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 : 15.09.2023

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

Appeal No.65 of 2023
and
M.A.No.191 of 2023

M/s.Casa Grande Civil Engineering Pvt. Ltd.,
rep. by its Managing Director ... Appellant

- Vs -

1. Ajmal Khan
2. Finozia Farveen ... Respondents

Prayer: The appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 to set aside the order dated 31.08.2021 in C.C.P.No.114 of 2020 passed by the learned Adjudicating Officer, TNRERA.

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

For Respondents : Mr.P.Subburaj

ORDER

Challenging the order passed in C.C.P.No.114 of 2020 dated 31.08.2021 on the file of the learned Adjudicating Officer, TNRERA, the Promoter has filed the above appeal.

2. The respondents filed the complaint before the learned Adjudicating Officer claiming compensation for the delay in handing over possession of the flat with interest and other reliefs. Though the

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appellant received notice in the said complaint, they did not appear before the learned Adjudicating Officer.

3. Mr.O.L.V.Ganesan, learned counsel appearing for the appellant submitted that due to the Covid Pandemic, the appellant could not appear before the learned Adjudicating Officer for contesting the complaint. Since the appellant failed to appear before the learned Adjudicating Officer, the Officer heard the submissions of the learned counsel for the respondents and disposed of the complaint, granting the reliefs to the respondents, exparte. Challenging the said order, the Promoter has filed the above appeal.

4. The learned counsel for the appellant submitted that since the appellant could not appear before the learned Adjudicating Officer due to Covid Pandemic during the relevant period, an opportunity of hearing may be given to them to contest the matter in accordance with law. Further, the learned counsel submitted that the appellant is having a good case in the complaint, hence, an opportunity should be given.

5. Though Mr.P.Subburaj, learned counsel has filed vakalat only for the 1st respondent, he submitted that he is also appearing for the 2nd respondent and made his submission for both the respondents.

6. Countering the submissions made by the learned counsel for the appellant, the learned counsel for the respondents submitted that the learned Adjudicating Officer has rightly granted the reliefs in favour of the respondents and there is no illegality in the order passed by the learned Adjudicating Officer. However, the learned counsel appearing for the respondents fairly submitted that since the appellant was not given an opportunity of hearing, in the interest of justice, an opportunity may be given to the appellant, however, on payment of costs.

7. Having regard to the submissions made by the learned counsel on either side, taking into consideration that the appellant could not appear before the learned Adjudicating Officer, TNRERA, we are of the considered view that an opportunity of hearing should be given to them to contest the matter, on merits and in accordance with law. Accordingly, the order passed in C.C.P.No.114 of 2020, dated 31.08.2021 is set aside and the matter is remitted back to the learned Single Member for fresh consideration, on condition, the appellant paying a sum of Rs.10,000/- (Rupees Ten Thousand only) to the respondents as costs within one week from today. We make it clear that the appellant shall pay the said sum of Rs.10,000/- to the learned counsel appearing for the respondents before this Tribunal in the above appeal within the time stipulated. The learned Single Member shall decide the matter afresh, after giving an opportunity of hearing to both the parties and pass orders, on merits and in accordance with law, as expeditiously as possible, in any event not later than six weeks from the date of receipt of a copy of this order. The parties shall appear before the learned Single Member on 25.09.2023. The appellant shall also file their counter on 25.09.2023 before the learned Single Member.

8. With these observations, the appeal is allowed. Consequently, the connected miscellaneous application is closed.

9. Since the above appeal stands allowed today, the Registry is directed to return the pre-deposit amount to the appellant lying to the credit of this appeal, along with accrued interest, if any.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDICIAL MEMBER

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