

**BEFORE TELANGANA STATE REAL ESTATE REGULATORY AUTHORITY
[Under the Real Estate (Regulation and Development) Act, 2016]**

COMPLAINT NO.714 OF 2023

22nd January, 2024

**Corum: Dr. N. Satyanarayana, IAS (Retd.), Hon'ble Chairperson
Sri Laxmi Narayana Jannu, Hon'ble Member
Sri K. Srinivasa Rao, Hon'ble Member**

Sri Deepak Darisi

...Complainant

Versus

M/s Manaswini Infra Developers
Panchangam Santosh Kumar
Allam Sunil Reddy
Pothala Paradesi Naidu
M/s Nature Homes Projects

...Respondent

The present matter filed by the Complainant herein came up for hearing on 18.01.2024 before this Authority in the presence of Complainant and none appeared on behalf of the Respondent and upon hearing the arguments of the party, this Authority passes the following **ORDER:**

2. The present Complaint has been filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RE(R&D) Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") seeking directions from this Authority to take action against the Respondent.

A. Facts of the Case as Stated in the Complaint Filed by the Complainant:

3. The Complainant acquired Plot No. 70 in the development known as "Manaswini's Smart Avenue," situated at Nagireddypally Village, Maheshwaram Mandal, Ranga Reddy District, for a total sale consideration of Rs. 31,16,100/-. As of August 31st, 2022, the Complainant has remitted a

total sum of Rs. 28,28,900/- to the Respondents and their associates. The Complainant asserts his readiness to remit the outstanding balance amount to the Respondent during the plot's registration. However, the Respondents are engaging in evasive measures to elude registration, utilizing diversionary tactics to prevent the registration of the aforementioned plot in the Complainant's name.

B. Relief(s) Sought:

- I. Facilitate the registration of the aforementioned plot in the Complainant's name.
- II. Reimbursement of the interest paid on the loan utilized for the plot's acquisition.
- III. Any other compensation deemed appropriate by the Authority.

C. Reply by the Respondent:

4. Respondent Santhosh Kumar, represented by M/s Manaswini Infra Developers, acknowledges the sale of Plot No. 70 in the Smart Avenue layout to the Complainant. Acknowledging certain challenges that impeded timely registration, the Respondent expresses sincere apologies for the delay. However, they affirm their commitment to completing the registration within the next three months and pledge to finalize the process before February 28, 2024. The Respondent respectfully seeks an extension of three months from this Authority to fulfil this commitment.

D. Hearing Conducted:

5. On the 18.01.2024, a hearing was convened, during which the complainant was present in person, and however none appeared on behalf of the Respondent. The complainant reiterated the contentions made in the Original complaint. Further submitted that he is still willing to get the plot registered In his name.

6. Further, complainant submitted that he is willing to wait till February 28th for the registration as promised by the Respondent in his written reply to the Authority.

7. Further, requested the Authority to direct the Respondent to pay interest to the complainant for the delay in handing over the possession of the plot by the Respondent.

E. Observations made by the Authority:

8. On the above pleadings, the points that arise for consideration are:
1. Whether there has been a delay by the Respondent in handing over the possession of the said plot?
 2. Whether the complainant is entitled for the reliefs sought?

9. Point 1: Pursuant to the Memorandum of Understanding (MOU) executed by the Complainant and Respondent on the 9th of December 2022, it is stipulated within the relevant clause that the Respondent assured the Complainant that the subject plot would be registered by the 31st of December 2022. Furthermore, in the Respondent's written response submitted to this Authority, there is neither dispute nor denial with respect to the contentions raised by the Complainant. In fact, the Respondent acknowledges a delay on their part due to certain challenges faced by the company and expresses willingness to register the plot by the 28th of February 2024, a proposition to which the Complainant has given consent. The matter is addressed accordingly.

10. Point 2: In the present complaint, the Complainant intends to proceed with the project and seeks possession of the subject plot along with delayed possession interest, as provided under the provisions of Section 18(1) of the Real Estate (Regulation and Development) Act (RE(R&D) Act), which is outlined below:

(1) If the promoter fails to complete or is unable to give possession of an apartment, plot, or building—

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.

11. It is evident from the MOU dated 9th December 2022, executed between the parties herein, that the Respondent shall register the plot within 31st December 2022. As the Respondent has failed to hand over possession from 31st December 2022 to the present date. Upon consideration of the documents available on record and submissions made regarding contravention of the provisions of the Act, the Authority is satisfied that the respondents are in contravention of Section 11(4)(a) of the RE(R&D) Act by not handing over possession by the date as per mentioned in the MOU dated 9th December 2022. Consequently, as per the website of the State Bank of India, the marginal cost of lending rate (MCLR) as of the date i.e., 22nd January 2024, is 8.65%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate + 2%, totalling 10.65%. As such, the Complainant shall be entitled to interest for every month of delay from the due date of registration i.e., 31st December 2022, until the actual handing over of possession or offer of possession, whichever is earlier, as per Section 18(1) of the RE(R&D) Act 2016.

F. Directions of the Authority:

12. Hence, the Authority hereby issues this order and provides the following directions under Section 37 of the RE(R&D) Act 2016 to ensure compliance with obligations imposed upon the promoter as per the functions entrusted to the Authority under Section 34(f) of the RE(R&D) Act of 2016:

- I. The Respondent is directed to register the aforementioned plot in the name of the Complainant on or before the 28th of February 2024.
- II. The Complainant is directed to remit the remaining balance of the sale consideration amount on the day of the registration of the said plot.
- III. The Respondent is directed to pay interest to the Complainant on the paid-up amount at the prescribed rate of 10.65% per annum, in accordance with Rule 15 of the TS RE(R&D) Rules 2017, i.e., from 31st of December 2022, until the actual date of registration of the said plot, as per Section 18(1) of the RE(R&D) Act of 2016.13.
- IV. In lieu thereof, the present complaint stands disposed of.

14. If aggrieved by this Order, the parties may approach the TS Real Estate Appellate Tribunal (vide G.O.Ms.No.8, Dt.11-01-2018, the Telangana State Value Added Tax Appellate Tribunal has been designated as TS Real Estate Appellate Tribunal to manage the affairs under the Act till the regular Tribunal is established) within 60 days from the date of receipt of this Order.

Sd/-
Sri. K. Srinivas Rao,
Hon'ble Member
TS RERA

Sd/-
Sri. Laxmi NaryanaJannu,
Hon'ble Member
TS RERA

Sd/-
Dr. N. Satyanarayana, IAS (Retd.),
Hon'ble Chairperson
TS RERA