**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 : 21.02.2024**

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

**Appeal No.3 of 2024**
and
**M.A.No.3 of 2024**

1. M/s.Evita Constructions Pvt. Ltd.,
   rep. by its Managing Director

2. M/s.Lucifer Constructions Pvt. Ltd.
   rep. by its Managing Director ... Appellants

- Vs -

1. A.Kandasamy Pandian
   rep. by his POA
   R. Subramanian

2. M/s.Hiranandani Palace Gardens Pvt. Ltd.
   rep. by its Managing Director ... Respondents

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**Prayer:** The appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 to set aside the order dated 13.09.2023 in C.C.P.No.370/2021 passed by the learned Single Member, TNRERA.

For Appellants : Mr. Gowwtham Thelak

For 1st Respondent : Mr. R.K.Ramaiah

For 2nd Respondent : No appearance

**ORDER**

When the appeal is taken up for hearing, Mr.Gowwtham Thelak, learned counsel for the appellants and Mr. R.K.Ramaiah, learned counsel for the 1st respondent submitted that the parties had settled the matter out of court and also entered into a Joint Memorandum of Compromise dated 21.02.2024. The learned counsel on either side submitted that the appeal may be disposed of in terms of the Joint Memorandum of Compromise. The learned counsel on either side also produced a copy of the Joint Memorandum of Compromise signed by all the parties and also by their respective counsels.

2. The Joint Memorandum of Compromise dated 21.02.2024 is taken on record.

3. The learned counsel appearing for the appellants submitted that the issue regarding Section 15 of the RERA Act pending before the

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Hon'ble High Court in C.M.S.A.No.45 of 2021 may be kept open, for which, the learned counsel for the 1st respondent has no objection.

4. In view of the submissions made by the learned counsel on either side, the issue pending before Hon'ble High Court in C.M.S.A.No.45 of 2021 is kept open.

5. In view of the Joint Memorandum of Compromise, the appeal is disposed of in terms of the Joint Memorandum of Compromise dated 21.02.2024. It is needless to say that the 1st respondent is entitled to withdraw the entire accrued interest along with the amount awarded by the TNRERA. The terms of the Joint Memorandum of Compromise shall form part of this order. Connected Miscellaneous Application is closed.

**Sd/- xxxx**
**CHAIRPERSON**

**Sd/- xxxx**
**JUDICIAL MEMBER**

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Copy to

1. A.Kandasamy Pandian
   rep. by his POA
   R.Subramanian
   No.4, Shanmugham Chettiar Street,
   Mettupatti, Seithur,
   Tamil Nadu - 626 121.

2. M/s.Hiranandani Palace Gardens Pvt. Ltd.
   rep. by its Managing Director
   No.514, Dalamal Towers,
   Nariman Point,
   Mumbai - 400 021.

3. The Single Member, TNRERA

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BEFORE THE REAL ESTATE APPELLATE TRIBUNAL,
(TAMIL NADU & ANDAMAN & NICOBAR ISLANDS)
AT EGMORE, CHENNAI - 600 008

TAMILNADU REAL ESTATE APPELLATE TRIBUNAL
SR.No. 68/2024
21 FEB 2024
TNREAT
CHENNAI

Appeal No.3 of 2024

1. M/s. Evita Constructions Pvt. Ltd.

2. M/s. Lucifer Constructions Pvt. Ltd.

…Appellant(s)/Respondents 2 & 3

Vs

Mr. A. Kandasamy Pandian,

… 1st Respondent/Complainant

JOINT MEMO FILED ON BEHALF OF THE PARTIES

It is respectfully submitted as under:

We the Appellant / Respondent 2&3 and Respondent/ Complainant and their respective advocates, herein. As we all well acquainted with the fact and circumstances of the case.

1. The instant appeal has been filed by the Appellant, challenging an order of the TNERA dated 13.09.2023 in CCP 370 of 2021

2. Pursuant to mutual discussions, the parties have arrived at an amicable settlement in the matter on the following terms:

i. The Appellants agreed to withdraw the instant appeal filed against the order of the TNERA dated 13.09.2023 in CCP 370 of 2021. The appellants ready and willing to pay the Claim amount with interest as per the order of the TNERA dated 13.09.2023 in CCP 370 of 2021. And the Appellant have no objection to the 1st Respondent/ Complainant withdrawing the amount deposited by the appellant as pre-deposit of Rs. 54,03,150/- (Rupees Fifty Four Lakh Three Thousand One Hundred Fifty Only) towards the instant appeal.

For LUCIFER CONSTRUCTIONS PVT.LTD,
Director / Authorised Signatory

For EVITA CONSTRUCTIONS PVT.LTD,
Director / Authorised Signatory

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ii. After negotiation appellant has agreed to pay a further sum of Rs.10,00,000/- towards Compensation, on this day, paid a sum of Rs 10,00,000/- ( Rupees Ten Lakh Only) vide RTGS Reference No. PUNBR52024021514562110 dated 15th February, 2024 , which has been received and acknowledged by the 1st respondent.

iii. Upon receipt of the abovementioned amounts, the booking/ allotment of the said Flat along with Car Parking in favour of the 1st Respondent and all the Allotment Letter, Sale Agreement and Development Agreement executed in respect of the said Flat along with Car Parking in our favour stand cancelled.

iv. The 1st Respondent further state that all disputes with the Appellants and/ or its successors/ permitted assigns and/ or any other group companies and / or its subsidiaries/ associates and/ or any former/ present/future Directors, Officers, Employees of the Respondents stands resolved with no claims outstanding of whatsoever nature. All allegations made against Appellants stand withdrawn and there remains no issue or dispute hereinafter in respect of the said Flat along with Car Parking.

v. The 1st Respondent declares and undertakes that he shall not in any manner (whether directly/ indirectly) at any time raise and/ or make and/ or cause to be raised and / or initiate and/ or cause to be initiated any proceeding(s), against any of the Appellants and/ or its successors/ permitted assigns and/ or any other group companies and / or its subsidiaries/ associates and/ or any former/ present/future Directors, Officers, Employees of the Respondents, in relation to the said Flat alongwith Car Parking.

For LUCIFER CONSTRUCTIONS PVT.LTD,

Director / Authorised Signatory

For EVITA CONSTRUCTIONS PVT.LTD,

Director / Authorised Signatory

TAMILNADU REAL ESTATE APPELLATE TRIBUNAL

21 FEB 2024

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vi. The 1st respondent shall also simultaneously issue a letter consenting for cancellation of the allotment of the flat ad measuring a total extent of 1437 sq. ft. on the 12th floor of "Warwick-II", Apartment No. 1203, Palace Gardens, Thriveni Nagar, Senthamangalam Village, Chengalpattu Taluk, Kancheepuram District.

vii. The 1st respondent shall also withdraw and will not proceed further, in a compensation petition filed (SR 176 of 2023) and execution petition filed (SR 229 of 2023) before the TNRERA, Chennai forthwith.

viii. That the instant appeal may be disposed recording the terms of the instant memo.

Dated at Chennai on this the 21st day of February 2024

For EVITA CONSTRUCTIONS PVT.LTD,

Director / Authorised Signatory

For LUCIFER CONSTRUCTIONS PVT.LTD,

Appellant / Authorised Signatory

1st Respondent
(POA of the 1st Respondent)

Counsel for the Appellant

Counsel for the 1st Respondent.

TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL
21 FEB 2024
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BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, (TAMIL NADU & ANDAMAN & NICOBAR ISLANDS)AT EGMORE, CHENNAI - 600 008

Appeal No. 3 of 2024

M/s. Evita Constructions Pvt. Ltd.

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Mr. A. Kandasamy Pandian,
… 1st Respondent/Complainant

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