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 21.08.2023

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

Appeal No.41 of 2022

P.Venkat Rayudu ... Appellant

- Vs -

1. Y. Sudarsana Rao
2. Jayamalathi Sudarsana Rao
3. A. Sekar
   Power of Attorney for Y. Sudarsana Rao &
   Jayamalathi Sudarsana Rao,
   M/s. TATA Value Homes
4. Sanjay Dutt, M.D. & CEO,
   TATA value Homes/THDCL
5. Pramod Bisth,
   Regional Business Head,
   South TATA Realty & Insfrastructure Ltd.
6. Balaji Ramaswamy,
   Project Manager,
   TATA Santorini Project Office.
7. Santorini Apartment Owners Association
   (7th Respondent added as party by TNRERA). ... Respondents

Prayer: The appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 to set aside the order in para 71

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and 72 in C.No.85/2020 dated 10.06.2022 and to quash the revised planning permit dated 11.02.2021 and to set aside the order in para 82 and 83 in C.No.85/2020 dated 10.06.2022 as Santorini project is a single project as per CMDA plan permit.

Appellant : Mr.P.Venkat Rayudu,
Party in person

For Respondents 1-4 : Ms. Archana Selvam

For Respondents 5-7 : No appearance

ORDER

Challenging the order passed in C.No.85/2020 on the file of the TNRERA, the complainant has filed the above appeal.

2. The complainant filed the complaint before the TNRERA seeking for a direction to register the project, to provide vehicle parking, to obtain completion certificate for six blocks from the competent authorities and to construct club house in the 1st and 2nd floors of the existing club house as mentioned in the Construction Agreement.

3. Though the complainant has not prayed for provision of the amenities as a main relief in the complaint, as an interim relief in the complaint, he sought for provision of all the common amenities as mentioned in Construction Agreement/Brochure.

4. Heard Mr.P.Venkat Rayudu, appellant, appearing in person and Ms. Archana Selvam, learned counsel for the respondents 1 to 4.

5. When the appeal is taken up for hearing, the learned counsel for the respondents 1 to 4 submitted that she is filing an affidavit of the 4th respondent, who is the Director of Tata Value Homes Limited, wherein he

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undertook to instruct the Promoter to carry out the construction of the club house as per the original planning permit No.8610 dated 27.01.2014 obtained with respect to the project named "Santorini" pursuant to the relevant approvals from the CMDA. Further, he undertook to apply for renewal/modification of the planning permit with the authority concerned and post approval from the authority, would complete the construction of the club house as part of Phase-II development of the project. With regard to the provision of the solar water heating is concerned, he undertook that the Promoter will duly comply with the condition as set out in the Environment Clearance letter with respect to the illumination of common areas, lighting for gardens and street lighting while completing the Phase-II development. With regard to the disposal and making the solid waste disposal less laborious, each floor of the project would be provided with collection bins in the bottom of the chute to be kept in the ground floor level, from where, the bins shall be transferred to the solid waste disposal area identified within the facility.

8. The appellant, appearing in person, submitted that in view of the affidavit of undertaking filed by the 4th respondent - Director of the Promoter, they may be directed to complete the construction of the club house and the solar power unit within a stipulated time. The appellant further submitted that since the Promoter had provided the amenities only in the OSR land owned by the Public Authority and that they have not provided the amenities inside the project, a suitable direction may be given to them to provide the amenities in the project as mentioned in the Construction Agreement/Brochure.

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9. The prayer sought for by the appellant with regard to the provision of the amenities in the project is justifiable for the reason that the parties had entered into the Construction Agreement wherein the promoter agreed to provide the amenities inside the project land.

10. On a reading of the Construction Agreement/Brochure, it is clear that the Promoter had only agreed to provide the amenities in the project and not in the common OSR land, which cannot be termed as the exclusive land of the allottees of the project. In these circumstances, we are of the considered view that the Promoter should provide all the amenities in the project land as mentioned in the Construction Agreement/Brochure.

11. The affidavit of undertaking dated 18.08.2023 filed by the 4th respondent is taken on record and shall form part of this order.

12. The respondents 1 to 4 are directed to complete the construction of club house in the 1st and 2nd floors of the existing club house building, provide solar power unit as mentioned in the Environment Clearance letter and provide all the amenities as mentioned in the Construction Agreement/Brochure in the project land within a period of nine months from today.

13. With these observations, the appeal is disposed of. Connected Miscellaneous Applications, pending if any, are closed.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDICIAL MEMBER

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BEFORE THE HON'BLE TAMILNADU REAL ESTATE APPELLATE TRIBUNAL, CHENNAI.

TAMILNADU REAL ESTATE APPELLATE TRIBUNAL
SR.No. 909/23
21 AUG 2023
TNREAT
CHENNAI

Appeal No. 41 of 2022

in

Complaint No. 85 of 2020.

P. Venkat Rayudu

Appellant

Versus

1. **Y. Sudarsana Rao**
2. **Jayamalathi Sudarsana Rao**
3. **A. Sekar**
4. **Sanjay Dutt**
5. **Pramod Bisth**
6. **Balaji Ramaswamy and**
7. **Santorini Apartment Owners Association**

GOVT. OF INDIA NOTARY
S.M.H.ZAIDI
Mumbai & Thane Dist.
Reg. No. 3640
My Commission
Expires
25 Sept. 2026

Respondents

AFFIDAVIT ON BEHALF OF RESPONDENT NO. 4

I, Sanjay Dutt, S/o. Bhupendra Dutt, aged 57 years, director in Tata Value Homes Limited and having office at "E" Block, Voltas Premises, T B Kadam Marg, Chinchpokli, Mumbai 400033, do hereby solemnly affirm and sincerely state as follow:

1. I submit that as directed by the Hon'ble Appellate Tribunal, I undertake to instruct Tata Value Homes Limited ("**Promoter**"), to carry out construction of the club house as per the original planning permit no. 8610, file no. B3/16272/13 dated 27.01.2014 obtained with respect to the project named "Santorini" pursuant to the relevant approvals from CMDA. The Promoter will apply for renewal / modification of the planning permit with the authority concerned and post approval from the authority complete the construction of the club house as part of Phase II development of the project.

2. The Appellant, in his Memo dated 03.08.2023 had alleged non-compliance of condition specified in clause (xvii) under special conditions of operation phase provided in the Environmental Clearance Letter No. SEIAA/TN/F.640/EC176/8(a)/2013 dated 13.06.2013 or as may be modified ("**Environmental Clearance**") i.e., "*Application of solar energy should be incorporated for illumination of common areas, lighting for gardens and street lighting in addition to provision for solar water heating. A hybrid system or fully solar system for a portion of the apartments shall be provided*".

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It is submitted that the Promoter has already provided solar water heating to the apartments as per feasibility and the same has been inspected and approved by the Tamil Nadu Pollution Control Board, while issuing the Consent to Operate. The Promoter will duly comply with the condition as set out in the above environmental clearance, with respect to illumination of common areas, lighting for gardens and street lighting while completing Phase II development.

4. The Appellant had further alleged non-compliance of condition specified in clause (xxvi) under special conditions of operation phase provided in the Environmental Clearance i.e., "*To facilitate easy disposal and making the solid waste disposal less laborious, chute shall be provided in each floor with a collection bin (wheeled bins with top lid arrangement) in the bottom of the chute to be kept in the ground floor level which the bins shall be transferred to the solid waste disposal area identified within the facility*".

5. It is submitted that the chutes are provided in high rise buildings to collect dry and wet waste. However, since Santorini being a low-rise building (*i.e.,* ground + 3 floors), separate bins are provided in every block for easy segregation and disposal of wet and dry waste. The same has been implemented successfully within the project and the same has been inspected and approved by the Tamil Nadu Pollution Control Board, while issuing the Consent to Operate.

In the light of the aforesaid submissions made, it is humbly prayed that the Hon'ble Appellate Tribunal may be pleased to take this affidavit on record and grant the prayers sought for in the counter and thus render justice.

Dated at Mumbai on this the 18th day of August 2023.

TAMIL NADU REAL ESTATE APPELLA... 21 AUG 2023 TNREAT ...NAI

Respondent No. 4

BEFORE ME
S. M. H. ZAIDI
NOTARY
Government of India
Mumbai & Thane Dist
18 AUG 2023

NOTED & REGISTERED
Sr. No. 1432 Page No. 1/6
Book No. 2 Date 18 AUG 2023

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BEFORE THE HON'BLE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL CHENNAI



Appeal No. 41 of 2022
in
Complaint No. 85 of 2020

P. Venkat Rayudu .....Appellant / Complainant

Versus

1. Y. Sudarsana Rao
2. Jayamalathi Sudarsana Rao

   Both represented by
3. A. Sekar
4. Sanjay Dutt
5. Pramod Bisht
6. Balaji Ramaswamy
7. Santorini Apartment Owners Association

.....Respondents

AFFIDAVIT FILED BY THE RESPONDENT 4

COUNSELS FOR RESPONDENT 4

M/s. Shardul Amarchand Mangaldas & Co.
Aarthi Lakshminarayanan
C.M. Paramaguru
Archana Selvam
Navia Suzanne Ninan

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