



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:23.06.2025

Pronounced on: 04.07.2025

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THE HONOURABLE MR.JUSTICE P.B.BALAJI**CRP. PD. No.1435 of 2025**

M/s.Serene Adinath Retirement
Community Apartment Owners' Association,
Rep. By its Secretary, Having Office at
“Serene Adinath”, No.283/1, Ramakrishnan Road,
Mannivakkam, Chennai – 600 048.

Petitioner(s)

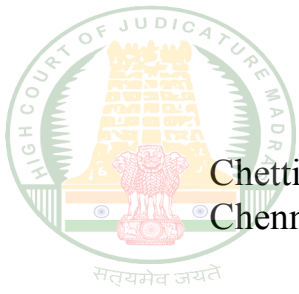
Vs

1.M/s.Covai Property Centre (I) Private
Limited, Covai Care Tower,
Gem Nirmalayam, V G Rao Nagar,
Ganapathy, Coimbatore – 641 006.

2.M/s.Serene Senior Living Private Limited,
(Previously Covai Senior Care Constructions
Private Limited), Old No.484-485, New
No.28-30, Basement Pantheon Plaza,
Egmore, Chennai – 600 008.

3.M/s.Aston Constructions Private Limited,
Old No.484-485, New No.28-30,
Basement Pantheon Plaza, Egmore,
Chennai – 600 008.

4.M/s.Columbia Pacific Communities Private
Limited, (Previously Serene Senior Care
Private Limited), Rep. By its Chief Executive
Officer, Having registered office at
4th Floor, D Block Serene Aditnath,
283/1, Ramakrishnan Street,



Chettiyar Thottam, Mannivakkam,
Chennai – 600 048.

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Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 14.03.2025 passed by the Tamil Nadu Real Estate Regulatory Authority (TNRERA) in C.(SR) No.181 of 2025, by allowing this Civil Revision Petition and to direct the Registry of the Tamil Nadu Real Estate Regulatory Authority (TNRERA), Chennai to number the C.(SR) No.181 of 2025.

For Petitioner : Mr.Ralph Manohar
For Respondents : Mr.M.Chandru for R1
Mr.C.Kaveen for R2 & R3
Mr.A.R.Balaji for R4

ORDER

The Petitioner Association, aggrieved by the return of the complaint, as without jurisdiction, has come up by way of this Revision.

2. I have heard Mr.Ralph Manohar, learned counsel for the petitioner and Mr.M.Chandru, learned counsel for the first respondent, Mr.C.Kaveen, learned counsel for R2 and R3 and Mr.A.R.Balaji, learned counsel for R4.

3. The learned counsel for the petitioner would state that the petitioner's Association comprises of owners of various Apartment in M/s.Serene Adinath Retirement Community Apartment Owners and that



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most of them are senior citizens who have invested their hard earned savings and monies for acquiring their respective apartments in the said project. He would state that the respondents have not honoured any of their commitments and the project has not been completed as promised by the Developer. He would further state that the project is still an ongoing project and therefore, the provisions of the Real Estate (Regulation and Development) Act, 2016 (in short 'RERA Act') would definitely apply and come into play to the rescue of the complainant's association.

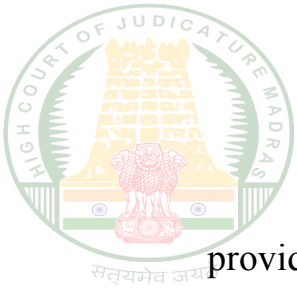
4. The learned counsel for the petitioner would also place reliance on the decisions of the Hon'ble Supreme Court in *M/s.Newtech Promoters and Developers Private Limited Vs. State of Uttarpradesh and others*, reported in *CDJ 2021 SC 906* and the decision of this Court in *M/s.SARE Shelters Projects Private Limited Vs. SARE SQUIRES and another*, in *CMSA. No.27 of 2020 dated 16.02.2021*. The learned counsel for the petitioner would also refer to the correspondence between the parties where according to him, there is a clear admission with regard to the non provision of various amenities that have been promised. He would also submit that even the electricity supply has not been



regularised and therefore, by no stretch of imagination the respondents can get away stating that the project is completed and they are out of the purview of the provisions of the RERA Act itself.

5. Per contra, the learned counsel appearing for the promoters/ respondents 2 and 3 would submit that the project has been completed in two stages viz., 25.03.2015 and 31.08.2015 and CMDA has already issued completion certificates on both these dates, evidencing the fact that the project has been completed and therefore, the project will not come within the purview of the provisions of the RERA Act.

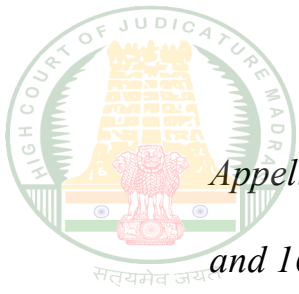
6. The learned counsel would also take me through the various definition Clauses relating to the terms “ongoing project”, “occupancy certificate”, “completion certificate”, etc. The first respondent is the erstwhile promoter who may not have any serious say in the matter. However, the learned counsel appearing for the first respondent would also argue similar points that have been agitated by the learned counsel for the respondents 2 and 3.



7. The learned counsel for the 4th respondent who is the service provider would state that project contemplated construction of eight blocks and three blocks were completed in the first phase and five blocks were completed in the second phase and CMDA has already certified that the project is complete even as early as on 31.08.2015, well before the promulgation of RERA Act itself and therefore, he would also contend that there is no scope for entertaining the complaint of the revision petitioner. He would also state that there are two Associations formed in respect of the said project and the complaint at the instance of the one Association is also not maintainable.

8. I have carefully considered the submissions advanced by the learned counsel for the parties. I have also gone through documents that have been filed in support of the typedset of papers as well as the decisions that have been relied on by the learned counsel for the petitioner.

9. The Registry of TN RERA has passed the following order in complaint S.R.No.181 of 2025 dated 14.03.2025, “Returned for following reasons: In view of the Hon'ble Tamil Nadu Real Estate

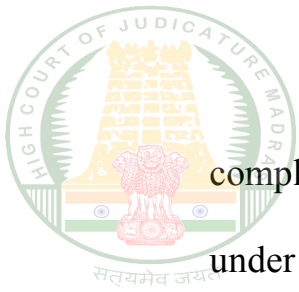


Appellate Tribunal Order dated 10.03.2025 in Appeal Nos.48 of 2024 and 16 of 2025 this Authority has no jurisdiction over this complaint”

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10. The copy of the order of the Tribunal dated 10.03.2025 in A. Nos. 48 of 2024 and 16 of 2025 is also enclosed along with typed set of papers even by the petitioner. In said common order dated 10.03.2025, it is seen that the Appellate Tribunal of RERA has held that the Regulating Authority or Adjudicating Officer constituted under RERA Act 2016, does not have jurisdiction to deal with the complaints in respect of an unregistered Real Estate Project. Pointing out to the discussions made by the Appellate Tribunal, the learned counsel for the petitioner would invite my attention to paragraph 6, where the Appellate Tribunal has held that on the facts of the said case, the complainant did not seek for any direction to register the project, but however, a Single Member had directed the promoter to register the project within 30 days and in the absence of any such specific prayer, the Appellate Bench held that no such direction could have been issued.

11. Mr.Ralph Manohar, distinguishing the facts of the said case from the facts of the present case, would state that in the present case, the



complainant has sought for a specific prayer/relief to register the project under RERA Act and he would therefore state that the decision of the Appellate Tribunal, in Appeal.Nos.48 of 2024 and 16 of 2025 would have no Application to the facts of the present case.

12. I have paid my anxious consideration to the said submissions advanced by the learend counsel on either side.

13. Section 3 of the RERA Act is extracted hereunder:-

3. Prior registration of real estate project with Real Estate Regulatory Authority.—(1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required—

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all



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phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Explanation.—For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately

14. Reading of Section 3 clearly indicates that unless, the real estate project is registered with RERA, the provisions of the RERA Act itself would not apply. However, the first proviso to Section 3 clearly indicates that projects that are ongoing, on the date of commencement of the Act and for which, completion certificate has not been issued, would come within the purview of the Act and the promoter will have to necessarily made an Application to the Authority for registration of the project, within a period of three months from the date of commencement of the Act. It is contended by the learned counsel for the petitioner that the project was not completed on the date of the Act coming into force on 26.03.2016 and therefore, the proviso to Section 3 mandates the promoter



to register the project. It is only under such circumstances, according to the learned counsel for the petitioner one of the prayers that is sought for is to direct the registration of the project.

15. Per contra, it is the contention of the respondents that since completion certificate has already been obtained, the project cannot be treated as an ongoing project and the proviso to Section 3 would not apply. No doubt, 'on going project' has not been defined in the Act. However, in the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017, "ongoing projects" has been defined in Rule 2 (h), the definition is extracted for easy reference.

"Ongoing project" means, a project where development is going on and for which completion certificate has not been issued but excludes such projects which fulfill any of the following criteria on the date of coming into force of sub-section (1) of section 3 of the Act:-

(i) in layout projects i.e., where land is developed into plots, the roads and open spaces gifted to the local body concerned;

(ii) the projects in Chennai Metropolitan Area for which application for completion certificate has been filed with Chennai Metropolitan Development Authority subject to furnishing certificate from the architect/licensed surveyor/structural engineer associated with the project to the effect that all the buildings in the projects have been structurally completed i.e. all the columns, beams and slabs have been erected supported with photographs. Chennai Metropolitan Development Authority will issue, completion certificate for those projects in compliance with Completion Certificate norms prescribed. In Completion Certificate filed



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cases, if the Completion Certificate is rejected by Chennai Metropolitan Development Authority for violation of norms, such projects will be intimated to the Real Estate Regulatory Authority and will be bound for registration with Real Estate Regulatory Authority. The details of all projects where Completion Certificate application has been filed with Chennai Metropolitan Development Authority prior to notification of these rules will be disclosed to the public by publishing the list of all such projects on the website of Chennai Metropolitan Development Authority and Real Estate Regulatory Authority immediately after notification of these rules.

(iii) in the case of projects under execution outside Chennai Metropolitan Area, as no provision and procedure has yet been prescribed for issue of completion certificate, if the construction is structurally completed meaning that all the columns, beams and slabs have been erected and certified by the architect or structural engineer/licensed surveyor associated with the project supported with photographs. Such projects shall be intimated to the concerned Local Planning Authority or Regional Deputy Director of the Town and Country Planning Department within 15 days from the date of notification of these rules with a copy marked to the office of the Director of Town and Country Planning. The Director of Town and Country Planning will make public the list of all such projects in his official website, on the 16th day of notification of the rules besides publication of the same in the website of Real Estate Regulatory Authority.

Under the RERA Act Act, Section 2(q) defines completion certificate as follows:

(q) “completion certificate” means the completion certificate, or such other certificate, by whatever name called, issued by the competent authority certifying that the real estate project has been developed according to the sanctioned plan, layout plan and specifications, as approved by the competent authority under the local laws;

Occupancy Certificate has been defined under Section 2(zf) of the Act as follows:



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(zf) “occupancy certificate” means the occupancy certificate, or such other certificate, by whatever name called, issued by the competent authority permitting occupation of any building, as provided under local laws, which has provision for civic infrastructure such as water, sanitation and electricity;

16. A plain reading of proviso to Section 3 of the Act, makes it clear that if a completion certificate has already been issued, then the project cannot be treated as an ongoing project on the date of the commencement of the Act. It is not in dispute that in the present case, the completion certificate had been issued even prior to coming into force of the Act itself. As already discussed, after completion of some of the blocks, partial completion certificate was issued by the CMDA on 25.03.2015 and after, completion of all the blocks, a final completion certificate has been issued on 31.03.2015. Therefore, giving the plain meaning attached to the phrase used in Section 3 including the proviso, it is amply evident that in order to bring the project as an ongoing project, the completion certificate should not have been issued.

17. In the case on hand, the completion certificate has been issued by no less than the CMDA, after carrying out due inspection, which is evident from the partial completion certificate as well as final completion



certificate, which are also enclosed along with typed set of papers filed by the respondents 2 and 3, the promoters. The typed set also encloses letters and various e-mails, confirming that the construction of the respective apartments have been completed and handed over and that there are no dues. Parties have also not objected and have agreed that there will be no further claims on both sides. Letters of atleast of 4 or 5, 5 of the owners have enclosed along with the typedset.

18. The RERA Act defines Completion Certificate to mean the certificate issued by the Competent Authority certifying that the project has been developed according to the sanction plan, layout plan specifications, as approved by the competent authority under the local laws. Occupancy Certificate, is a certificate issued by the competent authority permitting occupation of any building as provided under local laws, which has provisions for civic infractures such as water, sanitation and electricity. Under Section 3, as already seen above, the term used is only completion certificate and not occupany certificate. Therefore, when admittedly, the completion certificate has been issued by the Competent Authority viz., CMDA, the apartment owners cannot claim that the amenities has not been provided as promised and therefore, the project



has to be treated only as an ongoing project. The legislature has consciously used only the term “completion certificate” in proviso to Section 3 and not “occupancy certificate”. Therefore, the Court has to necessarily interpret the provisions only from the plain language employed in the said provision and not be carried away by other extraneous material or facts. Further, it is not also a case where the complainants are left high and dry and without remedy. Certainly, the flat owners, if aggrieved on account of deficiency in service on the part of the promoter or service provider, it is always open to them to approach the Consumer Court and seek compensation.

19. With regard to the decision of the Hon'ble Supreme Court in *Newtech Promoters'* case (referred herein supra), no doubt, the Hon'ble Supreme Court held that the scheme of the Act is retroactive, it will apply to ongoing projects and future projects registered under Section 3 and the mandate of the Act has to be necessarily followed. However, the Hon'ble Supreme Court has, in Paragraph 54 clearly held that though the scheme of the Act is retroactive in character, it can be safely observed that the projects already completed or to which the completion certificate has been granted are not under the fold of the Act and therefore vested and or



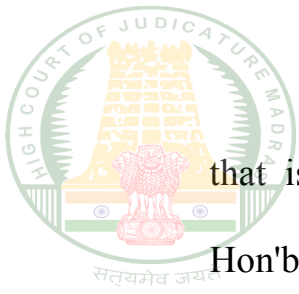
accrued rights, if any, cannot be affected in any manner. Therefore, I do not find the said decision coming to the rescue of the petitioner.

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20. With regard to the decision of this Court in *M/s.SARE Shelter Projects Private Limited's* case (referred herein supra), this Court finding that the certificate of completion was issued by an Executing Officer of the Town Panchayat, disbelieved the veracity of the said certificate and proceeded to disregard the certificate and held that the project was an ongoing project.

21. The learned counsel for the petitioner also relied on a decision of the Hon'ble Division Bench of this Court, in the case of *Subashini Thulasiram Vs. M/s.SPR & RG Constructions Private Limited and others*, in *CMSA No.22 of 2019 dated 15.09.2020*, to contend that the project is only an ongoing project, even though a completion certificate has been issued.

22. I have carefully gone through the said decision. In the case before the Hon'ble Division Bench, on facts, this Court found that the completion certificate was not issued as on 01.05.2017, but much later,



that is after the Act came into force and in such circumstances, the Hon'ble Division Bench held that the said project was an ongoing project, even though the completion certificate has been obtained. In fact, even in the very same decision the Hon'ble Division Bench at Paragraph No.20 held that when the promoter has received the completion certificate prior to the commencement of the Act i.e., on or before 01.05.2017, then there is no requirement for the promoter to register the project. Therefore, I do not find the said decision coming to the aid of the revision petitioner.

23. However, as already discussed in great length, in the present case, the competent authority being the CMDA have inspected the property and issued the completion certificate, in two phases by issuing partial completion certificate on 25.03.2015 and final completion certificate on 31.08.2015, both of which are well before the publication of the RERA Act, 2016. The only irresistible conclusion that can be drawn is that the Act would not apply to the project. Therefore, I do not find any infirmity in the order passed by the Registry refusing to entertain the complaint.



24. In view of the above discussions, this Civil Revision Petition is dismissed. No costs.

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04.07.2025

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Index : Yes
Internet : Yes

To

The Tamil Nadu Real Estate Regulatory
Authorities (TNRERA) at Egmore,
Chennai – 600 008.



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P.B.BALAJI, J.,

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Pre-delivery order in
CRP. PD. No.1435 of 2025

04.07.2025