

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

COMPLAINT NO.1468 OF 2023

7th Day of February, 2024

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

Maharaj Forts Villa Owners Mutually
Aided Co-operative Maintenance Society Ltd.
Represented by its Chairman, Smt. Merugu Radhika ...Complainant

Versus

M/s Ambitiona 'N' Homes
Represented by its Managing Partner,
Smt. Kusum Kennedy & Ors. ...Respondent

The present matter filed by the Complainant herein came up for hearing on 02.01.2024 before this Authority in the presence of the Complainant in person along with his Counsels, and none for the Respondent, and upon hearing the arguments, 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 "Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") requesting appropriate action against the Respondent Builder.

Brief facts of the Complaint

3. The Complainant submitted that the Respondent obtained lay out permission from HMDA vide No.04/LO/ZOI/GTKR/HMDA/2010 dated 13.01.2011. That further,

the said land was converted into 69 plots and was named as M/s Maharaja Forts and sold to prospective buyers. Subsequently, the Complainant Society was formed.

4. The Complainant Society submits that the Respondent failed to adhere to conditions that the work of development is still pending and failed to complete the works within three years. Further, the Respondent also failed to release the mortgage plots, failed to form roads, develop the open spaces and also to provide civic amenities in the layout area as per the conditions set in the HMDA Sanction Letter.

Prayer

5. Accordingly, the Complainant Society prayed that the Respondent be directed to develop the lay out as per the HMDA Sanction Plan with all civic amenities like formation of roads, protection of open spaces, release of mortgage plots, providing streetlights, drainage system, etc.

6. Accordingly, the matter was called for hearing on 02.01.2024 and notices were issued to the parties. However, Notice to the Respondent was returned with note “Addressee Left”, hence notice is incomplete upon the Respondent.

Observations and directions of the Authority

7. It has been duly noted that the complainants have not adequately substantiated their status as “allottees” within the meaning of Section 2(d) in the aforementioned layout. No documentation, such as a sale deed, agreement of sale, or equivalent, demonstrating their rightful title to the land in question, has been presented before this Authority. Merely submitting the registration certificate of the Complainant Society does not suffice as conclusive evidence of their allotment within the specified layout.

8. Further, it is observed that the permission for layout of the said plots has been obtained on 13.01.2011 and as per Rule 2(1)(j) of the Rules, 2017, on-going projects are defined as those where development is going on and for which Occupancy Certificate or Completion Certificate has not been issued but excludes such Projects for which building permissions were approved prior to 01.01.2017 by the Competent Authorities. However, proviso to Section 3(1) stipulates that those projects which 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. As no occupancy certificate/completion certificate can be issued for a simple layout permission, a conjoint reading of the two provisions states that the project in question cannot be called as an “on-going” project, and therefore, cannot be within the jurisdiction of this Authority.

9. In lieu thereof, the present matter is dismissed for lack of jurisdiction.

10. 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. Srinivasa Rao,
Hon'ble Member,
TS RERA

Sd/-
Sri Laxmi Narayana Jannu,
Hon'ble Member,
TS RERA

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