

BEFORE TELANGANA STATE REAL ESTATE REGULATORY AUTHORITY

[Under the Real Estate (Regulation and Development) Act, 2016]

Complaint No. 81 of 2024

28th Day of February 2025

Corum:

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

N. Sravanthi

...Complainant

Versus

T. Madhu Sudhan Reddy

Sree Ram Reddy

...Respondent(s)

This present complaint, came up for hearing on 13.08.2024 before us in the presence of Complainant appeared in person and Smt. Bandiki Renuka for the Respondents and upon hearing arguments on both sides and the matter reserved over for consideration till this date, this Authority passes the present 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 of complaint as per allegations/averments contained in the complaint are as follow:

3. The complainant submitted that she is a resident of TMR Marvel Villa No. 15C Macha Bollaram, Alwal, Hyderabad, that on 05.02.2018 she had entered into an agreement with the developers, Sri T. Madhusudhan Reddy and Sri Ram Reddy, to purchase a semi finished villa that the developers had assured to her that the project would be completed within two years, along with all promised amenities. The property was registered on May 29, 2019, Vide Document bearing No. 3000 of 2019, and the occupation of the property was given her on January 29, 2020.

4. While so she alleged that the developers had failed to fulfil their obligations as promised. Basic amenities, including water supply with softening facilities, streetlights,

compound walls with solar fencing, and parks and clubhouses, remained incomplete. It was further alleged that the boundary walls were semi-constructed, of poor quality, and had been manipulated at certain points, thereby compromising her safety and security and as also of some more owners/Respondents. That these deficiencies had caused significant inconvenience and hardship to her and the remaining owners.

5. That the incomplete compound wall had resulted in not only safety concerns, but it allowed strangers, stray dogs, and snakes to enter into the premises. To address these risks, she had incurred an additional expense of ₹2 lakhs for installing safety grills around her villa. It was further alleged that the water supply system was inadequate, with only one borewell out of 2 operational for the entire project and no Manjeera water connection, contrary to the assurances was given by the developers. That one of the promoters, residing in Villa 19C, had constructed a private 9000-litre sump, which had exacerbated the water scarcity faced by other residents.

6. That the drainage system in the project remained incomplete, resulting in foul odours and health risks, particularly for elderly residents and children. That the developers had not undertaken the maintenance of the project, forcing the residents to manage such responsibilities themselves. That the clubhouse, which was promised as an amenity, was also allegedly partially completed and was being used by the developers for personal purposes as a storage space and office. That the residents had been denied access to the clubhouse for personal events or gatherings.

7. That certain villas, including Villa 13C, were being used for commercial purposes, such as holiday homes and parties, which, according to her, caused disturbances and raised security concerns. That construction debris from unrelated projects was being dumped within the compound, worsening the living conditions. That several other promised amenities, such as solar fencing, adequate street lighting, security guards, CCTV cameras, footpaths, and walking tracks, remained unfulfilled.

8. That she has submitted photographic evidence, documents, and a copy of the project brochure to substantiate her claims. In the Circumstances, she alleged that the actions and omissions of the developers constituted a violation of their statutory obligations under the Real Estate (Regulation and Development) Act, 2016 therefore, she sought appropriate relief to address the grievances and to ensure compliance by the developers, and as also to mitigate the financial and emotional distress caused by the alleged deficiencies in the project.

B. Relief(s) sought:

- i. Maintenance should be managed by the promoter/builder till project handover.
- ii. Deviations to the compound wall should be corrected and should be as per the layout.
- iii. Till date, only 1 out of 2 bores is working. Request answers and actions from the builder/promoter to resolve the water issue. Would like to know how many bores will be made operational and by what date.
- iv. Clubhouse should be completed and made accessible for the residents for any functions or gatherings.
- v. Drainage should not be thrown in open space behind the compound walls. STP should be built.
- vi. Adequate security, like security guards, compound wall with solar fencing, and compound wall of reasonable height, should be ensured. The area should be closed with a compound wall of proper height so that dogs and strangers do not jump easily.
- vii. The entrance gate should be of adequate height to ensure it is not easy to jump over into the property. Need answers and dates are needed for when all the facilities as promised will be completed. As per norms, Layout and other project details should be displayed at the venture.

C. Counter on behalf of the respondent:

9. The Respondents together have filed the counter as per the counter Respondent No.1 Sri T. MadhuSudhan Reddy is none other than the GPA holder of i. Sri. Thota Malla Reddy S/o T. Ram Reddy, aged 77 years, ii. Smt. Poreddy Chandana Reddy alias Indrani, W/o P. Devender Reddy D/o T. Malla Reddy, aged about 45 years and iii. Smt. Samala Sudha Rani W/o S. SreeRam Reddy D/o T. Malla Reddy Aged about 43 Years, and Respondent No. 2, Sri SamalaSree Ram Reddy, is the authorised managing partner of M/s TMR Infra Tech, A registered partnership firm and developers. These respondents in the counter contended that the compound wall was only semi-constructed due to ongoing villa construction in the community but assured that the wall would be completed by December 2024. They further submitted that two bore wells were already operational, and Manjeera water was being supplied, as evidenced by enclosed photographs.

10. It was also asserted that solar fencing would be installed, and issues related to the compound wall would be resolved upon its completion. Regarding streetlights, the respondents stated that temporary lighting was currently in use and would be replaced with permanent fixtures by December 2024.

11. The respondents argued that the water softener was already procured and installed, but residents decided not to use it due to high electricity costs. The club house, they claimed, had been constructed and handed over to the residents' in March 2024. They also submitted that the swimming pool construction was ongoing and would be completed by March 2025.

12. The respondents noted that three security guards had been appointed through a single agency with resident approval. They maintained that the footpath was not constructed as it was not part of the promised amenities list and assured that all listed infrastructure and amenities would be delivered in compliance with RE(R&D) norms.

13. They further submitted that the residents had collectively agreed to self-manage the community's maintenance, though the respondents remained ready to take over maintenance if all residents agreed to pay a minimum maintenance fee and other charges.

14. The respondents clarified that the renting out of villa 13(c) was not their responsibility. They also stated that 28 villas were still under construction and would be completed as per the agreed timeline.

15. The respondents claimed that they were fulfilling their obligations and that all responsibilities, including pending amenities, would be completed within the stipulated timeline. They prayed for the dismissal of the complaint in the interest of justice.

D. Rejoinder on behalf of the Complainant:

16. The complainant submitted that the facts stated in the original complaint were true and substantiated by the counter filed by the respondents. They contended that the completion dates provided by the respondents confirmed the claims of project incompleteness, though the dates mentioned were disputed due to safety and security concerns.

17. The complainant asserted that the respondents' claim of having two existing borewells was false and highlighted that there were no borewells in the project as of the filing date. They further claimed that the municipal water connection was established only after the first hearing, and the pipe size was inadequate for the needs of the residents.

18. It was asserted that the project boundaries were incomplete and misleading. The complainant pointed out discrepancies between the sanctioned layout, the layout presented in brochures, and the on-ground situation. She (Complainant) has submitted photographic evidence to highlight the incompleteness and hazardous conditions caused by gaps in the compound wall, which allowed stray animals to enter the premises, posing risks to residents.

19. The complainant contended that basic project amenities were incomplete. This included the club house, which was unfinished despite claims of completion, as well as street lighting, gymnasium, and guest rooms. She has also alleged that maintenance responsibilities were unfairly shifted onto residents due to the respondents' inaction, resulting in residents independently hiring security agencies and installing water softeners.

20. The complainant highlighted incidents of inadequate safety measures, including strangers trespassing due to the low height of the compound wall. They requested immediate installation of solar fencing.

21. She has further asserted that the respondents failed to provide necessary updates on stage-wise project completion on the RERA platform, as mandated under the RE(R&D) Act. Additionally, discrepancies were noted in maintenance charges, with respondents allegedly paying unreasonably low fees compared to residents and that Villa 13C was being commercially operated for events without intervention from the respondents.

22. Her prayer included adherence to the RE(R&D) Act and associated regulations, timely completion of basic amenities, and immediate rectification of discrepancies in project infrastructure and services.

E. Points for consideration:

23. Taking into consideration the allegations made by the complainant and the submissions made by the Respondents in the counter and the rejoinder narrated herein above and as also the arguments submitted during the course of arguments on both sides, the points that arise for consideration are as follow:

I. Can the respondents be held liable for the project's non-completion before the expiry of the RERA registration?

II. Whether the complainants are entitled to the reliefs as prayed for?

F. Observation of the authority:

24. Point 1 and 2: Point: Point no.1 and 2 are connected to each other. Any discussion on any point would be relevant for other. As such, it is just and appropriate to decide both the points by a common discussion.

25. The primary question before this Authority is whether the Respondents can be held liable for the project's non-completion before the expiry of RERA registration. The learned counsel for the Respondent has contended that the RERA registration certificate issued by this Authority for the concerned project remains valid until 17.03.2025.

26. In this regard, it is pertinent to refer to the judgment in *Neelkamal Realtors Suburban Pvt. Ltd. & Ors. vs. Union of India & Ors. (Writ Petition No. 2737/2017 and other WPs)*, wherein the Hon'ble Bombay High Court, by its order dated 06.12.2017, held:

"256... The provisions of RERA, however, do not rewrite the clause of completion of handing over possession in the agreement for sale. Section 4(2)(1)(c) enables the promoter to provide a fresh timeline independent of the time period stipulated in the agreements for sale entered into between the promoter and the allottees so that he is not visited with penal consequences laid down under RERA. In other words, by giving the promoter an opportunity to prescribe a fresh timeline under Section 4(2)(1)(c), he is not absolved of the liability under the agreement of sale."

27. Thus, it is evident that promoters cannot use the RERA registration certificate as a shield to evade their obligations to complete construction and deliver possession of units, plots, or villas in accordance with the agreed terms and timelines specified in the agreements executed with the allottees. However, upon reviewing the Agreement of Sale and Sale Deed dated 29.05.2019 between the Respondents and the Complainant, there is no explicit assurance from the Respondent regarding the handover of possession with all amenities.

28. Additionally, as per the details submitted on the RERA website, the Respondents, in its Form B Declaration/Affidavit, committed to completing the project by 15.03.2025, which the Complainant was presumably aware of. Consequently, this Authority holds that the common amenities, including the clubhouse, as assured by the Respondent in its Form B affidavit and reaffirmed in its counter submissions, must be completed by March 2025.

29. The Complainant has sought the following reliefs for Construction of a Sewage Treatment Plant (STP), Provision of adequate security and construction of a compound wall with solar fencing at a reasonable height, and Continued management of the project by the promoter until handover.

30. The Real Estate (Regulation and Development) Act, 2016, under Sections (2)(n), 2(e), and 2(z)(n), categorically mandates that a project must be completed in a habitable and usable condition, ensuring that flats, villas, or other buildings are fit for occupation.

31. This Authority observes that since the Respondent facilitated possession of units to the Complainant and other allottees between 2021 and 2022, the Respondent remains responsible for ensuring the provision of basic amenities and security for the residents.

32. In their counter submissions, the Respondents have provided specific timelines for the completion of pending works within the "TMR Marvel" project. They have assured this Authority that:

- a. The compound wall, which was only partially constructed at the time of the hearing, will be fully completed by December 2024.
- b. Solar fencing will be installed by March 2025, following the completion of the compound wall.
- c. Street lights will be installed by December 2024.
- d. The swimming pool, which is part of the clubhouse, will be constructed and handed over to residents by March 2025.

33. Considering the above observations and the Respondent's submissions providing definitive timelines, this Authority opines that since the project's completion date, as per the Form B affidavit on the RERA website, has not yet lapsed, the immediate enforcement of all proposed amenities cannot be demanded as overdue. However, the Authority acknowledges that certain essential interim measures, particularly those concerning safety and security, must be implemented without delay. Accordingly, this Authority is of the considered opinion that the installation of street lights, the completion of the compound wall, and the construction of the Sewage Treatment Plant (STP) shall be undertaken immediately. Adequate arrangements for water supply and drainage must be rectified forthwith.

34. During the course of the hearing, the Complainant raised concerns regarding the commercial use of Villa 13C, owned by a resident of the project. This issue, however, does not fall within the scope of adjudication in the present matter, as it does not arise from the dispute between the Complainant and the Respondent. In the circumstances, the same cannot be considered.

35. Coming to the Complainants prayed to direct the Respondents to maintain the project until its completion, a reading of Section 11(4)(d) of the RE(R&D) Act, will make clear that the promoter is obligated and responsible for providing and maintaining essential services, on reasonable charges, until the maintenance of the project is taken over by the association of allottees. Since the Respondents have neither completed the project, as submitted by themselves nor an association of allottees has been formed they remain obligated under the provisions of the RE(R&D) Act to maintain the project by collecting reasonable charges from the allottees until handing over of the project. As the Complainant has already occupied the villa, he too is obligated under Section 19(6) of the RE(R&D) Act to pay the necessary maintenance charges.

36. Furthermore, upon examining the records submitted by both parties, this Authority has noted that the Respondent has failed to fulfil a fundamental statutory obligation under Section 3 of the Real Estate (Regulation and Development) Act, 2016. Section 3 explicitly prohibits a promoter from advertising, marketing, booking, selling, or offering for sale any plot, apartment, or building in a real estate project without first obtaining registration from the Authority. From the perusal of the Sale Deed and related documents on record, it is evident that the Respondent commenced collecting payments from the Complainant as early as 05.02.2018 to 06-03-2018, whereas the requisite RERA registration was obtained only on 05.10.2019. This sequence of events establishes a clear violation of Section 3 of the said Act by the Respondents.

37. Further, this Authority notes that the Respondent has failed to comply with its obligation under Section 11(1)(e) of the RE(R&D) Act, which mandates promoters to provide quarterly progress reports on the project's development. The Respondent's failure to submit such reports constitutes a violation of statutory requirements.

38. Based on the foregoing discussion and reasons given therein this Authority is of the considered opinion that the Respondent needs to adhere to the commitments made regarding project completion ensure immediate rectification of safety and essential service deficiencies,

and comply with all statutory obligations under the Real Estate (Regulation and Development) Act, 2016.

H. Directions/Orders of the Authority:

39. In the result in the light of the above observations, the Authority gives the following directions/orders:

- a. The installation of street lights, the completion of the compound wall, and the construction of the Sewage Treatment Plant (STP) shall be undertaken immediately. Adequate arrangements for water supply and drainage must be rectified forthwith.
- b. Both Respondents shall ensure that the entire project, including all common amenities, is completed within the timelines submitted before this Authority and before the RERA registration expires in March 2025.
- c. The Respondents are hereby directed to immediately comply with Section 11(1)(e) of the RE(R&D) Act by submitting quarterly progress reports on the RERA website. Compliance with this statutory requirement shall be strictly enforced hereafter

40. Considering the clear contravention of Sections 11(1)(e) and section 3 of the RE(R&D) 2016, this Authority, exercising its powers under Section 59 & 61 of the said Act, imposes a penalty of Rs.19,80,054/- (Nineteen Lakhs eighty thousand and fifty four rupees) on both Respondents. The amount is payable in favour of TGRERA FUND through a Demand Draft or online payment to A/c No. 50100595798191, HDFC Bank, IFSC Code: HDFC0007036, within 45 days of receipt of this order by the Respondent/Promoter.

41. Failure to comply with this order shall attract Section 63 of the RE(R&D) Act.

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

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

**Sd-
Sri. Laxmi NaryanaJannu,
Hon'ble Member
TG RERA**

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