

**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: 12.06.2024

Delivered on: 24.06.2024

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

Appeal No.26 of 2024  
and  
M.A.No.64 of 2024

Arun M.N., Managing Director,  
M/s. Casagrande Premier Builder Limited,  
represented by its Authorized Signatory,  
Mohamed Faizal ... Appellant  
(Amended as per order dated 20.03.2024 in M.A.No.19/2024)

Vs.

1. Kathirvelu Thirumaran  
2. Shenbagam Sundaram ... Respondents

Appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 to set aside the order dated 02.06.2023 in C.No.104 of 2022 passed by the TNRERA.

For Appellant : Mr. O.L.V. Ganesan  
For Respondents : Ms. Kannammai ME  
Mr. A.S.Arvind

**ORDER**

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

The appellant/promoter developed a real estate project by name "Casagrاند Irene" at Manapakkam, Sriperumbudur Taluk. The respondents booked a Villa in the said real estate project. As per Allotment Letter dated 01.08.2016, the appellant/promoter allotted Villa No.12 to the respondents/allottees. After construction, the Villa was handed over to the respondents/allottees on 29.03.2019. There is no dispute between the parties either with regard to payment or with regard to handing over of possession. The dispute is purely with regard to the extent of property conveyed under the registered Sale Deed dated 14.12.2018.

2. The respondents/allottees claim 3115 sq. ft. of land as per the Allotment Letter dated 01.08.2016. According to the respondents/allottees, instead of mentioning the extent of the land as 3115 sq. ft., it was mentioned as 2586 sq. ft. (exclusive of 100 sq. ft. of UDS in common area) in the Sale Deed dated 14.12.2018. Therefore, according to the respondents/allottees, the extent of 429 sq. ft. was omitted to be

included in the Sale Deed. According to the respondents/allottees, they have additionally paid a sum of Rs.8,58,000/- for this additional extent of 429 sq. ft. at the rate of Rs.2000 per sq. ft.

3. It is also contended on behalf of the respondents/allottees that consequent to the payment made for the additional land, an extent of 240 sq. ft. out of 429 sq. ft. was infact given possession to the respondents/allottees and the remaining 189 sq. ft. is yet to be given possession. A rough sketch showing the details was also produced by the respondents/allottees. In spite of several requests through e-mail and in person, the appellant/promoter has not come forward to execute the Sale Deed for the additional extent of 429 sq. ft. Hence, the respondents/allottees preferred a complaint before the TNRERA in C.No.104 of 2022 seeking directions against the appellant/promoter with a view to get the Sale Deed executed.

4. On the other hand, it is the case of the appellant/promoter that the extent of actual land sold as per FSI calculation was 2156.25 sq. ft. only. The disputed extent of 429.75 sq. ft., if added to the actual land, would come to 2586 sq. ft. and the same had been mentioned in the Sale Deed dated 14.12.2018. According to the appellant/promoter, there was no omission in the extent mentioned in the Sale Deed. **The learned counsel for the appellant/promoter admitted that the respondents/allottees have additionally paid Rs.8,58,000/- for the said additional extent of 429.75 sq. ft. Further, the learned counsel for the appellant/**

promoter contended that the additional extent of 429.75 sq. ft. of land forms part of 2586 sq. ft. as mentioned in the Sale Deed dated 14.12.2018 and there is no necessity for them to execute a separate Sale Deed.

5. After hearing both sides, the TNRERA directed the appellant/promoter to execute a Sale Deed in favour of the respondents/allottees in respect of the additional land of 429 sq. ft. or in the alternative, to execute a Sale Deed in respect of 240 sq. ft. of land which was already given possession to the respondents/allottees and to refund a sum of Rs.3,76,000/- with interest at 9.50% in respect of the remaining 189 sq. ft. which is not yet given possession. Aggrieved over the same, the appellant/promoter has preferred the above appeal.

6. Heard both sides.

7. Even as per the Sale Deed dated 14.12.2018 and the Construction Agreement dated 14.12.2018, the extent of the vacant plot had been clearly mentioned in Schedule 'E' as 2586 sq. ft. Further, in the detailed description of the vacant plot conveyed in Schedule 'E', the measurement on four sides were also mentioned clinchingly. There was no reference as to the alleged FSI calculation affecting the extent of plot conveyed therein. Therefore, the contention raised by the learned counsel for the appellant/promoter that on the basis of the FSI calculation, 2586 sq. ft. mentioned in the Sale Deed is inclusive of the disputed extent of 429.75 sq. ft., cannot be accepted. Even in the

Allotment Letter dated 01.08.2016, the disputed extent of 429 sq. ft. had been mentioned as additional land without any reference to any FSI calculation.

8. In this context, it is pertinent to note that the respondents/allottees have specifically pleaded in their complaint filed before the TNRERA that out of the disputed 429 sq. ft., an extent of 240 sq. ft. was already given possession to them and the same was covered by garden fence and the remaining 189 sq. ft. is yet to be given possession. The respondents/allottees have also produced a rough sketch showing the location of the Villa plot and the disputed extent of 429 sq. ft. separately which is lying at the backyard of the Villa plot. This aspect, though specifically pleaded in the complaint along with a rough sketch, was not denied by the appellant/promoter in the counter statement filed before the TNRERA dated 14.12.2022.

9. The appellant/promoter admitted the receipt of Rs.8,58,000/- towards the cost of the disputed extent of 429 sq. ft. That being the case, the appellant/promoter is trying to take shelter under FSI calculation. The appellant/promoter, with some ulterior motive, failed to provide any materials to check and verify the FSI calculation. Contrary to the extent mentioned in Schedule 'E' of the Sale Deed dated 14.12.2018, the appellant/promoter cannot be allowed to contend that the actual extent of the vacant Plot as per FSI is 2156.25 sq. ft. only. The appellant/promoter cannot reduce the extent of the plot from 2586 sq. ft. to

2156.25 sq. ft. and then increase the same to 2586 sq. ft. by selectively applying the FSI to their whims and fancies to match the extent of the Plot already mentioned in the Sale Deed. Without any specific reference, the FSI calculation cannot take away or alter the extent mentioned in the Sale Deed. Even in the Allotment Letter dated 01.08.2016, the disputed extent of 429 sq. ft. had been mentioned as additional land without any reference to FSI calculation. Viewing from any angle, the case of the appellant/promoter cannot be accepted. We find no reason to interfere with the order passed by the TNRERA.

10. In the result, the appeal filed by the appellant is dismissed. The appellant is entitled to withdraw the amount deposited by them under Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 on compliance of the directions issued by the TNRERA in C.No.104 of 2022 dated 02.06.2023, failing which, the respondents/allottees are entitled to withdraw the same with accrued interest thereon. Connected Miscellaneous Application is closed.

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

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

Copy to

1. The TNRERA.
2. Kathirvelu Thirumaran
3. Shenbagam Sundaram  
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