



(Regulation and Development) Rules, 2017 (hereinafter referred to as the “Rules”) requesting appropriate action against the Respondent Builder.

**A. Brief facts on behalf of the Complainant:**

3. The Complainant submitted that he purchased / acquired totally 782.62 Sq. mtrs of land for himself and 3264.24 sq mtrs in name of his wife and children, totally aggregating 4046.86 sq mtrs in Sy No.23, Gachibowli village Serilingampally Municipality, Ranga Reddy District, Telangana during the years 2000 to 2006. That the Complainant along with 15 other owners entered into Development Cum General Power of Attorney with Respondent, represented by its designated partner Sri Kiran Parimi S/o Sri P. Obula Naidu, for development. That in terms of the said Development Agreement, for construction of 'Retail/Commercial/I.T. Office space', the Complainant with 15 other landowners offered part of their respective lands, and in total merged into single lot, and aggregating 1 Acre 29 guntas, and the said Development agreement is registered vide document No.3598/2016 dt. 07.05.2016 in the office of the Sub Registrar, Balanagar, R.R. District. The extent of land owned by the Complainant which is covered in the said agreement is 154.03 Sq. Mtrs, family members of 642.43 sq mtrs, totally aggregating to 796.46 sq mtrs.

4. That according to the said Development Agreement, the Respondent offered a share of 41% to the landowners in the built-up area of 'Ground+7 Floors'. One of the conditions of the Development agreement stated that the Respondent may explore the possibility of constructing one more floor only, and that the share of the landowners in the one such additional floor will be 31% of the built-up area. That the landowners identified additional land of Ac.0-9.95 guntas in total, which could be offered for development to the Respondent, and offered their respective shares of land owned by them, on proportionate basis. That therefore, by an Addendum No.13263/2017, dated 13-09-2017, to the original Development Cum General

Power of Attorney 3598/2016 dated 07-05-2016, the Complainant's extent of land offered for development increased to 176.53 Sq. Mtrs, and extent of members of family increased to 736.29 sq mtrs, hence totally aggregating to 912.82 sq mtrs. The Addendum dated 13-09-2017 also incorporated building 8<sup>th</sup> floor, implying that the construction is for ground plus 8 floors (Total Nine floors).

5. That as per the terms of Agreement in para 5 of the Addendum dated 13-09-2017, the Respondent will inform the landowners including the Complainant, that the Respondent would inform the release of permissions from GHMC and that parties will enter into a supplementary agreement within one month, on readiness from the Respondent. That it is specifically mentioned in para 6 of the Addendum that the terms of agreement 3598/2016 dated 07.05.2016 will remain in full force except the revision of extent of project land and ear marking the floors falling to the share of the Respondent.

6. That the Respondent did not inform the Complainant that the GHMC approvals were received or registration with Telangana RERA. That The Respondent did not inform the complainant about the stage of construction at any point in time. And that therefore, no responsibility/duty was cast on the Complainant to inform their readiness to enter into supplementary agreement.

7. That in February 2019, the Respondent sent draft agreement for construction of additional 2 floors i.e., 10<sup>th</sup> and 11<sup>th</sup> floors above accepted Nine floors. That the Complainant did not accept the proposal, as compensation for delay of project, lack of transparency in project implementation by Respondent, misrepresentations of the Respondent and undue advantages sought by Respondent was not rectified. That suddenly, the Respondent sent intimation by e-mail and WhatsApp, that supplementary agreements were entered into with some of the landowners at their request as per the earlier discussions. There were no

such discussions with the Complainant. The details of supplementary agreements were not disclosed to the Complainant.

8. The Complainant submitted that sudden intimation post facto about an act of already signing and execution of supplementary agreements without disclosure of the approved plans, stage of completion of the project, raised reasonable suspicion in the mind of the Complainant. The Complainant obtained the registered supplementary agreements done in favour of some of the landowners including Respondent themselves, their family members, and few others, and found from the contents of the agreements that ground plus 10 floors (11 floors) are constructed without consent by the Complainant. It is also seen that without consent of all the landowners, including the Complainant, Respondent promoters, their family members and their friends (Six persons out of which three are Respondents themselves, one is wife of Respondent, and remaining two are their induced/coopted members out of total sixteen landowners, leaving Ten landowners in dark) Respondent have usurped their choice location of the floors and areas, tried to regularize a violation of illegal / fraudulent act of trying to build extra floors, delaying the project schedule abnormally, to escape the liabilities and depriving the rightful choice of the Complainant herein.

9. That on further enquiries, it is found from the website of Telangana RERA that the GHMC approvals for Eleven floors were received on 01-11-2019. Date of completion of the project in the disclosure made to RERA is stated to be 05-03-2024 contrary to the agreement 3598/2016 dt 07-05-2016, according to which the maximum period for which permissions were sought to be approved was one year from the date of agreement or not later than 3 months from the date of approvals in the case of adjoining land given for development to Meenakshi Infrastructure Pvt. Ltd whichever is later. That Meenakshi Infrastructure Pvt. Ltd. obtained approvals

from GHMC on 08.12.2017. According to the terms of Development Agreement No.3598/2016 the project of 'Nine floors' should have been handed over on completion, latest by December 2019. Against this the Respondent unilaterally delayed the project and declared in RERA that the date of completion of project is proposed to be 05.03.2024, a time span of 8 years.

10. The Complainant submitted that the Respondent had no intention for construction of Ground plus 7 floors from the beginning and wanted to derive undue benefit by construction of extra floors contrary to the express mandate stipulated in the agreement 3598/2016 dated 07-05-2016 that he could explore the possibility of construction of only one more floor alone above G + 7 floors. The sharing ratio for this one extra floor was reduced from 41% to 31% also with Respondent's representation about need for Cellar for parking, while keeping the Complainant in dark that few of landowners have been induced and coopted by Respondent.

11. It was submitted that the Respondent induced another Landowner Shri B. Bhaskar Reddy, R/o Villa No-54, Meenakshi Bamboos, Gachibowli, Hyderabad as a partner in development of the project without intimating the Complainant about the change of constitution of the LLP. Shri B. Bhaskar Reddy and his wife Smt. Vishali Reddy, are landowners in the project and the induction of Shri B. Bhaskar Reddy as Partner results in conflict of interest, as regards negotiation for areas, apportionment of location, terms of time period of Completion and other Commercial terms, as this aspect of him having become party to Respondent was never disclosed until Complainant stumbled on such private arrangement.

12. The Complainant submitted that no further correction in Development Agreement No.3598/2016 dt 07/05/2016 with addendum date 13/09/2017, was consented and signed, and there was no consent for construction of two more floors, and no transfer of development rights were shared by the Complainant.

13. That it is now verified from RERA website that the Respondent obtained permission on 06.03.2018 for Ground +8 floors (Nine floors), in terms of Development agreement 3598/2016 dt. 07.05.2016, and this was never shared with Complainant. Instead of completing the project as agreed upon in the agreed upon Development agreement, behind the back of Complainant, the Respondent fraudulently, illegally, obtained the GHMC, permission for two extra floors than was agreed upon, by misrepresentation and without legal title for the same.

14. That on further enquiry it is learnt that the Respondent (Developer) has made sale of substantial area of the build-up area and has not reflected the same on record to RERA, and not to the public view as is stipulated under Section 11, read with Rule 3, 4 of the Rules, 2017. He submitted that the Respondent Promoter has taken advances towards sale of a value of about 1.7 crores in 2017-18, 18 crores value during 2018-19, more than 10 crores value in 2019-20, 8 crores during 2020-21, 21 crores during 2021-22. All these advances, sales are not reflected for public view or to the RERA as can be seen. This is apparently with view to utilize the sale advances, not in legally stipulated terms of RERA. That this is a clear violation of Section 11, and the Respondent is liable for penalty under Section 61 read with Section 69 of the Act, 2016.

15. That as per the Development Agreement No. 3598/2016 dt. 07.05.2016, this was an ongoing project when RERA came into force w.e.f. 04-08-2017, and as per Section 3 of the said Act, the subject project ought to have been registered under RERA and progress of Project, advances taken, sales made, scheduled timelines



ought to be declared in the RERA website. That this was clearly violated by the Respondent in as much as Respondent did not take registration, did not reflect the developments and the project timeline schedules, the details of areas sold, and advances taken. That Non-registration in RERA when it was to be done within three months from promulgation of the Act, by end of October 2017, reveal intent not to register in RERA, usage of funds out of purview of RERA, and a clear violation of provisions of Section 3 of the RERA Act.

16. As per Section 4 of the said Act, the Respondent has to have valid documents with authentication of title, the time period of completion, the amount received from allottees and buyers to be deposited in the Separate Account to be maintained in Scheduled bank and to be withdrawn only for construction of Projects, after due certifications by an engineer, architect and a chartered accountant. That the Respondent does not have consent of the Complainant as regards building further floors on the land given for development by the Complainant and there was no consent to avail the TDR of the Complainant which also have been utilized behind the back of the Complainant. That the Respondent has obtained permission for two more floors without valid and subsisting title for the same.

17. The Complainant submits that the foregoing facts show that the Respondent and its partners have fraudulently obtained GHMC permission without express consent of the Complainant. The permission so fraudulently obtained is beyond the agreed number of floors and project period. The delay, and fraudulent extension of time frame and attempted illegal floors, caused mental agony, delayed the scope of seeking early tenant, foregone rent, and increased burden of taxes.

18. That the Complainant and family owns 11.4% of the project land. Excluding the Respondent and their family, Complainant and his family own 18.5% of the project land given for development. The Complainant family and two other deprived families together own 55% of the project land, excluding the Respondent.

**B. Relief Sought**

19. Accordingly, the Complainant prayed for the following reliefs:

- a. As all the conditions of the Section 7 (a), (b), (c) are attracted, the Complainant prays that the registration granted to the Respondent may be revoked under Section 7 of the Real Estate (Regulation and Development) Act, 2016
- b. Appropriate action be taken under Section 59, read with Section 69 of the Act against the Respondent for violation of provisions of Section 3 of Act, 2016.
- c. Appropriate action be taken under Section 60 read with Section 69 of the Act against the Respondent for violation of provisions of Section 4 of Act, 2016.
- d. Appropriate action be taken under Section 61 read with Section 69 of the Act against the Respondent for violation of provisions of Section 11 of Act, 2016.

**C. Reply on behalf of the Respondent:**

20. Vide Reply dated 02.03.2022, the Respondent Builder submitted a detailed explanation countering each averment raised by the Complainant which is briefly overviewed herewith. He submitted that Sri G. Mohan Rao and 18 others were owners of land at Survey No.23, Gachibowli Village, admeasuring Ac.8.11 gts., having acquired the same during the period 2000 to 2006. That after the sale of some extents of land by few of the owners, all the owners held the land to an extent



of Ac.8-4.2 gts. That the landowners executed a registered Memorandum of Understanding and subsequently entered into a development agreement cum general power of attorney bearing No.3498/2016 with the Respondent herein on 30.04.2016 for development of the subject land to an extent of Ac.1.29 gts. That the said extent of land was increased by Ac.0-9.95 gts vide Addendum Agreement No.13263/2017 dated 13.09.2017. He submitted that subsequent thereto, Respondent obtained G+8 floors permission from GHMC vide Order No.53449/HO/WZ/Cir-11/2016 dated 06.03.2018 and that thereafter, the Respondent obtained revised permissions for G+10 floors vide Order No.53581/HO/Cir-11/2016 dated 01.11.2019. That the Project was registered under RERA vide registration No. P02400001385 dated 11.11.2019 for G+8 floors. That as there was no provision for updating the revised permissions in RERA portal, the Developer has again registered the revised project under RERA for G+10 floors vide Registration No. P02400002530 dated 01.02.2021.

21. The Respondent submitted that this Authority is not meant to adjudicate this type of personal grievances or for settling personal scores. He added that this forum being a summary forum is not empowered to deal with complicated and intricate questions pertaining to factual aspects which are to be adjudicated by civil courts on full trial, wherein the veracity of the documents and the evidence is tested on the touchstone of the Indian Evidence Act, 1872. And that such elaborate procedure is not contemplated under the summary procedure prescribed before this Authority and that therefore the Complainant's averments are beyond the purview of this Authority.

22. With respect to the allegation as to violation of Section 3, 4 and 11 of the Act, the Respondent submits that it has already registered this Project and obtained RERA Regn. No. P02400001385, dated 11.11.2019 & P02400002530,

dated 01.02.2021. Further, that there is no dispute in so far as the compliances mandated under Section 4 of the Act, 2016. That the Respondent has an appropriate, and a legal and valid Development agreement followed by a Supplemental Agreement which was frozen between the Landowners and the Developer, read with the full powers given to the Developer.

23. He added that certain sales have been made by the Respondent Developer according to his entitlement in the Development Agreement. That all the sale considerations are deposited into a single bank account, without any diversion of funds and that all those funds have been utilized only for the development of the subject commercial building. Further, the Respondent submitted a detailed table enlisting the execution of the project in terms of amounts spent/expenditure incurred, receipts and stage completion of the Project. He added that these amounts are all properly accounted for, and the relevant certificates issued by the Chartered Accountant/Architect/Engineer are uploaded onto the TS RERA website concerning this Project. That according to the Chartered Accountant/Architect/Engineer, the investments that have been infused into the Project by the Respondent are more than the sale considerations received from the purchasers. That as the investment is more than the receipts, and the building construction is almost accomplished, and the timelines for completion are not yet expired, the Complainant cannot allege that Section 11 has been violated.

24. In lieu thereof, he submitted that the Complainant is not entitled to reliefs prayed for.

**D. Hearing conducted:**

25. On 15.02.2024, both parties appeared. The Complainant reiterated the contents of his Complaint, whereas, the Respondent submitted that the matter is in

the nature of a dispute pertaining to factual aspects which are to be adjudicated by civil courts on full trial. He relied upon Order passed by this Authority in Complaint No.2/2020 titled “*Sri Boyenpally Sri Jayawardhan vs. Sri P. Raja Rao & Ors.*” in support of his contention. Whereas, the Complainant on the other hand submitted that the disputes between landowner and developer are well within the jurisdiction of this Authority and relied upon judgments of Hon’ble Kerala Real Estate Regulatory Authority in Complaint No.235/2022 titled “*Dr. Purushotama Bharathi vs. Coromandel Foundation Ltd. & Ors.*”, Hon’ble Assam Real Estate Regulatory Authority in Complaint No. RERA/ASSAM/COM/2022/24 and Hon’ble Bihar Real Estate Regulatory Authority in Complaint No.CC/53/2018.

26. The Complainant stated the present case differs from factual aspects in Complaint No.2/2020 and submitted that the point as to whether a landowner can maintain a complaint against the promoter did not arise in the said complaint and therefore, facts of the said case cannot be made applicable to the facts of the present case. He accordingly prayed to grant the reliefs as prayed for.

**E. Points for consideration:**

27. After perusal of the pleadings, submissions of the parties and material on record, the following issues sprout for consideration before this Authority:

- a. Whether Complainant can be considered as an “aggrieved person” under the Act, 2016?
- b. Whether the Respondent is in violation of Sections 3, 4 and 11 of the Act, 2016?
- c. Whether the Complainant is entitled to the reliefs as prayed for? If yes, to what extent?

## **F. Observations and Directions of the Authority**

### **Point (a)**

28. The Complainant is admittedly a landowner in the Project having certain revenue sharing with other landowners and the Respondent Developer in the Project. Evidently, the Respondent also holds status as a landowner who has assumed the role of a developer pursuant to the agreements among the landowners within the Project. The Complainant's preliminary submission and relief as prayed for is to revoke the registration granted to the Respondent as the Respondent failed to communicate subsequent changes in the development of the Project and made certain violations of the provisions of the Act, 2016. It is observed that the Complainant's claim is that the profit-sharing ratio/revenue ratio of the Project has starkly changed, affecting the Complainant's right in the Project, on account of the Respondent's execution of subsequent agreements with the other landowners and obtaining subsequent permissions from the competent authority. Whereas the Respondent, on the other hand, is disputing the same. It is observed that the grievance of the Complainant lies mainly in the non-implementation of the terms of the first Development Agreement bearing No.3598/2016 dated 07.05.2016 in *stricto sensu* which, when is disputed by the Respondent, is a question to be adjudicated before an appropriate civil court having jurisdiction in a proper trial.

29. Further, a careful perusal of the definition of a promoter under Section 2(zk) of the Act, clearly elucidates that a promoter is *a person who constructs or causes to be constructed an independent building, for the purpose of selling all or some of the apartments to other persons and includes his assignees*. Further, it also includes *any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is*

*constructed or plot is developed for sale.* As the Complainant, along with his family members have 4046.86 sq mtrs in the Project land, it is presumed that the Complainant is also a promoter to the Project. Any dispute between the promoters, more specifically with regard to the terms of their development agreement is subject matter jurisdiction before competent civil court and does not become subject matter jurisdiction before this Authority. Moreso because Section 11(4) enumerates the duties of the promoter and nowhere does the Act mention the duties promoter towards another promoter for which he can be made liable under the Act, 2016.

30. This Authority has previously, in Complaint Nos. 284/2023, 34/2022, 133/2022, etc., opined and observed that disputes between landowner and developer which primarily involve intricate questions of law detailed in the development agreement therein that require a full trial by a competent civil court and are not subject matter jurisdiction before this Authority.

31. The Complainant also relied upon the judgments of the Hon'ble Kerala, Assam and Bihar RERA, the facts of which are entirely different from the present facts and circumstances and cannot be made applicable here. Further, these judgments are only recommendatory in nature but not binding upon this Authority. Therefore, in view of the foregoing observations, it cannot be said that the Complainant is "aggrieved" as regards the provisions of this Act. Therefore, Point (a) is answered in negative.

**Point (b)**

32. The Respondent has elucidated as to how there is no violation of Section 3 & 4 of the Act by showcasing that the Respondent procured RERA Regn. No. P02400001385, dated 11.11.2019 & P02400002530, dated 01.02.2021. Further, he submitted that all documents as required under the provisions of Section 4 have

been duly submitted by him at the time of filing the application and therefore there is no violation of the same. This Authority has verified the veracity of the claims made by the Complainant and the Respondent and upon verification of the Respondent's registration. As required under Section 4(2)(1)(D), the Respondent has filed the details of its separate bank account and also submitted a detailed table, in its Reply dated 02.03.2022 enlisting the execution of the project in terms of amounts spent/expenditure incurred, receipts and stage completion of the Project, and upon a perusal of the same, it is observed that the Respondent is not in violation of Section 3 and 4 of the Act, 2016.

33. The Complainant has submitted that the Respondent (Developer) has made sale of substantial area of the build-up area and has not reflected the same on record to RERA, and not to the public view as is stipulated under Section 11, read with Rule 3, 4 of the Rules, 2017. However, the Respondent has taken two registrations for obtaining subsequent permissions from the competent authority and upon verification of the subsequent registration, it cannot be said that the Respondent is in violation of Section 11 of the Act, 2016. Therefore, Point (b) is answered in negative.

**Point (c)**

34. As has been explained above, reliefs (b), (c) and (d) cannot be granted in favor of the Complainant. As regards relief (a) is concerned, in line with the observations made in the foregoing paragraphs and as the Respondent is not in default in doing anything required by or under the Act or the rules, it does not call for revocation of registration of the Project bearing RERA Regn. No. P02400001385, dated 11.11.2019 & P02400002530, dated 01.02.2021. Therefore, Point (c) is answered in negative.

35. In lieu thereof, the present complaint stands disposed of.

36. 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) as per Section 44 of the Act, 2016.

Sd/-

Sd/-

Sd/-

.....  
**Sri K. Srinivasa Rao,**  
**Hon'ble Member,**  
**TS RERA**

.....  
**Sri Laxmi Narayana Jannu,**  
**Hon'ble Member,**  
**TS RERA**

.....  
**Dr. N. Satyanarayana, IAS (Retd.),**  
**Hon'ble Chairperson,**  
**TS RERA**

