BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL (TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Islands)

Under the Real Estate (Regulation And Development) Act, 2016

Reserved on: 26.04.2024

Delivered on: 07.06.2024

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

Appeal No.23 of 2024
and
M.A.No.56 of 2024

CDR Satish Chandrasekaran (Retd.)
President,
Bollineni Hillside Residential Township
Owners Association ... Appellant

Vs.

1. Meena Narayanasamy
2. K.Narayanasamy
3. M/s. BSCPL Infrastructure Limited
   rep. by its Director,
   Krishnaiah Bollineni ... Respondents

Appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 to set aside the order dated

04.01.2024 in C.No.3 of 2022 passed by the learned Single Member, TNRERA.

For Appellant : Mr. N. Zahid Ahmed
For Respondents : Mr. Babu Rangasamy (R1 & R2)
R3 - No appearance

ORDER

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

1. The respondents 1 & 2/allottees have purchased a villa bearing Villa No.1 in Block 64 of Phase-I of the project from the 3rd respondent/promoter, who promoted the township project, namely, Bollineni Hillside Residential Township. There is no dispute between the respondents 1 & 2/allottees and the 3rd respondent/promoter with regard to payment and other contractual aspects. The dispute between the parties is with regard to removal of underground common water pipeline passing through the villa purchased by the respondents 1 & 2/allottees and for providing water and sewerage facilities. The said common water pipeline is passing through other villas also in a straight line.

2. The respondents 1 & 2/allottees insisted for the removal of the said underground common water pipeline and for providing water and sewerage facilities, for which the 3rd respondent/promoter refused. Due to this dispute, the handing over of possession was delayed. The basic amenities such as water and sewerage connections were not provided.

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Therefore, the respondents 1 & 2/allottees preferred a complaint before TNRERA seeking for early handing over of the villa after removing the underground common water pipeline and for providing water and sewerage facilities.

3. It is the case of the 3rd respondent/promoter that they are ready to hand over the possession of the villa, but expressed their inability to remove the underground common water pipeline as the same is passing through several other villas also. It is the case of the 3rd respondent/ promoter that the Bollineni Hillside Residential Township Owners Association, namely the appellant Association have also objected for giving water and sewerage connection to the villa allotted to the respondents 1 & 2/allottees. The 3rd respondent/promoter also raised a plea in their counter filed before the TNRERA that the appellant Association should be impleaded as a party to the complaint. Accordingly, the appellant Association was impleaded subsequently as the 2nd respondent before the TNRERA.

4. It is the case of the appellant Association that the respondents 1 & 2/allottees have purchased the villa without due diligence. The removal of underground common water pipeline should not cause any burden or inconvenience to the other 1295 residents of the Township. Further according to the appellant, they are unnecessary party and that the compliant is bad for mis-joinder of parties.

5. After hearing both sides, the learned Single Member while directing the 3rd respondent/promoter to hand over the villa to the respondents 1 & 2/allottees with all basic amenities, also directed the appellant Association not to cause any hindrance in providing water and sewerage connections to the villa allotted to the respondents 1 & 2/ allottees. Since the respondents 1 & 2/allottees had given up their prayer for removal of the underground common water pipeline, no relief was granted in this regard. Aggrieved over the same, the appellant Association has filed the above appeal.

6. Heard the learned counsel for the appellant Association and the learned counsel for the respondents 1 & 2/allottees.

7. Admittedly, the villa purchased by the respondents 1 & 2/ allottees lies within the Phase-I of the project developed by the 3rd respondent/promoter. It is pertinent to note that the appellant Association, namely, Bollineni Hillside Residential Township Owners Association is the only Association to take care of the welfare of allottees in Phase-I of the project, including the respondents 1 & 2/allottees. The stand taken by the appellant Association was that the respondents 1 & 2/ allottees ought to have purchased the villa with due diligence. They disowned any responsibility in respect of the reliefs prayed for in the complaint. Moreover, it is the specific stand taken by the Association that they are unnecessary party and that the compliant is bad for mis-joinder of parties.

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8. Since the appellant Association had raised a plea in their counter that the removal of underground common water pipeline should not cause any burden or inconvenience to the other 1295 residents of the Township, the learned Single Member had directed that the appellant Association should not cause any hindrance in providing the required water and sewerage connections to the villa of the respondents 1 & 2/ allottees. It is needless to say that water and sewerage connections are basic amenities to be provided to all the villas by the concerned promoter of a project. Here in this case, the 3rd respondent/promoter, specifically, blamed the appellant Association for not providing the water and sewerage connections to the villa of the respondents 1 & 2 /allottees. That was the reason why the Association was made as a party before the TNRERA and necessary directions were given for peaceful living of all the allottees, including the respondents 1 & 2/allottees. The learned counsel for the respondents 1 & 2 submitted that the respondents 1 & 2 had paid the Sale Consideration along with the costs of amenities, including water and sewerage facilities. Therefore, they are entitled to get water and sewerage facilities, which are basic amenities necessary for living in the flat.

9. In the facts and circumstances of the case, the direction issued against the appellant Association that they shall not cause any hindrance in providing the required water and sewerage connections to the villa of the respondents 1 & 2/allottees is perfectly correct. We find no reasons

to interfere with the order passed by the learned Single Member, TNRERA. As such, the appeal is liable to be dismissed.

10. In the result, the appeal is dismissed. The stay Application in M.A.No.56 of 2024 is closed.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDICIAL MEMBER

Copy to

1. The Single Member, TNRERA
2. Meena Narayanasamy
3. K.Narayanasamy
   Block 58, Villa 3,
   Bollineni Hillside Phase-I,
   Perumbakkam Main Road,
   Nookampalayam, Sithalapakkam Post, Chennai - 600 131.
4. M/s. BSCPL Infrastructure Limited
   rep. by its Director, Krishnaiah Bollineni
   5th Floor, Progressive Towers, Khairatabad,
   Hyderabad - 500 004.
   Also at
   Bollineni Hillside, Perumbakkam Main Road
   Nookampalayam, Sithalapakkam post,
   Kanchipuram District - 600 126.

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