



**KERALA REAL ESTATE REGULATORY AUTHORITY
THIRUVANANTHAPURAM**

Complaint No. 158/2023

Present: Sri. P.H Kurian, Chairman
Sri M.P Mathews, Member

Dated 04th January, 2024

Complainant

1. NTP Lords Valley Villa Owner's Association
Lords Valley, Kumaranalloor P.O
Kottayam – 686016
Rep: by its President.
2. Baiju Maliakkal
President, NTP Lords Valley
Villa Owner's Association, Lords Valley,
Kumaranalloor P.O
Kottayam – 686016
3. S. Murukesh Thevar,
Secretary NTP Lords Valley
Villa Owner's Association, Lords Valley,
Kumaranalloor P.O
Kottayam – 686016

Respondents

1. NTP Homes Private Ltd,
Rep: by its Managing Director
Joy Paul, Athrampuzha P.O,
Kottayam - 686562



2. Joy Paul, Managing Director,
NTP Homes Private Ltd.
Nadackal House,
Padinjattumbhagom Kara,
Athirampuzha P.O,
Kottayam – 6865626
3. Annie Thomas
Vaniapurackal House.
Kumaranelloor P.O
Kottayam – 686016
4. Cherian Thomas
Vaniapurackal House.
Kumaranelloor P.O
Kottayam – 686016

The above Complaint came up for virtual hearing today. The counsel for the Respondents Adv. Bharath Murali attended the hearing . Counsel for the complainant was absent.

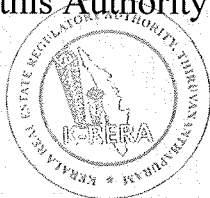
ORDER

1. The facts of the complaint is as follows: - The 1st Complainant is the association of owners of the NTP Lords Valley villa project executed by the 1st Respondent. The President and Secretary of the association are the 2nd and 3rd Respondents. The Respondents are the promoters of the project and according to the Complainants the Respondents 1 & 2 constructed villas in the land owned by the Respondents 3 & 4. The Complainants had entered into agreement with the Respondent 1 & 2 for construction of villa in the land assigned by Respondents 3 & 4. The villa project was started by the 1st Respondent in the year 2018. The Respondents had assured compound walls/fencing in concrete/ UPVC surround layout and common amenities like club house, CCTV for security, rain water harvesting, mini basketball court, generator backup,



landscaped lawn, waste management system, drinking water and house boat with boat. As the above stated facilities were not provided by the Respondents, six villa owners approached this Authority earlier by filing complaints with Complaint No's 174/21,187/21,188/21, 189/21, 190/21 and 191/21 and common order dated 14/12/2022 was passed directing the promoter to complete entire works of the project including the amenities/facilities on or before 31/07/2023. According to the Complainants even after the order of this Authority there is no provision for waste management, no proper provision for drinking water, no generator backup and the club house construction has not yet commenced. The children's play area, landscaped lawn, mini basketball court, surveillance system for CCTV, rain water harvesting are not provided. The common area is not transferred to the association and the promoter is not ready to bear the expense of the security personals and the same is borne by the association. It is also alleged that the promoters changed the layout of the project by annexing 3 rear plots with the resort near by in violation of Section 14 of the Act. According to the Complainants, the costumers visiting the resort are using the internal roads in the project, causing disturbance to the occupants of the villas. A relief for prohibiting the public for using the internal roads was sought in the earlier complaint and the Authority had not granted the relief and an appeal is pending before the Hon'ble Appellate Tribunal for the above relief only. It is admitted by the Complainants that the promoter had constructed retaining wall near the generator room. The relief sought in the Complaint are: -

- 1) To revoke the registration U/s 7 of the Act given for the project.
- 2) To direct for such action for carrying out the remaining work in the project.
- 3) To recover penalty U/s 63 of the Act for non-compliance of the earlier order of this Authority.



2. The Respondents 1 & 2 filed counter statement stating that the issues and relief raised by the Complainant association is already adjudicated and decided by this Authority in Complaint No's 174/2021, 187/21, 188/21, 190/21, 191/21 and an order was passed and the above complaint on the very same issues is barred by Res judicata and liable to be dismissed prima facie. It was also stated that the Complainants in the above complaint had approached the Honorable Appellate tribunal challenging the order dated 14/12/2022 and the Respondent wanted the Authority to hear whether the Complaint filed by the Complainant association is barred by Res judicata, as a preliminary issue. It was submitted by the Respondents that the project is constructed in such a way that, the project has been divided into different and independent projects including Lord Valley Phase I, II, III, IV, V and VI, and the Complainant association belong to those residing in Phase I to IV. It was further submitted that all the members of the Complainant association bought their respective plots from the 3rd Respondent, with right to use common areas through the plots vide respective sale deeds. Later all the members of the Complainant association entered into a separate construction agreement with the 1st Respondent company to construct the houses in their respective plots bought from the 3rd Respondent. It was submitted that, as per the construction agreement entered between the members of Complainant association and Respondent company, the Respondent company agreed to construct the building on the land bought by the allottees from the 3rd Respondent. It is admitted that the 1st Respondent had duly promised the members of the Complainant association that CCTV, joint rain water harvesting, common generator backup, waste management system, club house will be available and can be utilized for the residents of the entire project namely 'Lords Valley'. It was further stated that all assurances and specifications made in the construction agreement was duly completed by



the 1st Respondent company and there is no deviation from the order dated 14/12/2022 passed by the Authority. The 1st Respondent had provided on site, garbage bins for waste collection and entrusted a 3rd party for the network collection of waste, and removal was done on a daily basis through the licensed waste management agency. The expenses for the said activities and service were met from the maintenance fee given by the Complainant association but there was default in settling the payment to the 1st Respondent. According to the 1st Respondent an amount of Rs 2,00,000/- is pending towards the payment for maintenance from the Complainant association. It was submitted that the 1st Respondent company was obliged to provide the services for maintenance only till the expiry of defect liability period of one year, but the 1st Respondent continued to provide maintenance and they were compelled to stop the above said services due to the non-payment of maintenance fee. The construction of the club house is delayed as the permit from the Municipality is pending. The construction of the said club house and other amenities were assured by the 1st Respondent company on the completion of the entire project including phase V and VI of the projects which are still pending. The assurance was made on a bonafide belief that the 1st Respondent company shall realize the payments from sale of other plots in the project within 6 months, but it did not happen due to the slander of some members of the Complainant association and the setbacks due to the covid 19 pandemic. Utilities like water treatment plant, internal roads, round the clock security, compound wall, retaining wall at electrical substation area, over head water tank, children's play area, trash bins, waste management service, site generator and landscaping are already completed and functional. CCTV security camera, that was damaged was rectified and replaced along with additional cameras to enhance the surveillance, and the access to the CCTV footage was given to the official members of the Complainant association. The rain



water harvesting system is in place and the Municipality had issued Occupancy Certificate for each villa with the said arrangements. The common area cannot be transferred to the Complainant association as the 3rd Respondent had sold the plots along with the right to use the common areas including the path ways to the members of the association. As regards the allegation that the promoters had changed the layout of the project by annexing three rear plots with resort nearby, it was submitted that, the said cause of action had happened in the year 2014 vide sale deed executed by the 3rd Respondent. The 3rd Respondent had every right and interest to transfer a portion of their area. The number of plots sold prior to executing the sale deed for the above said resort in 2014 were only 9 out of 41 and the great majority of plots was sold later. Therefore, it is to be understood that most of the allottees were aware of such a resort and it was considered as an added advantage to conduct the personal functions and events of the allottees in the same premises itself. The project is registered as 'NTP Lord Valley' under registration number K-RERA/PRJ/KTM/048/2022 and the registration was valid till 31/07/2023. The matter was heard on 24/11/2023 and based on the submissions of the counsels, it was decided to hear the matter on 04/01/2024 as the counsel for the Respondent stated that he is not sticking on to the objection of Res judicata. When the matter was finally heard on 04/01/2024, the Complainant was absent nor was he represented. Based on the submissions of the Respondents and the counter, affidavit filed it was decided to take the case for orders.

3. The Section 11 of CPC states that "no Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a court competent to try such subsequent suit or the suit



in which such issue has been subsequently raised, and has been heard and finally decided by such Court”

4. Under Sec 31, Association of allottees can file a Complaint before this Authority on behalf of the allottees. In this case, the Association was not a party in the earlier Complaints filed and the Association has approached this Authority to enforce the order dated 14/12/2022 against the promoter in the earlier order. This is barred by Res judicata, as a fresh Complaint is seen filed with the same reliefs. However, since the association had sought a relief to revoke the registration under Section 7 of the Real Estate Regulation and Development Act, 2016 (herein after referred to as the Act of 2016), and the Respondent was not sticking on to the objection of Res judicata, the Authority decided to consider the issue of revocation.
5. Section 7 of the Act, 2016 states that the Authority may on receipt of a complaint or suo motu in this behalf, revoke the registration granted under Section 5 after being satisfied that (a) the promoter makes default in doing anything required by or under this Act or the rules or the regulations made thereunder; (b) the promoter violates any of the terms or conditions of the approval given by the competent authority; (c) the promoter is involved in any kind of unfair practice or irregularities.
6. Under Section 8 of the Act 2016, upon lapse of the registration or on revocation of the registration under this Act the Authority, may consult the appropriate government to take such action as it may deem fit including the carrying out of the remaining development works by competent Authority or by the association of allottees or in any other matter as may be determined by the Authority.



7. In this particular case, the registration granted had expired on 31/07/2023 and the question of revocation of the registration under Section 7 cannot be considered for a lapsed project. As far as the carrying out of the remaining development works is concerned, the only work remaining to be completed after verification of the submissions by the counsels is the club house as admitted by the Respondents. On going through the agreement dated 04/11/2023 produced by the Respondents executed between the 1st Respondent and one of the allottees it is seen that the possession of the building (Villa) shall be handed over by the 1st Respondent to the allottee within 18 months from the date of obtaining building permit. Nowhere in the agreement the completion date of the club house is seen mentioned. Hence, the enforcement of Section 8 after the lapse of the registration is not possible. However, the Complainant association is free to approach the Adjudicating officer under Section 12 or Section 14 of the Act, 2016 for compensation. Taking into consideration the affidavit filed by the Respondents 1 & 2, stating that there are no pending works with respect to the construction agreement executed with the allottees, the Authority has decided to wait till the Complainants in the common order dated 14/12/2022 which is under challenged in REFA No. 8,9,10,11,12 & 13 of 2023 is disposed of by the Hon'ble Appellate Tribunal. The Complainants in the above complaints can approach this Authority for execution of order dated 14/12/2022 if any pending works are remaining as per the above order.

8. The Complainants in the complaints referred above have filed appeal before the Hon'ble Appellate Tribunal against the common order dated 14/12/2022 and an interim order was passed directing the Complainants to implead the resort owner in the application. When this appeal is pending before the Hon'ble Appellate Tribunal, the present complaint cannot be entertained by this Authority. However, the Complainants can approach in

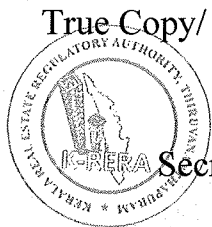


the above complaints before this Authority for execution of the order dated 14/12/2022 after an order is passed by the Hon'ble Appellate Tribunal. The Complainants had alleged that the promoters changed the layout of the project by annexing 3 rear plots with the resort nearby, thus causing usage of the internal roads of the project by those using the resort. A relief to this effect was sought in the previous Complaints and the Authority did not grant any relief. An appeal is pending before the Hon'ble Appellate Tribunal for that relief.

9. Taking into consideration the facts and circumstances of the case, this Authority is not inclined to pass any orders on the above complaint and the same is disposed of with liberty to the Complainants to approach the Adjudicating officer for compensation under Section 12 or 14 of the Act, 2016.

Sd/-
Sri M.P Mathews
Member

Sd/-
Sri. P H Kurian
Chairman

True Copy/ Forwarded By/Order

Secretary (legal)

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data.

In the second section, the author outlines the various methods used to collect and analyze the data. This includes both primary and secondary data collection techniques. The primary data was gathered through direct observation and interviews with key stakeholders.

The analysis phase involved using statistical software to identify trends and correlations within the data set. It is noted that while the data shows a general upward trend, there are significant fluctuations that require further investigation.

The final section provides a summary of the findings and offers recommendations for future research. It suggests that more detailed studies should be conducted to explore the underlying causes of the observed trends.