the respondent on account of the settlement of issues.

For GRACE GATED COMMUNITY LLP
Authorised Signatory

For CASA GRANDE CIVIL ENGINEERING PRIVATE LIMITED
Authorised Signatory

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10. The parties humbly pray that the honorable tribunal may kindly accept this memo and pass necessary order for closure of appeal and all proceedings of execution petition and pass necessary orders as deem fit in the circumstances and thus render justice.

Dated at Chennai on this the 18th day of August 2023

For GRACE GATED COMMUNITY LLP

Authorised Signatory

For CASA GRANDE CIVIL ENGINEERING PRIVATE LIMITED

Authorised Signatory

Counsel For Appellants/Respondents

Appellants/Respondents

Counsel For Respondent/Complainant

Respondent/Complainant

TAMILNADU REAL ESTATE APPELLATE TRIBUNAL
18 AUG 2023
TNREAT
CHENNAI

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BEFORE THE TAMIL NADU REAL ESTATE APPELATE TRIBUNAL (TNREAT)

CHENNAI

Appeal No.40 of 2022
In
C.C.P No. 138 of 2020
(Order passed by the Hon'ble Adjudicating officer, TNRERA, Chennai)

Between

1. M/s. Grace Gated Community LLP
2. M/s. Casa Grand Civil Engineering P Ltd
   NPL Devi, New No.111, old No.59, L.B.Road
   Thiruvanmiyur,
   Chennai – 600 041

....Appellants/Respondents



Mrs.Vinishya
No.4/281,M.A. Vaithyalingam Salai,
3rd Cross Street,, Neelankarai,
Chennai – 600 041

... Respondent/complainant

JOIN MEMO FILED BY THE APPELLANTS AND RESPONDENT

M/s. Ganesh and Ganesh
Counsel For Appellants/Respondents
9940421509

And

S. M. Murali Dharan (E.No.1129/1994)
E. Paramasivam (E. No. 2774/2014)
Cousel For Respondent/Respondent
9003026075

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