



**BEFORE THE TAMIL NADU REAL ESTATE  
REGULATORY AUTHORITY (TNRERA)  
(Tamil Nadu, Andaman & Nicobar Islands)  
at Anna Nagar, Chennai – 600 102**

**[Under the Real Estate (Regulation and Development) Act, 2016]**

**C. No. 89 of 2024**

**4<sup>th</sup> day of February, 2026**

**Coram :** **Thiru. Shiv Das Meena, I.A.S.(Retd.), Chairperson**  
**Dr. L.Subramanian, I.A.S.(Retd.), Hon'ble Member**  
**Adv. M. Krishnamoorthy, Hon'ble Member**

Prestige Silver Springs Villa Owners Association ]  
Rep. by its Secretary/Authorized Signatory ] Complainant

**Versus**

1. M/s. Prestige South City Holdings ]  
2. M/s. Ratnavara Developers LLP ] Respondents

This complaint came up for final hearing before this Authority in the presence of M/s. T.S. Baskaran & N. Nathami - Counsel for Complainant, M/s. Dua Associates - Counsel for 1<sup>st</sup> Respondent, M/s. G. Vijay Anand Associates – Counsel for 2<sup>nd</sup> Respondent and upon hearing the parties, this Authority pronounced the following order.

**FINAL ORDER**

**BRIEF AVERMENTS OF THE COMPLAINANT:**

1. The Complainant is the Villa Owners Association. The members of the Complainant had purchased villas in the project, namely, "*Prestige Silver Springs*" at ECR Link Road, Sholinganallur which was promoted with an extent of 18.06 Acres by the Respondents. The 1<sup>st</sup> Respondent is Developer and the 2<sup>nd</sup> Respondent is the land owner. As per the Joint Development Agreement dated 05.09.2011 which was entered between

the 1<sup>st</sup> Respondent and the 2<sup>nd</sup> Respondent wherein, 54% of the total developed area is shared by the 1<sup>st</sup> Respondent and 46% of the total developed area belongs to the 2<sup>nd</sup> Respondent's share.

2. On 21.11.2013 1<sup>st</sup> and the 2<sup>nd</sup> Respondents have entered into a supplementary development agreement. The project is of layout project promoted by the promoter with 125 plots vide Planning Permit No. PPD.No. 32/2013 dated 23.08.2013 approved by CMDA. The 2<sup>nd</sup> Respondent also gifted internal roads and open space reserve area to the local authorities. The Respondents have constructed luxury and deluxe villas, provided with amenities like club house, swimming pool, tennis court, park (open space reservation) etc.

3. The Complainant avers that the Respondents have executed sale deeds in favour of the purchasers with respect to their respective plots under Annexures II and III in the Joint Development Agreement. Based on the sale deed, the 1<sup>st</sup> Respondent has entered into the construction agreement with the purchasers of plots for construction of the villas. However, from 2019 onwards, the Respondents jointly executed composite sale deeds wherein the land with villas were sold together under a single deed. Besides the land and construction costs, the Respondents have collected corpus fund of Rs.30/- per sq.ft., advance maintenance charges at Rs.30/- per sq.ft., club house membership fee of Rs.3,00,000/- per villa, infrastructure development charges at Rs.75/- sq.ft, etc.

4. The Complainant further averred that while the project was progressing, the construction of the club house was completed in April, 2017, whereas certain villas were completed at that time. As per the terms of the Joint Development Agreement, the Respondents promoted a

property maintenance company in the name of "*Prestige Property Maintenance Services Chennai*" (PPMSC), for the maintenance of all the common areas and facilities in the project for one year.

5. The Complainant Association was formed and registered on 11.10.2018 under the Tamil Nadu Societies Registration Act. The maintenance agency, PPMSC had been looking after maintenance of the project as agreed between the parties till 31.03.2023. Though the Complainant Association was formed in 2018, the Complainant has not taken charge of maintenance of the project due to various issues like arrears of maintenance charges, poor collections and non completion of amenities such as metro water, etc.

6. It is further submitted that when the Complainant Association went through the data provided by the Respondents regarding the status of CAM, DG, and water charges, the association came to know that considerable amount of maintenance charges was outstanding as on 08.01.2023 was due from the 2<sup>nd</sup> Respondent and his assignees who were holding several villas.

7. The above fact was communicated to the 1<sup>st</sup> Respondent vide email dated 10.01.2023. Rather than addressing the above issues, as a counter attack PPMSC through the 1<sup>st</sup> Respondent sent an email dated 24.01.2023 calling upon the Complainant to take over the maintenance of common areas and enter into a maintenance agreement on or before 28.02.2023 for maintaining the project from April 2023, failing which PPMSC shall not continue its services beyond 31.03.2023, knowing fully well that the Association was not in a position to take over the maintenance while the above issues remained unresolved.

8. It is submitted that on the date of coming into force of some of the provisions Real Estate (Regulation and Development) Act, 2016 on 01.05.2017, the project Prestige Silver Springs was not completed, amenities like water and sewerage connections from CMWSSB were not provided. Though the internal roads were gifted to the local authority, common areas remained incomplete/undeveloped. Several amenities mentioned in the Sales Brochure which had to be provided to the Villa Owners were not completed.

9. Ultimately, the villas were provided with water sewerage connection only on 06.06.2023. Therefore, the project "Prestige Silver Springs" was not completed on the date of coming into force of RERA Act. Therefore, it is an ongoing project only.

The Complainant sought for the following reliefs:-

*A) Direct the Respondents to register the Prestige Silver Springs Project under TNRERA Act.*

*B) Direct the Respondents to pay the balance Corpus Fund of Rs.95,32,945/- (Rs. Ninety Five Lakhs Thirty Two Thousand Nine Hundred and Forty Five Only) to the Complainant jointly and severally which was collected by the Respondents from the Villa owners, together with interest at 24% from 01.04.2023 until the amount is paid to the Complainant, within a time frame fixed by this Hon'ble Authority.*

*C) Direct the Respondents to pay the Clubhouse Membership Fee to the Complainant jointly and severally aggregating Rs.3,72,00,000/-which was collected by the Respondents from the members of the Complainant, together with interest at 24% p.a. from 01.04.2023 until the amount is*

*paid to the Complainant within a time frame fixed by this Hon'ble Authority.*

*D) Direct the Respondents to hand over the vacant possession of the Service Plot Nos. 4 & 5 (II) to the Complainant within a time frame fixed by this Hon'ble Authority.*

*E) Direct the Respondents to handover the original title documents pertaining to the project "Prestige Silver Springs" to the Complainant within a time frame fixed by this Hon'ble Authority.*

*F) Impose penalty as per section 59 of the TNRERA Act against the Respondents for failure to register the project "Prestige Silver Springs" under section 3 of the Act.*

*G) Pass such further or other orders as this Hon'ble Authority may deem fit and proper in the circumstances of the case and render Justice.*

**COUNTER AVERMENTS OF THE 1<sup>st</sup> RESPONDENT IN BRIEF:-**

10. The 1<sup>st</sup> Respondent averred that the project was developed by both the 1<sup>st</sup> and 2<sup>nd</sup> Respondents on Joint Development basis to construct villas on individual plots with amenities. The Joint Development Agreement was entered between the 1<sup>st</sup> and the 2<sup>nd</sup> Respondents on 05.09.2011 and layout approval was obtained from CMDA on 29.08.2013 and subsequently, approval from Corporation of Chennai on 17.09.2013.

11. It is further stated by the 1<sup>st</sup> Respondent that the supplementary development agreement was entered with the 2<sup>nd</sup> Respondent on 21.11.2013. Thereafter, the 1<sup>st</sup> and the 2<sup>nd</sup> Respondents proceeded to sell their respective shares of plots in the project to the purchasers and also

executed construction agreements with the said purchasers for the construction of villas on the plots purchased by them.

12. The 1<sup>st</sup> Respondent stated that some disputes has been arised between the 1<sup>st</sup> and the 2<sup>nd</sup> Respondents which was referred to an Arbitral Tribunal which passed an award on 20.04.2021.

13. On 04.01.2024, the Complainant issued notice calling upon the 1<sup>st</sup> the and 2<sup>nd</sup> Respondents to return the corpus fund, the membership fee collected for the club house and to remove the occupation in service plots 4 & 5 (II) in the project and to handover the original title documents. The 1<sup>st</sup> Respondent sent reply on 21.02.2024. The Complainant has issued a rejoinder to the notice vide its letter dated 12.03.2024, wherein, the Complainant has raised the issue of registration of the project with TNRERA. The contentions of the rejoinder were denied by the 1<sup>st</sup> Respondent.

#### **PRELIMINARY OBJECTIONS:-**

14. The 1<sup>st</sup> Respondent has raised preliminary objections that the project is a layout project/plotted development which was approved by CMDA and for the purpose of road and open spaces, the required land was gifted to the local body much prior to the commencement of the RERA Act and therefore the RERA Act is not applicable to this project, and it is not an ongoing project as per Section 2(h)(i) of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017 and hence TNRERA does not have jurisdiction.

15. According to the averments of the 1<sup>st</sup> Respondent, the layout project is exempted from RERA and it would very much come under the purview of the Rule 2(h)(i). The construction of the villas on the plots sold

to the purchasers in the project was carried out only after obtaining the approval of the Corporation for each individual villas. As per the sanctioned plan, there were 8 service plots alone. The plots which are for the public purpose were jointly held by the 1<sup>st</sup> and the 2<sup>nd</sup> Respondents and there has been no request by any Government body for the use of the said plots. As per the terms of the sale agreement and construction agreement entered with the purchasers of the plots in the project, the club house membership charges were collected. The 1<sup>st</sup> Respondent further avers that the Prestige Property Maintenance Services Chennai (PPMSC) was entrusted to collect the maintenance charges from the villa owners and it is a duty of the villa owners to pay the maintenance charges dues to the PPMSC.

16. The 1<sup>st</sup> Respondent stated that it is for the Complainant Association to take over the CAM of the project upon its formation. The Complainant Association have not cleared the entire due towards the CAM charges. The 1<sup>st</sup> Respondent made necessary payment to CMWSSB to provide the water service connection. The Complainant was communicated vide e-mail dated 31.12.2022 to take over the CAM from PPMSC in spite of having arrears of maintenance charges payable by the members of the complainant to the service agency. Through e-mail dated 24.01.2023, PPMSC informed the complainant that they exit from the project and not to provide further CAM because of arrears of maintenance charges payable by the members of the Complainant Association. It is pertinent to state that PPMSC is not a party to the present proceedings before this Authority.

17. The e-mails from PPMSC to the members of the Association not issued directly to the 1<sup>st</sup> Respondent. The 1<sup>st</sup> Respondent quoted Clause 6(a) of the sale agreement which is extracted as follows:-

*6) Common maintenance & maintenance deposit:*

*(a) The purchaser from the date the villa is handed over shall be liable to proportionately share and pay for the common maintenance expenses incurred by the developer or the agency/maintenance company appointed by the developer for maintenance of all the common areas and facilities in Prestige Silver Springs"*

18. The 1<sup>st</sup> Respondent further avers that the lands allotted for the club house were never sold to the Complainant or its members and the same is continued to remain in the possession and ownership of the 1<sup>st</sup> and the 2<sup>nd</sup> Respondents and are not even shown as common areas in the sanctioned plan. Hence, the 1<sup>st</sup> Respondent is entitled to retain the membership fee collected from the villa owners for the use of club house till this date as the same is a part of the sale price of the plots sold/villas constructed. The claim of the Complainant is very much unjust and exorbitant.

19. As per the Arbitral Award, the service plot Nos. 4 and 5(II) are retained by the 2<sup>nd</sup> Respondent and the 2<sup>nd</sup> Respondent has been permitted to take over the said service plots after obtaining the approval of the CMDA and other authorities for use as per plan. The 1<sup>st</sup> Respondent had released all the rights against the said plots and no remedy can be sought against the 1<sup>st</sup> Respondent as far as the said service plots are concerned. The 1<sup>st</sup> Respondent averred that the complainant has admitted

that the 1<sup>st</sup> Respondent has released the amount towards corpus fund to the Complainant, on the basis of the payments made by its members to PPMSC.

20. The averments at Paragraph ac in the page 15 of the complaint is denied as being baseless and vexatious. The assignees of the 2<sup>nd</sup> Respondent, the 2<sup>nd</sup> Respondent and their "related parties" are also members of the Complainant and therefore it is utterly false to state that the 1<sup>st</sup> Respondent is attempting to saddle the Complainant with the pending dues of the 2<sup>nd</sup> Respondent. It is further states that the issue of pending CAM charges from members of the Complainant are a dispute inter se the 1<sup>st</sup> and the 2<sup>nd</sup> Respondents in so far as the dues from the assignees of the 2<sup>nd</sup> Respondent, the 2<sup>nd</sup> Respondent and their "related parties" are concerned is false.

21. The averments at Paragraph 4ai of the complaint are a repetition of the sale deeds executed by the 1<sup>st</sup> Respondent and the purchasers of the plots in the project. A mere perusal of the same would demonstrate that "*...the developer designed a scheme of development of the Schedule' A' property into a residential layout consisting of 124 plots (house sites)....*". Therefore, for the reasons stated herein above, Tamil Nadu Real Estate Regulatory Authority lacks jurisdiction and hence, the complaint is not maintainable.

22. The Complainant is not entitled to any of the reliefs as sought before this Authority and the 1<sup>st</sup> Respondent seeks dismissal of the complaint.

## **COUNTER AVERMENTS OF THE 2<sup>nd</sup> RESPONDENT:-**

23. The 2<sup>nd</sup> Respondent stated that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents have entered into a Joint Development Agreement dated 05.09.2011 for development of the layout project and for construction of villas. The 2<sup>nd</sup> Respondent has executed the Power of Attorney in favour of the 1<sup>st</sup> Respondent. The 2<sup>nd</sup> Respondent also averred that they got approval from the planning authorities and Corporation of Chennai. Both the 1<sup>st</sup> and the 2<sup>nd</sup> Respondents had promoted property maintenance company in the name and style of "Prestige Property Maintenance Services Chennai" (PPMSC). The 2<sup>nd</sup> Respondent also asserted that the Complainant's members are entitled to the usage of the club on payment of maintenance fee only, they have no rights of ownership over the underlying land property.

24. The 2<sup>nd</sup> Respondent further states that there were certain odd plots within the layout which were not sold and were retained by 1<sup>st</sup> and the 2<sup>nd</sup> Respondents. Plots also include some underlying land over which the club house has been built are classified as CRZ-II and the service plots 4 and 5. It is agreed between the Respondents before the Arbitrator that the plots of land over which the club house is built would be handed over to the Complainant free of cost as a gesture of goodwill by the Respondents while the 2<sup>nd</sup> Respondent would continue to retain ownership over service plots 4 and 5. There were 7 service plots owned by 1<sup>st</sup> and the 2<sup>nd</sup> Respondents meant for public usage as per the sanctioned plan. The Arbitral Tribunal also confirmed that the service plots 4 and 5 would be retained by the 2<sup>nd</sup> Respondent. As per the settlement in the arbitration proceedings, the 1<sup>st</sup> Respondent have waived the right over the land measuring 1,130 sq.mts which came within CRZ II and the same is out of

the scope of development approval given by the Authorities to the Complainant.

25. The 2<sup>nd</sup> Respondent also stated that the project is not an ongoing as per the provisions of the RERA Act, the project is a completed one, since the completion certificate was obtained in the year 2015. The 2<sup>nd</sup> Respondent relied the case P.V. Nidish and another Vs. Sivaprakash, reported in 2024 SCC Online KER 4893 ordered by the Hon'ble Kerala High Court to support that the completion certificate is conclusive proof for the completion of the project. The 2<sup>nd</sup> Respondent also relied that the Hon'ble Madras High Court in CMSA Nos. 23 and 24 of 2020 vide order dated 20.09.2023 where the threshold limit stipulated under Section 3 was to be read disjunctively.

26. The 2<sup>nd</sup> Respondent has relied on the above decisions of the Appellate Court, sought the Authority for the dismissal of the complaint for lack of jurisdiction.

**ISSUES:-**

- (i) Whether the project is a layout project or building?
- (ii) Whether the project is an ongoing real estate project on the date of RERA Act, 2016 coming into force?
- (iii) Whether the complainant is entitled for corpus fund with interest?
- (iv) Whether the complainant is entitled for club house membership fee with interest?
- (v) Whether the claim of the complainant over the service plots 4 and 5 is justifiable?

**ANSWER FOR ISSUE NO: (i)**

27. On scrutiny of the documents submitted by the Complainant in Sl.No. 11 and 12 i.e. agreement to sell and sale deed respectively in respect of a purchaser by name Mrs. Deviga. S, it can be seen that the said documents are for conveyance and transfer of completed villa unit to the purchaser. On perusal of these documents, both the Respondents are sellers in these instruments. Though, the layout was formed in the year 2013, plot No. 27 with constructed villa pertaining to Mrs. Deviga. S was conveyed in the year 2021.

28. Further Clause (d) of the joint development agreement dated 05.09.2011 entered between the 1<sup>st</sup> and the 2<sup>nd</sup> Respondents states as follows:-

*The Owner is desirous of developing the Property by facilitating the construction and development of residential villas thereupon, and has consequently had discussions with the Developer, who is in the business inter alia of real estate construction and development, to so develop the Property in accordance with the terms and conditions set out herein below. Such developmental activity towards construction and development of the residential villa project in and upon the Property is hereinafter referred to as the "Project".*

29. In the joint development agreement under definitions Clause 1.14, it is stated as follows:-

*"1.14. Owner's share of the Total Developed Area" shall mean 46% (forty Six Percent) of the Total Developed Area in the form of completed residential units/villas built as per the specifications*

*(defined below), including the common areas and all facilities and amenities in the project"*

Further, under Clause 1.16 of the joint development agreement 'project' has been defined as follows:-

*"1.16. "Project" shall refer to the construction and development of residential villas, and such allied development as may be mutually agreed upon, in and upon the Property by the Developer in full compliance and in accordance with the sanctioned Building Plan and as per the Specifications"*

30. As per Clause 1.18 of the joint development agreement, "Saleable Super Built Up Area" has been defined. The said clause is extracted below:

*"1.18. "Saleable Super Built-up Area" referred to herein and elsewhere in this Agreement comprises:*

*(i) The plinth area of the units/villas, which includes all the wall thickness, garage space/car parking/s, deck space and sitout/s;*

*(ii) The common areas including club house, security rooms, sumps, overhead tanks, swimming pool, D.G. rooms, etc. and other built-up areas of common use in the project"*

31. Moreover, as per the joint development agreement, both the Respondents have agreed to share their ratio of developed area. As per the joint development agreement, in Clauses 2 and 3 under the head 'consideration' and 'sharing ratio', both the Respondents have agreed as follows:-

*Clause 2 "Consideration:*

*The Developer shall, at its own cost and expense, develop the Project in and upon the Property and construct and deliver to the Owner, the Owner's Share of the Total Developed Area In the said Project, and in consideration thereof, the Owner shall transfer and convey to the Developer and/ or their nominees/transferees/ assignees, either in parts or in whole, 54% (Fifty Four Percent) divided/ undivided share, right, title and interest in the land comprising the Property, in proportion to the Developer's Share of the Total Developed Area. The Parties agree that the above shall form valid consideration for each other's promises, covenants and obligations under this Agreement.*

*Clause 3. SHARING RATIO:*

*The Owner and Developer shall share the Total Developed Area and the proportionate divided/ undivided interest in the land in the Project (i.e. Property) in the ratio of 46%: 54%. Specifically, ownership and title to the Owner's Share of the Total Developed Area being 46% (Forty Six Percent) of the Total Developed Area of the Project together with the proportionate divided/ undivided right, title and interest in the Property relatable thereto shall vest in the Owner in the manner specified herein; and the ownership and title to the Developer's Share of the Total Developed Area being the remaining 54% (Fifty Four Percent) of the Total Developed Area of the Project together with the proportionate divided/undivided right, title and Interest in the Property relatable*

*thereto shall vest in the Developer in the manner specified herein"*

32. Further, in Clause 5.1, the joint development agreement explains about the floor space area. In Clause 6.1, 6.2, 6.3, 6.4, 19.1, the agreement stipulates various timelines for approvals and commencement of construction and completion. More importantly, under Clause 14.3 both parties have agreed on these recitals as given below:-

*14.3 The Developer shall undertake simultaneous construction and development of the various Units/ Villas comprising the Project upon the entire Property, and shall also complete the Project as a single development"*

The Clauses 14.10, 14.11 and 15 connotes the nature of project is building of villas.

33. Both the 1<sup>st</sup> and 2<sup>nd</sup> Respondents also involved in sale of villas under Clause 32 of the joint development agreement. Further, under Clause 39 of the joint development agreement, both the Respondents conceived an idea of floating a separate project management company for maintenance of the project (building). Further in the Annexure of the joint development agreement, terms and conditions, restrictions and rights of the parties are determined. The conditions stipulated in the joint development agreement, did not indicate the project as a layout project. It is a well planned, well conceived group housing scheme comprising of villas.

34. Documents shown in Sl. No. 3 and 4 in the typed set filed by the 1<sup>st</sup> Respondent, agreement to sell and construction agreement also indicates that the project is not a layout project. Whereas under

Document No. 5 in the same typed set of papers, one sample sale deed has been filed by the 1<sup>st</sup> Respondent to show that villa Plot No. 57 is sold to one Mr. Sanjay Jayapal and Mrs. Roshana Sanjay on 23.06.2017. In the same sale deed, building permission granted by Corporation of Chennai in favour of 1<sup>st</sup> Respondent is annexed. The above said home buyers also entered into construction agreement with the 1<sup>st</sup> Respondent on 08.03.2017 as Document No. 4110 of 2017 as stated in the same sale deed in Page No. 6.

35. From the above, it is very clear that it is a real estate project where sale of land is effected with the construction of individual villas (buildings). Hence, the issue no.(i) is answered affirmatively.

**ANSWER FOR ISSUE NO: (ii)**

36. As far as the 2<sup>nd</sup> issue is concerned, the Complainant has filed documents under Sl.No. 7, 11, 12 of their typed set of papers in support of their claim. Under Sl.No. 7 of the documents, the Complainant has filed completion certificate dated 13.04.2017 issued by CMDA for the completion of club house. Documents under Sl.Nos. 11 and 12 is agreement to sell and sale deed, the agreement executed by the purchaser Mrs. Deviga. S in the year 2021. If we consider these two documents, it is a contract of sale of finished unit and sale agreement in favour of the said Mrs. Deviga. S.

37. The answer for the crucial question that, "when the construction of the villa was completed?" does not find place in the documents, since it is a sale of finished product after the advent of the RERA Act. The promoters are at liberty to keep and sell the unsold units of the project completed before the enactment of the RERA Act, at any point of time. However, the documents filed by the 1<sup>st</sup> respondent under Sl.No,3, 4, 5 of

their typed set, they throw some light on this question. It is worth looking at the tripartite agreement dated 08.03.2016, filed by the 1<sup>st</sup> Respondent. This tripartite agreement is for sale of a plot mentioned under Schedule 'B' and was entered between the 2<sup>nd</sup> Respondent/land owner and the 1<sup>st</sup> Respondent/Builder and the purchasers one Mr. Sanjay Jayapal and Mrs. Roshana Sanjay. If we look at this document under Sl.No. 4 of the typed set filed by 1<sup>st</sup> Respondent, it is a construction agreement entered between the above said purchasers Mr. Sanjay Jayapal and Mrs. Roshana Sanjay with the 1<sup>st</sup> Respondent/Builder on 08.03.2017 which is registered as Document No. 4110 of 2017 on the file of SRO, Neelankarai.

38. In the above said construction agreement, the contract between the purchasers and the builder is for construction of a villa in Plot No. 57. Further, the construction agreement contemplates the date of delivery of possession as 'on or before 30.09.2016', which is contradictory and illogical. The construction contract was entered and registered on 08.03.2017 but completion was assured 'on or before 30.09.2016' a date prior to signing of the contract. In order to find out the answer, whether the project is an ongoing project (under construction and not completed) on the date of implementation of the RERA Act, 2016, it would be better to look at the construction agreement relating to construction of villa in Plot No. 57, filed under Sl.No. 4 of the typed set by the 1<sup>st</sup> Respondent. Internal page no. 2 of the construction agreement dated 08.03.2017 narrates as follows:-

*The Scheme of ownership, approvals taken for undertaking the development of the Schedule 'A' Property and documents under which the Developer has empowered by the Seller to develop the Schedule 'A' Property have all been narrated in the*

*said Agreement to Sell and shall be read as part and parcel of this agreement;*

*WHEREAS in terms of the Scheme of ownership of the villas the Purchaser is required to enter into a Construction Agreement (this agreement) with Developer for construction of the Villa and both the Purchaser and the Developer are entering into this Construction Agreement in terms of which the Developer will be constructing the Villa for the Purchaser".*

39. It is further agreed by both the parties in the aforesaid agreement under Clause 5(d), to construct the villas for the purchasers as given below:-

*Possession of the Villa shall be delivered to the Purchaser by the Developer after the same is ready for use and occupation, subject to receipt of all the amounts due and payable by the Purchaser under this Agreement and Agreement to Sell.*

40. From the above, it can be seen that as per the construction agreement dated 08.03.2017, the completion date is mentioned as "on or before 30.09.2016", which is not possible and therefore cannot be accepted by this Authority. The construction agreement clearly proves that the Villa was not in existence on 08.03.2017. (i.e.) the date of construction agreement, it was agreed between the parties that the Villa will be constructed in the Plot No.57 by the 1<sup>st</sup> Respondent Developer and the said Villa shall be delivered, when it is ready for use and occupation.

41. The RERA Act came into force on 01.05.2017, that means there were only 53 days between the signing of construction agreement and the RERA Act coming into force.

42. This Authority is of the view that a Villa of more than 6,000 sq.ft. built up area and comprising of specifications as detailed in Annexure I of the construction agreement, cannot be constructed and completed in all respects within a short span of 53 days. Hence, the Authority held that the Villas were not completed on 01.05.2017, that is the date of the RERA Act coming into force and hence this project is treated as ongoing project and therefore answer for the issue No. (ii) is determined.

43. The Real Estate project is an ongoing project and it is developed over a land of more than 500 sq.mt. and comprises more than 8 Villas consisting of various amenities such as club house. Therefore, it is a registrable project as per the Section 3 of the TNRERA Act. Therefore, the Authority directs the Respondent-1 Promoter to register the project with TNRERA within 60 days from the date of order.

**ANSWER FOR ISSUE NO: (iii)**

44. With regard to the issue of corpus fund, the developer is said to have collected a sum of Rs.95,32,945/- towards corpus fund from the villa owners and the same has been averred by the complainant in his complaint. The same was admitted by the 1<sup>st</sup> Respondent in their counter affidavit.

45. As the issue no. (i) and (ii) are decided affirmatively, the issue no. (iii) is answered accordingly and therefore, the 1<sup>st</sup> Respondent shall refund the balance corpus fund of Rs.95,32,945/- to the Complainant's Association with interest at the rate of 8.85% per annum being the Marginal Cost of Lending Rate of interest of SBI at the time of filing the complaint +2% per annum i.e 10.85% per annum.

The Clause 9(c) of the construction agreement in Page 43 of the documents filed by the 1<sup>st</sup> respondent stipulates as follows:-

*" The purchaser in addition to the maintenance charges stated above shall at the time of handing over of the villa contribute a sum of Rs.30/- per sq.ft of villa towards the 'Corpus Fund'. The whole of the Corpus Fund made up of the contributions by the owners of the Villa in Prestige Silver Springs shall be maintained in an interest bearing "Special Purposes Account" and Corpus Fund will be utilized for incurring any capital expenditure on replacement any equipment/ machinery, generators etc shall be transferred to the Association of Owners of the Villa in Prestige Silver Springs as and when it is formed".*

The 1<sup>st</sup> respondent is not entitled to deduct any charges or divert the fund to any other expenditure as agreed by the 1<sup>st</sup> Respondent in their construction agreement entered with the purchasers except the expenditure specifically permitted under the construction agreement.

**ANSWER FOR ISSUES NO: (iv) and (v):**

46. As per the terms of the agreement to sale and construction agreement it has been agreed between the parties, that the villa owners have to pay one time membership fee to get admitted into this club. The Clause 7(b) of the construction agreement (document Sl.No. 4 in Page No. 41 of the typed set filed by the 1<sup>st</sup> Respondent) is extracted below:-

*" The owners/occupants of villas in prestige Silver Springs are required to pay one time membership fee stipulated in Annexure II to get admitted to this club however no owner of an villa in*

*Prestige Silver Springs shall claim any exclusive right or ownership over the club and/its facilities/assets. The purchaser and his immediate family are entitled to be enrolled as members of the club without payment of any additional consideration. In the event the villa is leased / rented out by the purchaser, the occupant of the villa shall be entitled to make use of the club facilities and the purchaser shall not be entitled to use the club facilities"*

47. As per the agreement for sale and construction agreement, the builder has stipulated a condition that the owners of the villas are required to pay one time membership fee to get admitted to the club. No owner of the villa in this project shall claim any exclusive rights or ownership over the club and its facilities or assets.

48. From the above, it is clear that it was agreed between the parties that the villa owners will not have any exclusive right or ownership over the club house and its facilities/assets. However, subsequently, the promoter has expressed their willingness, through various e-mails addressed to the complainant association, which are filed as documents in the typed set of complainant, to handover the club house and other amenities to the complainant association and convey the land either to the complainant association or to individual villa owners by way of proportionate UDS provided that the stamp duty, registration fee and other incidental expenses to get the conveyance of the above said lands are borne by the complainant association or the individual villa owners.

49. In this context, a letter dated 01.08.2022 sent by the 1<sup>st</sup> Respondent addressed to the Complainant Association, which is shown as Document No. 14 in the typed set filed by complainant, wherein, the 1<sup>st</sup> Respondent has agreed to convey the land covering amenities and other common facilities in favour of the Complainant's Association. This issue is resolved on the basis of expression of interest and agreement by the 1<sup>st</sup> Respondent.

50. Therefore, in view of the above, the relief of refund of club membership fee sought by the Complainant Association is not sustainable since there is an agreement between the parties for payment of one time membership fee for the club house.

51. The 1<sup>st</sup> Respondent have agreed to convey the land over which the club house and other amenities exist, to the Complainant Association or the individual villa owners as stated by the 1<sup>st</sup> Respondent in its letter dated 01.08.2022. Therefore, the 1<sup>st</sup> Respondent is directed to convey the land over which club house and other amenities are provided, to the individual villa owners by way of proportionate UDS as stated by the 1<sup>st</sup> Respondent in their letter dated 01.08.2022. The stamp duty, registration fee and other incidental expenses to get the conveyance of the above said land are to be borne by the respective individual villa owners. This shall be done within 60 days from the date of this order.

52. With regard to Plot Nos. 4 & 5, it is seen from the Supplementary Development Agreement and Sharing Agreement entered between the Respondent-2 and Respondent-1 that the Plot No. 5 comes under Respondent-2's share and Plot No. 4 is among promoter's share. Further, it is stated in the counter filed by the Respondent-1 vide Para No. 31, that

the Service Plot Nos. 4 and 5 (Part) of the project were retained by the Respondent-2 pursuant to the Arbitral Award. However, neither such Arbitral Award nor any other document is placed before this Authority, regarding the status of these two plots. Therefore, in absence of the same, this Authority is unable to conclude this issue.

53. In the joint development agreement entered between the 1<sup>st</sup> and the 2<sup>nd</sup> Respondents for the development of this villa project, it was agreed between both the parties that all the original documents pertaining to this project should be handed over to the association of the villa owners upon its formation. Clause 23 of the joint development agreement dated 05.09.2011 elucidates the liability of the respondents in handing over of the documents to the complainant association.

54. In pursuant to the expression of interest and agreement expressed in the letter dated 01.08.2022, the 1<sup>st</sup> Respondent is bound to give all the original documents of all the common area and amenities including club house.

55. The Respondents are also directed to register the project with Tamil Nadu Real Estate Regulatory Authority (TNRERA) within 60 days from the date of this order under Section 3 of the Real Estate (Regulation and Development) Act, 2016.

With these directions, the complaint is disposed of.

Sd/-...04.02.2026  
MEMBER (K), TNRERA

Sd/-...04.02.2026  
MEMBER (LS), TNRERA

Sd/-...04.02.2026  
CHAIRPERSON, TNRERA

/TRUE COPY/

  
ADMINISTRATIVE OFFICER, TNRERA

Copy to:

The Additional Director (R), TNRERA