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CMSA No.52 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Civil Miscellaneous Second Appeal No. 52 of 2023
and
C.M.P. No. 26651 of 2023

M/s.Grove OMR Properties Private Ltd.
Rep. by its Managing Director
IR G8, Imperial Red Block
“The Gem Grove” S.No.445 & 446, OMR
Padur, Kancheepuram District 603 103

.. Appellant

Versus

David Joseph

.. Respondent

Civil Miscellaneous Second Appeal filed under Section 58 of the Real Estate (Regulation and Development) Act, 2016, read with Section 100 C.P.C., to set aside the order dated 26.06.2023 passed by the Tamil Nadu Real Estate Appellate Tribunal in Appeal No.27 of 2022, modifying the order dated 20.04.2022 passed by the Tamil Nadu Real Estate Regulatory Authority, Chennai, in CCP No.147 of 2020.

For Appellant : Mr. S. Silambannan, Senior Advocate
for Mr. K. Sathish

For Respondent : Ms. R. Shailaja



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(Judgment of the Court was delivered by R. MAHADEVAN, J.)

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Assailing the order dated 26.06.2023 passed by the Tamil Nadu Real Estate Appellate Tribunal in Appeal No.27 of 2022 modifying the order dated 20.04.2022 passed by the Tamil Nadu Real Estate Regulatory Authority, Chennai, in CCP No.147 of 2020, the appellant has preferred this Civil Miscellaneous Second Appeal.

2. The brief facts of the case are that the respondent booked an apartment in the construction project of the appellant named as “The Gem Grove”, which the appellant developed at a total cost of Rs.43,25,352.79. A construction agreement followed by a sale deed were executed between the parties on 22.05.2013 and 30.10.2013, respectively. The respondent paid a total sum of Rs.38,51,333/- to the appellant towards purchase of the apartment. Since the appellant did not complete the construction and hand over the apartment as per terms of the agreement, the respondent filed a complaint before the Tamil Nadu Real Estate Regulatory Authority (in short TNRERA) on 05.11.2020, seeking refund of the amount of Rs.38,51,333/- paid by him on various dates together with interest of Rs.21,49,132/- for the housing loan availed by him, apart from payment of compensation for the mental agony



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suffered by him. In all, the respondent claimed a total sum of Rs.60,00,465/- with interest at 12% p.a.

3. The TNRERA, Chennai, after hearing both sides, passed an order dated 20.04.2022 in C.C.P. No.147 of 2020, directing the appellant to repay Rs.60,00,465/- to the respondent along with interest at 9.30% p.a. Aggrieved by the said order, the appellant has preferred an appeal before the Appellate Authority namely Tamil Nadu Real Estate Appellate Tribunal (TNREAT) in A.No.27 of 2022. By order dated 26.06.2023, the appellate authority modified the order dated 20.04.2022 and directed the appellant to pay Rs.38,51,333/- with interest at 9.30% p.a. from the date of respective payments made by the respondent. Challenging this order, the appellant is before this Court with the present appeal.

4. Today, when the appeal is taken up for hearing, the learned counsel appearing for both sides, in unison, submitted that during the pendency of this appeal, the parties have entered into a mutual agreement. The respondent also filed an affidavit dated 27.02.2024, wherein, it is stated as under :

“4. I submit that I may be given the liberty to withdraw the amount of Rs.38,51,333/- with interest @ 9.30% p.a. from the date of respective payment to the date of repayment by the appellant and a



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sum of Rs.25,000/- towards expenses within one week from the date of this Hon'ble Court 's order and I submit that I will not claim my rights for compensation in the matter before any other Court or authority.”

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5. In view of the above statement, this Civil Miscellaneous Second Appeal stands disposed of, in terms of the settlement arrived at between the parties. The affidavit dated 27.02.2024 filed by the respondent shall form part of the order. It is made clear that the remaining amount, if any, lying in the deposit, shall be permitted to be withdrawn by the appellant. No costs. Connected miscellaneous petition is closed.

[R.M.D., J] [M.S.Q., J]

29.02.2024

Internet : Yes
Neutral Citation : Yes/No
gya/rsh

To

- 1.The Tamil Nadu Real Estate Appellate Tribunal
Chennai.
- 2.The Tamil Nadu Real Estate Regulatory Authority,
Chennai.



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