

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

Complaint No. 50 of 2024

Dated this 31st day of January 2025

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

Satheesh Muvva

...Complainant

Versus

M/s Sri Surya Developers

...Respondents

This present complaint, came up for hearing on 18.10.2024 before us for hearing in the presence of Complainant represented by Shri N. Sankara Rao and counsel Mr. A. Muralidhar Reddy for Respondent and upon hearing both the arguments on both sides and the matter reserved over for the consideration till this date, this Authority passes the present complaint order.

ORDER

2. The 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"), alleging commission of violation and contravening of the provisions of the said Act and Rules and sought for the appropriate reliefs against the Respondent.

A. The Brief facts of the case as per allegations/averments contained in the complaint are as follow:

3. The complainant, Mr. Satheesh Muvva, purchased Plot No. 312 in the "True Pride Bacharum" project by Sri Surya Developers, situated in Sy. No. 73/A, 74/A, 75 & 76 in Bacharam Village, Ranga Reddy District. The developer assured that the plot would be handed over on time with all promised amenities. However, to date, the Respondent has failed to deliver possession to the complainant.

B. Relief(s) sought:

i. Direct the Respondent to deliver the plot with all amenities as promised at the time of sale.

C. Counter filed by the respondent:

4. The Respondent submits that the project in question, namely “True Pride Bacharam,” was duly registered with TGRERA under Registration No. P02400001545. This registration was granted under Section 5 of the RE(R&D) act and remained valid from 27th December 2019 to 2nd November 2022. Prior to obtaining TGRERA registration, the Respondent had also secured approval from the Hyderabad Metropolitan Development Authority (HMDA) for the layout, vide Letter No. 301160/LO/Plg/HMDA/2016. Under the terms of said HMDA permission, the project was required to be completed within three years from the date of issuance of that approval.

5. Upon expiry of the initial HMDA-permitted timeframe, the Respondent applied on 20th February 2023 for revalidation/extension of one year before the Commissioner, HMDA. This application is presently pending consideration. The Respondent maintains that it remains committed to completing the project at the earliest once the requisite extension is duly granted.

6. The Respondent emphatically denies any deliberate delay in project completion. It is submitted that the unforeseen outbreak of the COVID-19 pandemic in March 2020 caused nationwide lockdowns and severe disruptions in the real estate and construction sectors. Even after the easing of restrictions, the acute shortage of labor and disrupted supply chains further impeded progress. The Respondent made concerted efforts to resume construction, but these external factors particularly the lack of manpower hampered the pace of development beyond its control.

7. The Respondent further submits that the expiration of TGRERA registration on 2nd November 2022 coincided with the period of COVID-related disruptions, and this circumstance prevented any timely completion

or substantial progress. The Respondent, therefore, prays for a reasonable extension to complete all pending works. It is also averred that certain market-value or valuation disputes raised by external parties are extraneous to the issue at hand and have no direct bearing on the project's final completion. Accordingly, the Respondent seeks dismissal of the present complaint and prays for a six-month extension from the date of receiving HMDA's extended permission to fully deliver the project to the satisfaction of all stakeholders.

D. Points for consideration are as follow:

I. Whether the complainant is entitled to the reliefs sought? If yes, to what extent?

E. Observation by the authority:

8. After thoroughly examining the submissions and evidence presented by both parties, the Authority makes the following observations:

9. Upon perusal of the under mentioned para of the sale deed dated 8th January, 2021 which was entered into by the complainant and the respondent for plot no. 312 covering an area of 156 yards reads as hereunder:

“WHEREAS the Vendor A.S.G.P.A. Holder has already received from the said Vendee the said consideration Rs. 2,34,000/- (Rupees two lakhs and thirty four thousand only), through Online Transfer, Vide Ref No. RRR062117578360, dated 06-01-2021, the Vendor A.S.G.P.A. Holder do hereby admit and acknowledges the receipt of the said sum and also delivered the Possession of the land to the said Vendee to Have and to Hold the same absolutely forever.”

10. As per the abovementioned para from the sale deed, it is evident that the complainant has paid total sale consideration of Rs. 2,34,000 (Rupees two lakhs and thirty four thousand only) and also that the respondent has delivered the possession of the land in question to the complainant. On the other hand respondent's reliance on COVID-19 for the delay substantiates

the complainant's claim that the Respondent is yet to handover the possession.

11. The key question, therefore, is whether the complainant's contention can be sustained. If the sale deed purports that "possession" was delivered to the complainant, the Respondent would not rely on COVID-19 for the delay of handing over the possession substantiating the complainant's claim. Given the material on record before the Authority, it is evident that physical possession of the flat, with all assured works completed, was handed over to the complainant as claimed. Thus, in all probability, the inference that can be drawn is that the possession mentioned in the sale deed was merely symbolic, intended solely for the purpose of registering the sale deed, and not actual physical possession. Hence, complainant's contention that the possession is not delivered to him by the Respondent in all probability appears to be true and sustainable and as such the same is sustained and establishes that the Respondent failed to deliver the possession as the agreed timelines.

11. Further, the Respondent contended that due to COVID-19 pandemic led to a labour shortage, preventing timely completion. While this Authority acknowledges the unprecedented disruptions caused by the pandemic in the real estate sector, the Respondent was nonetheless obligated to either complete the project or demonstrate substantial progress within the registration period. The Respondent's registration expired on November 2, 2022, requiring the project to be completed within the validity period. Alternatively, the Respondent ought to have sought an extension under Section 6 of the RE(R&D) Act, which allows for an extension only in force majeure circumstances. The failure to apply for such an extension within the prescribed timeframe constitutes a breach of statutory obligations, thereby making the Respondent liable for non-compliance with the RE(R&D) Act.

12. The authority also finds that the respondent's conduct amounts to contravention of Section 18 of the RE(R&D) act reads as hereunder:

*(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 that 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.

13. As per section 18(1), the promoter is liable if he fails to deliver possession as per the agreement or within the stipulated timeline. If the allottee withdraws from the project, the promoter must refund the amount received with prescribed interest and compensation. But, if the allottee chooses to remain, the promoter must pay monthly interest for the delay until possession is handed over. This liability ensures the protection of allottee rights and compels the promoter to fulfil their obligations promptly, regardless of the cause of delay.

14. In the case of **M/s Imperia Structures Ltd. Vs. Anil Patni & Ors.** [Civil Appeal No. 3581-3590 of 2020] it was held by Hon'ble Supreme Court that:

"23. In terms of Section 18 of the RERA Act, if a promoter fails to complete or is unable to give possession of an apartment duly completed by the date specified in the agreement, the promoter would be liable, on demand, to return the amount received by him in respect of that apartment if the allottee wishes to withdraw from the project. Such right of an allottee is specifically made 'without prejudice to any other remedy available to him.' The right so given to the allottee is unqualified, and if availed, the money deposited by the allottee has to be refunded with interest at such rate as may be prescribed. The proviso to Section 18(1) contemplates a situation

where the allottee does not intend to withdraw from the Project. In that case he is entitled to and must be paid interest for every month of delay till the handing over of the possession. It is upto the allottee to proceed either under Section 18(1) or under proviso to Section 18(1)."

15. Thus, Section 18 of RE(R&D) act recognises allottees' right to interest while delay in possession and within stipulating time limit for taking steps to seek relief as provided thereunder. Section 18 of RE(R&D) act casts obligation on promoter that in case of delay in possession, he shall be liable in case allottee does not wish to withdraw from the project. Pay interest on the amount paid by allottee. The Hon'ble Apex Court while explaining the scope of right of allottee under Section 18 of RE(R&D) act in **M/s Newtech Promoters [Civil Appeal NOs.5745, 6749 and 6750 to 6757 of 2021]** has held in paragraph 25 as under-

"The unqualified right of the allottee to seek a refund referred to under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot, or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/ Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed"

16. Thus, basing on above interpretations by the Hon'ble Supreme court and also upon section 18(1)(a) of the RE(R&D) Act, it is evident that a promoter is liable for failing to complete or hand over possession of the allotted unit by the date specified in the agreement for sale or sale deed. In the present case, the complainant has sought delivery of the property, which *prima facie* means that the complainant has clearly chosen to remain in the project. Hence, the respondent is obligated, under 18(1)(a) and proviso, to

pay interest on the entire paid amount for the period of delay until possession is handed over.

17. Regarding the Respondent's prayer for a six-month extension from the date of HMDA revalidation, the Authority finds no merit in granting it. The Respondent failed to utilize the extension mechanism under Section 6 in a timely manner and has not demonstrated sufficient due diligence. Therefore, the request is rejected.

F. Directions of the authority:

18. Based on the facts, evidence on record, and the findings as discussed above, this Authority hereby directs as follows:

19. The Respondent shall complete the remaining development work of plot no. 312 in "True Pride Bacharum" including all basic amenities, and hand over possession to the Complainant within 45 (forty five) days from the date of receipt of this order.

20. In accordance with Section 18(1) of the RE(R&D) Act and Rule 15 of the Telangana Rules, the Respondent shall pay the Complainant interest at the rate of SBI MCLR - 9.0 + 2% = 11% per annum on the principal amount of Rs. 2,34,000/-, commencing from 06th January 2021 (the date mentioned in the sale deed) until the date of actual handing over of possession. All accrued interest shall be remitted to the Complainant within 30 days from the date of this Order.

21. In the event of non-compliance with these directions, the complainant shall be at liberty to seek enforcement action under Section 40 of the Act or any other permissible remedy.

22. As a result, the complaint is disposed of. No order as to costs.

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

Sd-
Sri. Laxmi Narayana Jannu,
Hon'ble Member
TG RERA

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