

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

COMPLAINT NO.1077 OF 2023

27th 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

Sri G. V. V. S. Prasad

...Complainant

Versus

1. M/s Bhuvanteza Infra Projects
Through Ch. Subramanyam, Managing Director

2. M/s Alpine Infratech
Through Sri Srinivas Reddy, Managing Director

...Respondents

The present matter filed by the Complainant herein came up for hearing on 01.11.2023, 09.11.2023 & 16.11.2023 before this Authority in the presence of the Complainant in person, and Authorized Representative of Respondent No.2 Company and none for Respondent No.1, 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 case:

3. The Complainant submitted that he paid total amount of Rs. 34,99,200/- to the Respondent No.1 Company towards purchase of Flat in GMR Spring Fields situated at Survey No. 82, 86, at Turkapally, Alwal, Medchal-Malkajgiri, 500014 and registered with this Authority vide Regn. No. P02200002172. He also entered into Agreement of Sale dated 30.12.2020 with the Respondent No.1 Company for the said sale.

4. He submitted that even after payment of total consideration for the flat along with registration charges, the Respondent No.1 Company is not registering the Flat as per the Agreement of Sale dated 30.12.2020. He provided receipts of the payment made to Respondent No.1 Company annexed with the present complaint. Accordingly, he requested this Authority to take appropriate action against the Respondents and direct them to register the flat in the name of the Complainant.

Reply by the Respondent No.2:

5. Per contra, vide Reply dated 16.11.2023, the Respondent No.2 submitted that the Respondent No.2 being the owner and possessor of land admeasuring Ac 4-00 gts in Sy Nos 82 & 86 and being entrusted with an extent of Ac 1-38 gts therein situated at Turkapally Village under GHMC Alwal Circle, Alwal Mandal, Medchal-Malkajgiri District having obtained required permissions from the GHMC Alwal Circle for construction of multi storied residential Flats in the name and style "GMR SPRINGFIELD" and after allocation of saleable areas/flats therein, offered the Flats falling to its share for sale to the prospective purchasers.

6. He submitted that Respondent No.1 represented by Sri Chekka Bhagyalaxmi W/o. Chekka Venkata Subrahmanyam approached Respondent No.2 and requested

to purchase 91 Flats from M/s. Alpine Infratech for the purpose of resale of the same in "GMR SPRINGFIELD"s Block A and Block B. Respondent No.2 accepted the proposal and both mutually agreed upon the terms and conditions of such unique transaction for sale of 91 (Ninety-one) Flats and entered into a Memorandum of Understanding dated 31.10.2020. He annexed the said Memorandum of Understanding along with the Reply.

7. Pursuant to the same, Respondents have successfully completed the transaction in respect of 58 (Fifty eight) Flats in "GMR SPRINGFIELD"s Block-A and Block-B total admeasuring 64428 and accordingly M/s. Bhuvateja infra Projects Pvt Ltd. directly transferred the said 58 Flats in Block-A and Block-B in favour of the nominees of the M/s. Bhuvateja infra Projects Pvt Ltd in terms of Memorandum of understanding dated 31.10.2020. 19 (Nineteen) Flats in Block-A and Block-B total admeasuring 21896 Sqft in respect of which M/s. Bhuvanteja Infra Projects Pvt Ltd has nominated its nominees are under process. Said 77 Flats in Bloc-A and Block-B (58 already sold and 19 under process) are sold Flats.

8. He submitted that in view of the drastic changes in the real estate market conditions in and around the twin cities of Hyderabad and Secunderabad more particularly in which the project is located, M/s. Alpine Infratech and M/s. Bhuvanteja Infra Projects Pvt Ltd have mutually cancelled the Memorandum of understanding dated 30.10.2020 on 28.10.2022. He annexed the cancellation MOU along with the Reply.

9. He submitted that in the said cancellation of memorandum of understanding, M/s. Bhuvanteja Infra Projects Pvt Ltd shall not be entitled to any claim or privilege, privity of contract, right or interest over any of the Flats in Block-A and Block-B.

Further, the present complaint is raised with regard to the Flat No.301 in Block - D in 3rd Floor, to which it is submitted that the Second Party has not entered into any kind contract for sale or marketing with anyone especially with Respondent No.1 and it does not reflect either in the memorandum of understanding dated 30.10.2020 or in the cancellation of the said memorandum of understanding dated 28.10.2022 or in any other transaction in between them. The Flat No.301 in Block-D in 3rd Floor which is offered to sell to the Complainant herein is without any title for the same. The Respondent No.2 herein is not responsible for the same. The Complainant herein had falsely added Respondent No.2 as a party to the above complaint. As such the same is liable to be dismissed against Respondent No.2.

10. Accordingly, he prayed to dismiss the present complaint.

Observations and Directions of the Authority:

11. Respondent No.1 was served with a notice for hearing and to file a counter but failed to file a Reply and enter appearance before this Authority. Hence, he was set *ex-parte* vide Order dated 09.11.2023. As per facts and circumstances of the cases, it is evident that Respondent No.1 is in the capacity of an agent, as defined under Section 2(zm) which includes *any person who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called.*

12. Therefore, as an agent, the Respondent No.1 had a liability to register itself as an agent as provided under Section 9 of the Act, 2016. Further, the Respondent No.1 also had an obligation under Section 10 (c) which provides as under:

(c) not involve himself in any unfair trade practices, namely:—

(i) the practice of making any statement, whether orally or in writing or by visible representation which—

(A) falsely represents that the services are of a particular standard or grade;

(B) represents that the promoter or himself has approval or affiliation which such promoter or himself does not have;

(C) makes a false or misleading representation concerning the services;

(ii) permitting the publication of any advertisement whether in any newspaper or otherwise of services that are not intended to be offered

13. Therefore, for violation of Section 9 & 10 (c)(i)(B), (C) and 10(c)(ii) of the Act, this Authority imposes a penalty under Section 62 of the Act, 2016 being 5% of the cost of the flat of Rs. 1,74,960/- (One Lakh Seventy-Four Thousand Nine Hundred and Sixty Only) on the Respondent No.1 payable within 30 days in favour of TS RERA FUNDS through Demand Draft or online payment to A/c No.50100595798191, HDFC Bank, IFSC Code: HDFC0007036.

14. The Respondent No.1 is also directed to refund the entire amount of Rs. 34,99,200/- (Rupees Thirty-Four Lakhs Ninety-Nine Thousand and Two Hundred Only) along with interest at the rate of 10.65% as per Rules, 2017 from the date of the Agreement of Sale i.e., from 30.12.2020 till payment is made, failing which appropriate action under Section 63 will be initiated against the Respondent No.1.

15. Accordingly, present complaint is disposed of.

16. 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) in accordance with Section 44 of the Act, 2016.

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

