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: 17.06.2026

Delivered on: 01.07.2026

Coram : Hon'ble Mr.Justice M.Duraiswamy, Chairperson
Mr.K.Babu, Judicial Member

Appeal No.34 of 2026

M.Mahalakshmi ... Appellant

Vs.

M/s.Arun Excello Homes Private Limited
rep. by its Managing Director ... Respondent

Appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (i) to allow the appeal and set aside the order dated 25.03.2026 in R.C.P.No.161 of 2024 on the file of Tamil Nadu Real Estate Regulatory Authority, (Bench 2), Chennai and direct the respondent/promoter to (ii) refund of excess amount charged is Rs.1,77,120/- (Rs.3280/- x 54 sq. ft), under Section 12 of the RERA Act, 2016, due to the false information provided in the prospectus, along with interest Rs.2,78,847/- at the rate of 18% as per Section 2(za) of RERA Act and the terms and conditions point no.3 in the registered Construction Agreement, mutually agreed and also exercised by the promoter in his email communications with the same allottee, amounting to a total of Rs.4,55,967/- (iii) refund of the rebate

IBC Laws | www.ibclaw.in

amount Rs.31,625/- denied which is assured under provisions for allowing the rebate at the same rate, as once granted to the allottee by the promoter under Rule 9(1), Annexure A, Clause 1-f, of TNRERA Rules, 2017 along with interest Rs.42,643/- at the rate of 18% as per Section 2(za) of RERA Act, and the terms and conditions point no.3 in the registered construction agreement mutually agreed and also exercised by the promoter in his email communications with the same allottee amounting to a total of Rs.74,268/-. (iv) it is prayed before this Authority, where the allotte does not intend to withdraw from the project, she shall be paid by the promoter, interest for the cost of the apartment for every month of delay till the execution of the conveyance deed and the proper handing over of the possession to make the apartment, legal, safe and livable, under Section 18 and Section 17 of the RERA Act, 2016. Cost of the apartment (Rs.3280 x 771 sq. ft.) = Rs.25,28,880/-. Rate of interest is 18% per anum as referred in 5(2). Period till July 2024 is 87 months. Per month interest @ 18% p.a for the cost of the apartment = Rs.37,933/- (0.015 x Rs.25,28,880/-). Interest for the cost of the apartment for 87 months of delay till 31.07.2024 = Rs.33,00,188/-. (v) The amount collected as incidental charges and provisional common expenses towards the outgoings and future expenses is to be accounted under the restrictions laid in Section 11(4)(d) and as per the norms prescribed in Annexure A of TNRERA Rule 9(1) and also be calculated as required and refunded. The amount is to be adjudicated and arrived after hearing both sides based on the information required to be submitted by the promoter.

For Appellant : Mr. S.Sriramalu
for Mrs.M.Mahalakshmi (Party-in-person)

For Respondent : Ms.R.Kamala Rani

ORDER

Challenging the order passed in R.C.P.No.161 of 2024 dated 25.03.2026 on the file of the TNRERA, (Bench 2), the complainant has filed the above appeal.

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

The appellant/complainant purchased Flat No.210, Block 4, Four Greens, Mathur, Sriperumbudur Taluk, Kanchipuram District. The appellant/complainant filed a complaint on the ground that the respondent/promoter falsely represented that the area of the Flat was 825 sq. ft. (super built-up) instead of disclosing the statutory carpet area and proportionate common area. As per the sanctioned plan, the total area is 771 sq. ft. (601 sq. ft. carpet area + 170 sq. ft. common area). The respondent/promoter charged illegally at the rate of Rs.3,280/- per sq. ft. for 54 sq. ft. amounting to Rs.1,77,120/- in violation of Section 12 of the RERA Act.

3. Further, the appellant/complainant claimed refund of rebate of Rs.31,625/-, together with interest at the rate of 18% per annum, totaling a sum of Rs.74,268/- as per Rule 9(1) Annexure-A Clause 1(f) of the TNRERA Rules, 2017, which was denied by the respondent/promoter. Moreover, the respondent/promoter failed to obtain Occupancy Certificate or Completion Certificate as mandated in Section 11(4) of the Act. The Sale Deed registered as Document No.441 of 2017 cannot be construed as a

IBC Laws | www.ibclaw.in

Sale Deed and the Conveyance Deed should be executed as per Section 17 of the Act, hence, claimed payment of monthly interest for the delay till the execution of the proper Sale Deed and proper handing over of possession as per Section 17 of the RERA Act, 2016. Further, the amount collected as incidental charges and provisional common expenses towards the outgoings and future expenses are to be accounted under the restriction laid in Section 11(4) and as per norms prescribed in Annexure-A TNRERA Rule 9(1) and also be calculated as required and refunded. Hence the complaint was filed by the appellant/complainant before the TNRERA.

4. Before the TNRERA, on the side of the appellant/complainant, she was examined as C.W.1 and 7 documents, Exs.A1 to Ex.A7 were marked. On the side of the respondent/promoter, R.W.1 was examined and 5 documents, Ex.B1 to Ex.B5 were marked.

5. The TNRERA, taking into consideration, the case of both parties, dismissed the complaint. Aggrieved over the same, the appellant/complainant has filed the above appeal.

6. Heard both sides.

7. The contention of the appellant/complainant is that she had purchased Flat No.210, Block 4, Four Greens, Mathur, Sriperumbudur Taluk, Kanchipuram District and that the respondent/promoter falsely represented the area of the Flat was 825 sq. ft. (super built-up) instead of disclosing the statutory carpet area and proportionate common area. As per the sanctioned plan, the total area was 771 sq. ft. (601 sq. ft.

IBC Laws | www.ibclaw.in

carpet + 170 sq. ft. common area). The respondent/promoter charged at the rate of Rs.3,280/- per sq. ft. for 54 sq. ft. amounting to Rs.1,77,120/- violating Section 12 of the RERA Act. Further, a referral rebate of Rs.31,625/- was denied by the respondent and the said amount was assured through the Sales Representative and later confirmed through an e-mail dated 19.05.2017 and the said denial violates Rule 9(1) Annexure-A, Clause-1(f) of the Tamil Nadu Real Estate (Regulation and Development), Rules, 2017.

8. Further, the respondent/promoter failed to obtain and hand over the Completion Certificate or the Occupancy Certificate as mandated in Section 11(4) of the RERA Act and Annexure-A of Rule 9(1) of the TNRERA, Rules. Apart from this, on 31.03.2017, the respondent/promoter falsely declared that the Flat was ready and on 24.04.2017 collected money from the appellant/complainant. Subsequently on 10.05.2017, a Memorandum of Understanding was executed based on the false declaration, even though there was no electricity connection and no legally approved STP. The Apartment was unsafe and illegal for occupation and the Memorandum of Understanding is *void ab intio* and the respondent/promoter failed to execute a Sale Deed conveying the Flat and proportionate undivided share in common areas despite receiving Rs.28,47,157/- from the appellant/complainant in violation of Section 11(4) & 17 of the Act and the respondent/promoter collected Rs.430/- per sq. ft. as incidental charges and substantial amounts towards common expenses stated to be included in corpus fund and outgoings but failed to properly account the same as

Case Citation: (2026) ibclaw.in 389 REAT

mandated under Section 11(4) and Annexure-A of Rule 9(1). Hence, the complaint has been filed for the reliefs sought for therein.

9. The complaint was dismissed by the TNRERA without considering the fact that the Document No.441 of 2017 is not a Conveyance Deed and further, as per Section 11(4) and Section 19(11) of the Act, a conveyance should be executed as per Section 17 of the Act. As per Sections 11 (4), 17 and 19, a Conveyance Deed has to be executed after obtaining Completion Certificate or Occupancy Certificate along with NOC from Tamil Nadu Pollution Control Board. Those documents were not obtained by the respondent/promoter and without considering the same, the order passed by the TNRERA is not correct.

10. The claim of the respondent that G.O.(Ms.) No.53 dated 16.04.2018 is prospective and the requirement of Completion Certificate or Occupancy Certificate arose after 16.04.2018 subsequent to the above said G.O. is not correct. As per Sections 11 & 17 of the RERA Act 2016, the required documents such as (i) Completion Certification (ii) Occupancy Certificate (iii) a registered Conveyance Deed (iv) handing over physical possession of the Flat are to be provided. In the absence of non-production of those documents, the promoter ought to have paid compensation with interest as per Section 18 of the RERA Act and without considering the same, dismissing the complaint by the TNRERA is not correct.

11. On the other hand, learned counsel appearing for the respondent/promoter contended that the complaint is not maintainable and is barred by limitation. The

IBC Laws | www.ibclaw.in

booking was done on 02.02.2017. The registration of UDS Sale Deed of 387 sq. ft. was made on 06.03.2017 prior to the coming into force of TNRERA, Rules, 2017. The learned counsel further contended that the allegation regarding fraudulent declaration of the area is incorrect. The allegation regarding referral discount is denied. As per Rule 9(1) Annexure-A, referral rebate applies only to referral customers, but, the appellant/complainant has not referred any customers. Hence, she is not entitled to the referral amount. For DTCP approved projects, the Completion/Occupancy Certificate was not mandatory prior to G.O.(Ms.) No.53 dated 16.04.2018 which operates prospectively. The appellant/complainant voluntarily took possession on 10.05.2017 after inspection and executed a Memorandum of Understanding acknowledging satisfaction. Further contended that raising disputes nearly after 7 years is barred by limitation. The allegation of collecting incidental charges of Rs.430/- is misleading. The Provisional Allotment Letter clearly specifies the heads under which the charges were collected and no excess amount was collected. The TNRERA after considering all circumstances and the provisions of the Act, rightly dismissed the complaint. Hence, the appeal is devoid of merits and is liable to be dismissed.

12. The first contention of the appellant/complainant was that the appellant/complainant purchased Flat No.210, Block 4, Four Greens, Mathur, Kanchipuram. The super built-up area was 825 sq. ft. but the respondent/promoter, in violation to Section 12 of the RERA Act, instead of providing carpet area and the

Case Citation: (2026) ibclaw.in 389 REAT

proportionate share of the common area to arrive at the total area of the Apartment, falsely stated the super built-up area of the Flat purchased by the appellant/complainant as 825 sq. ft. (76.67 sq.m.). But as per the approved plan, the carpet area of the Flat was 601 sq. ft. (55.86 sq. m.) and the proportionate common area was 170 sq. ft. (15.8 sq. m.), totaling 771 sq. ft. (601 sq. ft. + 170 sq. ft.). The respondent/promoter illegally charged Rs.3,280/- per sq. ft. for 54 sq. ft. amounting to Rs.1,77,120/- constituting misrepresentation and violation of Section 12 of the RERA Act, 2016.

13. With respect to the said contention, the Application for Allotment for the Flat submitted by the appellant/complainant has been marked as Ex.B1. In Ex.B1, it has been clearly stated that the area of the Flat purchased by the appellant/complainant was 825 sq. ft. On a perusal of the Ex.B2, Sale Deed dated 06.03.2017, the area of the Flat No.210 in 2nd floor, Block 4 of the residential apartments in Four Greens was shown as 825 sq. ft. In the 'C' Schedule of the Construction Agreement dated 08.02.2017 (Ex.A5) also the super built-up area was shown as 825 sq. ft. In the prospectus floor plan (Ex.A2), the area of the Flat No.210 has been shown as 825 sq. ft. Hence, a perusal of all the above documents would show that the appellant/complainant has purchased the Flat measuring an extent of 825 sq. ft.

14. The appellant/complainant has contended that the super built-up area was falsely shown as 825 sq. ft. and as per approved plan, the carpet area was only 601

IBC Laws | www.ibclaw.in

sq. ft. and the proportionate common area was 170 sq. ft. hence, total area was only 771 sq. ft. The appellant further contended that the promoter had falsely stated that the super built-up area was 825 sq. ft. To show that the area of the Flat is only 771 sq. ft. no document was produced by the appellant/complainant to substantiate the claim and the documents referred earlier would show the super built-up area mentioned is only 825 sq. ft.

15. Further, Section 12 of the RERA Act, deals with "Obligations of the promoter regarding veracity of the advertisement or prospectus". Hence, as per Section 12 of the RERA Act, if any person aggrieved and sustain any loss or damage by reason of any incorrect or false statement, shall be compensated by the promoter.

16. In the present case, the documents referred earlier would show that the super built-up area was 825 sq. ft. and no documentary evidence was produced by the appellant/complainant to show that the appellant/complainant was allotted with lesser area and the respondent/promoter collected excess amount beyond what was contractually agreed. The documents such as Application for Allotment, Construction Agreement and Sale Deed would show that the super built-up area for the Flat No.210 was 825 sq. ft. In such circumstances, the claim of the appellant that the respondent/promoter has falsely stated that the super built-up area was 825 sq. ft. but the total area of the Flat was 771 sq. ft. and the respondent/promoter had collected Rs.3,280/- per sq. ft., hence, for 54 sq. ft. an excess amount of Rs.1,77,120/- was collected in violation of the provision of Section 12 of the RERA

Act, are not acceptable. Hence, claiming refund of the excess amount charged by the appellant/complainant is not sustainable and was rightly rejected by the TNRERA.

17. The next contention raised by the appellant/complainant was that Sections 11(4) and 19(11) of the RERA Act, insist the conveyance should be under Section 17 of the RERA Act and the Conveyance Deed has to be executed only after obtaining Completion Certificate/Occupancy Certificate along with NOC from Tamil Nadu Pollution Control Board. The respondent/promoter had not obtained and submitted those documents and further contended the Document No.441 of 2017 (Sale Deed) is not a Conveyance Deed at all and without considering the same, dismissing the complaint by the TNRERA is not correct.

18. The said contention was repudiated by the learned counsel appearing for the respondent/promoter and contended that the project is a DTCP approved project and it was completed prior to 16.04.2018 and only after 16.04.2018, Completion/Occupancy Certificate is required as per the aforesaid G.O. Further, the appellant/complainant executed a Memorandum of Understanding and the respondent/promoter had handed over the possession on 10.05.2017 itself, hence, the said contention of the appellant/complainant is not sustainable.

19. Ex.A1 is the proceedings of the Deputy Director, Town and Country Planning (General) granting permission for plan and Ex.B2 is the Sale Deed executed in favour of the appellant/complainant and Ex.B3 is the Memorandum of Understanding dated 10.05.2017 executed between the appellant/complainant and respondent/promoter.

A perusal of Ex.B3 shows that the respondent/promoter M/s.Arun Excello Homes Private Limited was arrayed as a party of FIRST PART and the appellant/complainant arrayed as the Party of the SECOND PART and in Clauses 10, 11 & 18, it has been stated as follows:

> "...
>
> 10. The Parties hereby agree that except what is contained in this MOU, there is absolutely no other obligation to be performed by either of the parties in respect to the Schedule apartment being handed over by Party of the FIRST PART to the Party of the SECOND PART.
>
> 11. The Party of the FIRST PART has already handed over possession of the completed Apartment with the amenities described in Clause 1 above to the Party of the SECOND PART and the Party of the SECOND PART has taken possession of the said apartment more fully mentioned in the schedule hereunder. The Party of the SECOND PART hereby acknowledges and accepts that the stipulation contained in the Agreement for sale of UDS of land & construction is fully complied with by the Party of the FIRST PART in respect to the schedule apartment.
>
> ...
>
> 18. The Party of the FIRST PART has already handed over the original Sale Deed for the UDS of land registered as Doc No. 441/2017 Dated 06.03.2017 & Construction Agreement registered as Doc No.440/17 Dated 18.02.2017 to the Party of the SECOND PART and the Party of the SECOND PART acknowledges receipt of the same from the Party of the FIRST PART.
>
> ..."

20. On a perusal of the above Clauses of Memorandum of Understanding, it is clear that on being satisfied, possession has been taken on 10.05.2017 by the appellant/complainant. A Sale Deed registered as Document No.441 of 2017 dated 06.03.2017 was also executed in favour of the appellant/complainant and conveying 387 sq. ft. undivided share and interest. Hence, the respondent/promoter conveyed the Apartment along with proportionate undivided share of 387 sq. ft. in favour of the appellant/complainant.

21. Moreover, the appellant/complainant has not pointed out any deficiency in the Sale Deed which conveyed the Apartment along with proportionate undivided share of 387 sq. ft. In such circumstances, there was no delay in handing over possession, whileso, the contention of the appellant/complainant that the Sale Deed registered as Document No.441 of 2017 dated 06.03.2017 is not the Conveyance Deed of the Apartment and the respondent/promoter should pay compensation for the delay in handing over possession along with interest @ 18 % per annum for non-compliance of the provisions of Sections 11, 17 and 19 of the RERA, Act is not acceptable, as rightly found by the TNRERA.

22. The appellant/complainant further contended that the amount collected as incidental charges and provisional common expenses towards outgoings and future expenses are to be accounted as per Section 11(4) of the Act and as per Annexure-A of the TNRERA Rule 9(1), it has to be calculated as required and refunded. The said contention of the appellant/complainant is not sustainable since the Construction

Agreement and Clause 30 of the Construction Agreement would specify the nature and heads of incidental and common charges. Moreover, in the Application for Allotment Letter dated 02.02.2017, the nature and heads under which incidental and common charges are to be collected has been stated. Hence, a perusal of those documents would show the heads under which the charges were collected and there is no evidence produced by the appellant/complainant to show the excess or illegal collection made by the respondent/promoter. In such circumstances, the contention of the appellant/complainant with respect to the said claim is not sustainable.

23. The next contention of the appellant/complainant is that the respondent/promoter denied the referral rebate of Rs.31,625/- assured through the Sales Representatives and later confirmed by e-mail dated 19.05.2017, as such the denial violates Rule 9(1) Annexure-A Clause 1(f) of the TNRERA Rules, 2017.

24. The learned counsel appearing for the respondent/promoter repudiated the said contention and contended that the Rule 9(1) Annexure-A Clause 1(f) of the TNRERA Rules, 2017 would apply only upon referral of customers, which the appellant/complainant has not done, hence, the appellant/complainant is not entitled to claim the referral rebate.

25. With respect to the said aspect, on the side of the appellant the e-mail is marked as Ex.A3. In the e-mails dated 14.12.2021 and 19.05.2017, it has been stated that the referral discount proposed by Mr.Syed and Mr.Ravishankar has been confirmed. The said Syed has signed as Manager in Ex.B1, Application for Allotment.

Case Citation: (2026) ibclaw.in 389 REAT

Whileso, after confirming the referral rebate through e-mail, subsequently, stating that the appellant/complainant is not entitled to the referral rebate and that as per Rule 9(1) Annexure-A. Referral rebate applies only upon referral of customers, which the appellant/complainant has not done and so the appellant/complainant is not entitled is not acceptable.

26. The respondent/promoter having once agreed to give rebate which was also confirmed through e-mails, now cannot go back from their earlier stand and contend that the appellant/complainant is not entitled to the said rebate. The finding of the Authority that the e-mails will not conclusively establish the commitment made by the respondent/promoter for giving the benefit of rebate to the appellant/complainant, in the absence of the fulfillment of the prescribed condition under Rule 9(1) Annexure-A Clause 1(f) of the TNRERA Rules, 2017 is not sustainable. With respect to the said aspect, the finding of the Authority cannot stand and is liable to be set aside and the appellant/complainant is entitled to refund of rebate with interest.

27. In view of the above discussions, the claim of the appellant/complainant is allowed with respect to the claim of refund of rebate of Rs.31,625/- with interest @ 18% per annum totaling a sum of Rs.74,268/-. The respondent/promoter is liable to pay interest @ 18% per annum till the actual date of payment is made to the appellant/complainant. Except this relief, the appellant/complainant is not entitled for other reliefs.

IBC Laws | www.ibclaw.in

28. In the result, the appeal is partly allowed.

Sd/- xxxx
JUSTICE M.DURAISWAMY
CHAIRPERSON
01.07.2026

Sd/- xxxx
K.BABU
JUDICIAL MEMBER
01.07.2026

Copy to

1. The TNRERA

2. M/s.Arun Excello Homes Private Limited
rep. by its Managing Director
18, Bhattad Towers, West Cott Road,
Royapettah, Chennai - 600 014.