

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

I.A. No.19/2024
in
COMPLAINT NO.117 OF 2023

10th Day of July 2024

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

M/s Haripriya Icon Residency Owners

...Complainants

Versus

M/s Daripally Constructions
Represented by its Managing Director
Sri Daripally Chandram

...Respondent

The present Application has been filed by the Complainant herein under Section 39 of the Real Estate (Regulation & Development) Act, 2016 came up for hearing on 10.07.2024, wherein the Members & Office Bearers of the Complainant Association appeared in person and the Authorized Representative of the Respondent appeared, and upon considering the contentions of the parties hereto the arguments, this Authority passes the following **ORDER:**

2. The matter was heard at length and accordingly, following directions were issued to the parties:

- a. *Regarding water purifier, the Respondents have stated that every flat owner has to pay Rs.14,000/- (Rupees Fourteen Thousand Only) for individual*

connection to flat which shall be duly paid by each flat owner within 30 days and upon receipt of such amounts, the Respondent shall, within 60 days, install the water purifier as promised.

- b. Regarding the capacity of water tank, about 25,000 liters and 20,000 liters for sump has already been provided by the Respondent Builder.*
- c. Regarding generator, the Respondent Builder submitted that he has provided generator catering to the common areas, lifts & for bore connection. The Complainants are additionally asking for provision of one light and one fan in each flat and the same shall be provided by the Respondent Builder as per request of the Complainants and as stated in the brochure, within 30 days.*
- d. VDF flooring in parking to be laid by the Respondent within 60 days of the receipt of this Order.*
- e. The Respondent shall provide municipal water connection to each flat within such reasonable time as the Respondent has to take such connection from the concerned department.*

3. Subsequently, the Complainants filed an Application under Section 39 of the Act, 2016 on 25.05.2024 stating that, as per the Brochure issued by the Respondent, the Respondent ought to give them Free Kangen Water worth Rs.1.50 Lakhs with every flat. The Complainants also produced a copy of the Brochure which clearly stated that the Respondent Builder shall provide “Free Kangen Water worth Rs.1.50 Lakhs with every flat” on Page 4 of the said Brochure.

4. During the course of hearing, the Complainants agitated on the said subject and prayed to rectify the mistake apparent from the record, as stipulated above, and amend the order passed by this Authority in the main Complaint by exercising the Authority's power under Section 39 of the Act, 2016. The Respondent appeared and submitted that he shall install the said water purifier within one month and submitted an Undertaking dated 10.07.2024 stating that *"as per your directions to fit the Kangen Water filter (1) in common to whole apartment, I promise to complete the work within one month from now."*

5. One of the office bearers of the Complainant Association, Sri Kishan Rao, owner of flat No. 106, expressed his objection & dissatisfaction about closed grills in front & sides of flat due to which air & ventilation was badly affected. This Authority, during the hearing earlier, directed the Respondent Builder to remove them, but it has not been removed so far.

6. This Authority has considered the contentions of both the parties and has perused the relevant material placed on record. The Authority is of the view that, notwithstanding its vested power to amend orders upon the identification of a mistake apparent on the face of the record by the parties, such power does not extend to altering a substantive portion of the order. A plain reading of the second proviso to Section 39, which states, *"Provided further that the Authority shall not, while rectifying any mistake apparent from the record, amend substantive part of its order passed under the provisions of this Act"* clearly indicates that the Authority's power to amend is limited to correcting minor errors that are apparent on the record and does not extend to modifying substantive portions of the order.

7. However, admittedly, the Respondent has failed to provide the amenities as promised in the brochure such as provision of “free kangen water purifier”. The very admission on part of the Respondent attracts provision under Section 12 which states that, “Where any person makes an advance or a deposit on the basis of the information contained in the notice advertisement or prospectus, or on the basis of any model apartment, plot or building, as the case may be, and sustains any loss or damage by reason of any incorrect, false statement included therein, he shall be compensated by the promoter in the manner as provided under this Act”.

8. This entails right on the allottees i.e., the Complainant Association herein to seek compensation under the said provision by filing appropriate application (form “N”) before the Ld. Adjudicating Officer. Therefore, if the Complainant Association is so advised, may approach the Ld. Adjudicating Officer under appropriate application for redressal of their grievance.

9. Accordingly, I.A. No.19/2024 is disposed of with the directions stipulated above.

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