

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

**COMPLAINT NO.1504 OF 2023**

**4<sup>th</sup> Day of November 2024**

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

1. Ms. Velagala Navya Radhika
  2. Sri Shaik Javed Hussain
  3. Sri M. Venkateswara
  4. Ms. Sneha Gandhi
  5. Sri Tumuluri Sai Anirudh
  6. Sri Attaluri Siva
- ...Complainants

Versus

1. Sri Mohd. Yaseen
  2. Sri Mahammed Abdul Aleem
  3. Sri Mahammed Jaweed
  4. Sri Mohd. Abdul Khaleel
  5. Sri Syed Arfat
- ...Respondents

The present matter filed by the Complainant herein came up for hearing on 22.11.2023, 02.01.2024, 30.01.2024, 27.02.2024, 27.03.2024, 16.04.2024, 30.04.2024, 11.06.2024, 25.06.2024 and 25.07.2024 before this Authority in the presence of Counsel for Complainants, Sri D. Krishna Murthy & Sri M. Chandra Shekar along with Counsel for Respondent Nos.1 & 2, Sri Mohd. Zakir Hussain, Counsel for Respondent No.3, Sri B. G. Rajeshwar, and Respondent Nos.4 & 5 in person, and after hearing the arguments, this Authority passes the following

**ORDER:**

2. The present Complaint has been filed by the Complainants under Section 31 of the Real Estate (Regulation & Development) Act, 2016 read with Rule (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”) seeking appropriate relief(s) against the Respondents.

**Brief facts on behalf of the Complainants:**

3. The Complainants submitted that they booked their respective flats in JAZ Hillside Constructions, Narsingi Heights, Ranga Reddy District and entered into respective Agreement of Sales with three business partners and two landowners who are the Respondents herein. That the complex is built on Sy Nos.314 & 315, 300, 301, 303, 306 to 313 on Plot No. 434 & 435 admeasuring 767 sq yds (640.474 Square Meters).

4. It was submitted that as per Agreement of Sale, Respondents agreed to handover the property within 4 months from the date of receiving the advance payment and register the property as per Sale Agreement. That despite several reminders, the Respondents are not honoring the Agreement and handing over the Flats to the Complainants nor is agreeing to give refund.

5. Therefore, the Complainants prayed as under:

Complainant	Flat No.	Prayer
Ms. Velagala Navya Radhika	302	<ul style="list-style-type: none"> <li>Registration of Flat</li> <li>Refund of Rs.1,65,000 (cancellation of bank loan) + Rs.2,28,500 (registration &amp; stamp duty paid) – total Rs.3,93,550/-</li> </ul>
Sri Shaik Javed Hussain	401	<ul style="list-style-type: none"> <li>Registration of flat</li> <li>Ready to pay balance amount by obtaining by loan</li> </ul>
Sri M. Venkateswara	501	<ul style="list-style-type: none"> <li>Registration of flat</li> <li>Ready to pay balance amount</li> </ul>
Ms. Sneha Gandhi	301	<ul style="list-style-type: none"> <li>Refund of Rs.12,00,000</li> </ul>
Sri Tumuluri Sai Anirudh	202	<ul style="list-style-type: none"> <li>Refund of Rs.12,00,000</li> </ul>
Sri Attaluri Siva	201	<ul style="list-style-type: none"> <li>Refund of Rs.40,00,000</li> </ul>

**Reply on behalf of Respondent Nos.1, 2 and 3:**

6. Vide Reply dated 22.11.2023, Respondent Nos.1, 2 and 3 submitted that the complex is built on the land admeasuring 760 square yards, situated in Sy.No. 314 of Narsingi Village, Ranga Reddy district. However, the Complainants falsely stated in the complaint that the complex is built on land admeasuring 767 square yards, situated in Sy.Nos. 314, 315, 300, 301, 306 to 313 on Plot No. 434 & 435 of Narsingi Village, Ranga Reddy district.

7. It was submitted that the sale deeds could not be executed due to a civil dispute in which competent court has ordered *status quo*. However, that the building has been completed within the time agreed in the agreement of sale and the complainants have been requested to take possession of the respective flats with immediate effect and registration will be done at a later stage subject to the final outcome of the civil suit vide O.S.No. 1123/2022 on the file of Hon'ble VII Additional District Judge, Ranga Reddy at L.B.Nagar. The Complainants have been informed about the *status quo* order of the court and a copy has been duly handed over to each of the Complainant. Unfortunately, the complainants refused to take possession of the respective flats.

8. It was submitted that all three Respondents i.e., Respondent Nos.1, 2 and 3 have returned from the Gulf with our hard-earned money to make some good investment. At that point of time, the Respondent Nos. 4 and 5 and their relatives lured said Respondent Nos.1, 2 and 3 with attractive returns and requested them to invest in the construction of the apartment at Narsingi. Respondent Nos.4 and 5 have shown Respondent Nos.1, 2 and 3 the documents related to building permission and made them to trust completely following which Respondent Nos.1, 2 and 3 went on investing money. Hence, Respondent Nos.1, 2 and 3 are unaware about the

approval to be taken from RERA since Respondent Nos.4 and 5 assured that they will undertake procuring of all the mandatory approvals. It was submitted that Respondent Nos.4 and 5 have played fraud with Respondent Nos.1, 2 and 3 and swindled their hard-earned money leaving all three of them in deep financial crisis.

**Reply on behalf of Respondent Nos.4 and 5:**

9. Respondent Nos.4 and 5 filed a joint counter affidavit and submitted that the complaint is not maintainable against Respondent Nos.4 & 5 as there is not privity of contract between the Complainant Nos. 1, 2, 4 & 5 and the said Respondents. These Respondents never received any amounts from the Complainant Nos.1, 2 & 4 to 5 at any point of time and these respondents never executed any documents in favor of the complainant Nos. 1, 2, 4 & 5. That except signing the agreement by these Respondents along with Respondent Nos.1 to 3 in favour of M.Venkatesh, **these respondents never received any amounts from Complainants.** Further these Respondents received the amount of Rs.5,00,000/- only from the complainant No.3 (Javed Hussain) and the remaining amounts mentioned in the agreement of complainant No.3 received by the Respondent Nos.1 to 3. Further these respondents are not the builders and they are only the land owners and therefore the provisions of the Act, 2016 are not applicable against these Respondents.

10. It was submitted that the Respondent Nos.4 & 5 are the absolute owners and possessors of the open plot in Sy No.314 admeasuring 760 Sq yards of Narsinghi Village, Gandipet Mandal, Ranga Reddy District. After acquiring the said property, the said Respondents entered into registered development agreement dt.30.06.2021 bearing Doc No.8747/2021 with Respondent Nos. 1 to 3 to construct a residential building consisting of one stilt + five upper floors after obtaining the necessary permission from your authorities without any deviations. The Municipal Authorities

sanctioned permission to construct the building vide permit No.3129/W1/2021/0096 dt.22.06.2021, accordingly the Respondent Nos.1 to 3 constructed the building strictly as per the sanction plan, also obtained electricity connection and paying the electricity charges to the concerned department.

11. It was submitted that after obtaining permission from Municipal authorities, when the construction is going on, M/s Agri Gold Multimedia instigated the police and other Government officials and when they tried to stop the construction. Writ Petition No.30210/2021 was filed before the Hon'ble High Court against the police including CID, Revenue authorities and Municipal authorities. The Hon'ble High Court by order dt.24.11.2021 granted interim direction to Superintendent of Police, CID not to interfere with the property in respect of the open land admeasuring 760 sq yards in Sy No.314 of Narsingi Village and the said orders are still in subsistence. After obtaining the said orders, M/S Agri Gold Multimedia represented by its Managing Director A.Sita Rama Rao approached the Respondent Nos.4 & 5 and admitted the title and possession over the property and he further requested the Respondents herein to pay the amount of Rs. 1,11,38,500/- (Rupees One Crore Eleven Lakhs Thirty-Eight Thousand Five Hundred Only) to them. Said Respondents agreed to pay the said amount to M/s Agri Gold Multimedia and accordingly they paid the amount of Rs.1, 11, 38,500/- (Rupees One Crore Eleven Lakhs Thirty-Eight Thousand Five Hundred Only) to M/S Agri Gold Multimedia. M/S Agri Gold Multimedia also handed over all the original documents including all the link documents to the Respondent. Further M/S Agri Gold Multimedia also gave no objection in favour of Respondents herein stating that they have no objection in respect of the above-said property.

12. It was submitted that M/s Agri Gold Multimedia having executed the NOC in favour of these Respondents, by suppressing the said fact M/s Agri Gold Multimedia filed suit in OS.No. 1123/2022 on the file of Hon'ble VIII Addl District Judge, Ranga Reddy District, L.B.Nagar for declaration of title and recovery of possession. Further M/s Agri Gold Multimedia filed application Nos.398/2022 & 399/2022 for grant of temporary injunction restraining the Respondents and other parties from alienating and changing the nature of the subject property. The Hon'ble court was pleased to grant ex-parte status quo orders.

13. That the Respondents also filed separate applications to vacate the interim orders and the said applications are also pending for consideration. In view of the orders passed by the Hon'ble VIII Addl District Judge, the Respondent Nos.4 & 5 are not in a position to execute the register sale deeds in favour of the purchasers of the apartment i.e., Complainants herein.

14. It was submitted that the Respondent Nos.4 & 5 are willing to execute registered documents in favour of the Complainants herein. He accordingly prayed to dismiss the present complaint.

**Observations and directions of the Authority:**

15. The matter was called for hearing, wherein the Complainants appeared and reiterated the contents of the Complaint. The Respondents, though filed their counter affidavits, failed to appear. This Authority has taken into consideration the respective contentions of the parties and the documents filed by them which form part of the record.

16. The Complainant's main contention is that they paid certain amounts to the Respondents in return of which the Respondents executed an Agreement of Sale in favour of each Complainant. Despite several reminders, the Respondents failed to register the respective flats in favour of each Complainant.

17. The Respondents Nos. 1, 2, and 3, on the other hand, contended that the execution of the sale deeds has been hindered due to an ongoing civil dispute, wherein the competent court has passed an order for maintaining the status quo. The complainants have been duly notified and requested to take possession of their respective flats immediately, with the assurance that the registration of the properties will be carried out upon the resolution of the civil suit, being O.S.No. 1123/2022, currently pending before the Hon'ble VII Additional District Judge, Ranga Reddy at L.B. Nagar. It is not clear to this Authority, how the Respondent Nos.1, 2 and 3 offered possession of flats which have not been registered in favour of the Complainants which is in contravention of the procedure enumerated under the Act, 2016 more specifically under Section 11(4). When the Act clearly provides for first entering into Agreement of Sale and then executing conveyance deed, thereafter handover possession of the respective flat, the said procedure has to be followed in stricto sensu. Merely submitting that they offered possession to the Complainants does not absolve them of their statutory responsibilities under the provisions of the Act, 2016.

18. Respondent Nos.4 and 5, submit that there is no privity of contract between the Complainant Nos. 1, 2, 4 & 5 and the said Respondents as no amounts paid by the Complainants were received by Respondent Nos.4 and 5. Further these Respondents are not the builders and they are only the landowners and therefore the provisions of the Act, 2016 are not applicable against these Respondents.

19. It was submitted that after obtaining necessary permissions from municipal authorities for construction, M/s Agri Gold Multimedia interfered in the peaceful possession of their land. Consequently, Writ Petition No. 30210/2021 was filed before the Hon'ble High Court against police, CID, revenue, and municipal authorities. The High Court, by order dated 24.11.2021, granted an interim direction to the Superintendent of Police, CID, not to interfere with the property in favour of the Respondent Nos.4 and 5, and this order remains in force. Thereafter, M/s Agri Gold Multimedia, represented by Managing Director A. Sita Rama Rao, acknowledged the Respondents' title and possession of the property and requested a payment of Rs. 1,11,38,500/-, which was duly paid. In return, M/s Agri Gold Multimedia handed over all original and link documents, issuing a No Objection Certificate (NOC) in favor of the Respondents. However, this Authority observes that no document of any such settlement was filed on behalf of the Respondent Nos.4 & 5 in support of this contention which cannot be taken into account.

20. It was also submitted by that despite the NOC, M/s Agri Gold Multimedia later filed O.S. No. 1123/2022 before the Ld. VIII Additional District Judge, Ranga Reddy, seeking a declaration of title and recovery of possession, along with applications for a temporary injunction. *Ex-parte status quo* orders were granted by the court, and the Respondents' applications to vacate the interim orders are still pending and in view of the same, Respondent Nos. 4 and 5 are currently unable to execute the sale deeds in favor of the Complainants.

21. In view of the *status quo* order of the Ld. VIII Additional District Judge, Ranga Reddy in O.S. No. 1123/2022 filed by M/s Agri Gold Multimedia, which is part of the record, the sale deeds cannot be registered in favour of the Complainants. As per submission of the Respondent Nos.4 and 5, they have taken steps for vacating the

said status quo order, however the same is subject to adjudication before the VIII Additional District Judge, Ranga Reddy. However, in such a situation, the Complainants who are bonafide allottees in the project, cannot be left in lurch until the adjudication of the O.S. No. 1123/2022. Therefore, this Authority is of the considered opinion that the Complainants have a right of seeking refund in accordance with Section 18 of the Act, 2016 which provides as under:

*“18. (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.*

*(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this sub section shall not be barred by limitation provided under any law for the time being in force.*

*(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.”*

22. The Hon’ble High Court of Judicature at Bombay observed on similar lines in *Sanvo Resorts Pvt. Ltd. and Others vs. Shital Nilesh Deshmukh and Another*, 2023 SCC OnLine Bom 1850 which is reproduced hereunder:

*“21. In this context, the Supreme Court in the case of *Newtech Promoters and Developers Pvt. Ltd. (supra)* in paragraphs 22 and 25 has expressly observed that the allottee has an unqualified right to claim interest under Section 18(1) of the RERA Act if the promoter fails to discharge his obligation in accordance with the terms and conditions of the agreement. This unqualified right is not dependent on any contingencies or stipulations and therefore the legislature has consciously provided this right of refund as an unconditional absolute right to the allottee if the promoter fails to give possession within the stipulated time regardless of unforeseen events or stay order of the Court which is in either way not attributable to the allottee.” (emphasis supplied)*

23. This Authority has also taken note of the Order passed by the Hon’ble High Court of Bombay in *Wadhwa Group Housing Pvt. Ltd. vs. Vijay Choksi & Anr. (Second Appeal No.21842/2023)*, in which, it is categorically held as under:

*“17. ....Thus, definition of the term “Promoter” under Section 2(zk) of RERA is wide enough to include every person who is associated with construction of the building such as builder, coloniser, contractor, developer, estate developer or by any other name or even the one who claims to be acting as the holder of a power of attorney from the owner of the land. One of the principal objectives of RERA*

is to bring transparency in real estate sector and to protect the interests of the consumers in the real estate project. The term 'Promoter' has been so widely defined that it virtually includes every person associated with construction of the building. Thus, even a person who is merely an investor in the project alongwith the Promoter and who is entitled to benefit in the real estate project is also covered by definition of the term 'Promoter'. In the present case, I need not delve deeper into the enquiry as to whether Appellant is covered by the expression 'Promoter' or not. While registering the project as ongoing project under Section 3 of the RERA, Appellant's name has been included in the list of Promoters. Therefore, Appellant cannot run away from the 16 of 24 fact that it is the promoter in respect of the project 'The Nest'. Explanation to Section 2(zk) makes all persons who construct or convert building into apartments or develop a plot for sale, as well as a person who sells apartments or plots to be promoters making them jointly liable as such for the functions and responsibilities specified under the Act, or the Rules and Regulations made thereunder. Thus, a person who does not actually construct or causes to be constructed a building but merely takes part in the joint venture and sells flats, becomes a Promoter. Appellant admits that it is entitled to a share in the joint venture in the constructed area, which it is entitled to sell. Thus, the Appellant is entitled to sell flats in the project and accept consideration for such sale. There is therefore no doubt to the position that, both Appellant as well as the second Respondent are Promoters and are and Regulations made thereunder. jointly liable in respect of the responsibilities under the RERA and Rules.

18. In my view therefore, mere falling of flat in the share of the second Respondent under the Joint Development Agreement, would not excuse the Appellant from the responsibilities and liabilities under the RERA, Rules and

*Regulations made thereunder qua that flat. RERA does not demarcate or restrict liabilities of different promoters in different areas. The liability is joint for all purposes under the Act, Rules and Regulations.*

...

*23. Thus, under Section 18(1)(b), the liability to return the amount received from the flat purchaser is on the Promoter. Since the Appellant is covered by definition of the term 'Promoter', it is also jointly liable to refund the amount along with the other promoter, being the second 17 of 24 Respondent. Section 18 cannot be narrowly interpreted as sought to be suggested by Mr. Engineer, to include only that promoter who actually received the amount. The objective behind enactment of RERA must be borne in mind. If such narrow interpretation of Section 18 is accepted, it would give a license to developers to deliberately accept payments in the accounts of one of the promoters and then escape the liability to refund or to pay interest by taking a specious plea that the other promoters are not liable in respect of those payments. Mr. Engineer has sought to draw distinction between projects launched before and after coming into force of RERA by submitting that now the monies must be received in the registered account, which was not the case before registration under RERA. To my mind, this distinction sought to be made cannot be a ruse to escape the liabilities as promoter under RERA. The Act applies even to ongoing projects and therefore the account in which monies are received by promoters is irrelevant for the purpose of determining joint liability of promoters under Section 18.*

*24. The Appellant's contention about absence of privity of contract between it and the Complainant is totally misplaced. Definition of the term 'promoter' under Section 2(zk) of the RERA would indicate that even persons/entities with whom a flat purchaser does not enter into contract are also covered by definition of the term 'promoter'. Therefore, it is not necessary that there has to be an agreement*

*between every Promoter and the flat purchaser. As observed above, it is a matter of indoor management between the Promoters and the flat purchaser who is not supposed to know the intricacies of the arrangements made between several promoters amongst themselves. When a claim is raised in respect 18 of 24 of a real estate project by a flat purchaser, all promoters become jointly liable qua that flat purchasers, irrespective of whether there is privity of contract with each of the promoter or not. This is the scheme of RERA and mere absence of privity of contract with a particular promoter does not relieve such promoter in respect of the liabilities under RERA. 25. I am therefore of the view that Appellant cannot escape the liability to refund the amount received towards sale of flat to Respondent No. 1.”*

24. A careful perusal of the said judgments of the Hon'ble High Court of Bombay, make it abundantly clear that landowners i.e., Respondent Nos.4 and 5 herein are also equally responsible towards its functions under the Act, 2016.

25. This Authority issued a Show Cause Notice to the Respondents for entering into Agreements of Sale with the Complainants before registering the project with the Authority. To which, the Respondent Nos.1, 2 and 3 submitted that they are unaware about the approval to be taken from RERA since Respondent Nos.4 and 5 assured that they will undertake procuring of all the mandatory approvals and that Respondent Nos.4 and 5 have played fraud with these Respondents by swindling their hard-earned money. However, no such understanding or agreement between the parties has been filed herewith to establish that only Respondent Nos.4 and 5 were mandated to take necessary approvals.

26. Further, Respondent Nos.4 and 5 submit that they are not the builders and they are only the land owners and therefore the provisions of the Act, 2016 are not applicable against them. In this regard, Section 2(zk) of the Act, 2016 defines promoter as under:

*“(zk) "promoter" means,—*

*(i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or*

*(ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or*

*... (v) 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; or*

*(vi) such other person who constructs any building or apartment for sale to the general public.*

*Explanation.—For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder.”*

27. A simple reading of the above-quoted definition would mean to include any person who *causes to construct* such apartments for the purpose of sale and therefore, Respondent Nos.4 and 5 being the landowners who offered their very land for construction and subsequent sale of apartments are promoters under the Act, 2016. Therefore, both Respondent Nos.1, 2 and 3 and Respondent Nos.4 and 5 are jointly severally liable under the provisions of the Act, 2016 for registering the Project under Sections 3 and 4 without which they could not have jointly executed agreements in favour of the Complainants. This attracts penalty under Sections 59 and 60 of the Act, 2016.

28. Therefore, in view of the above discussion, this Authority vide its powers under Sections 37 and 38 of the Act, 2016 issues the following directions:

- i. In accordance with the discussion at Para Nos.25, 26 and 27 above, the Respondents are jointly and severally liable for penalty under Sections 59 and 60 for violation of Sections 3 and 4 respectively. Penalty of Rs. 3,84,742/- (Rupees Three Lakh Eighty-Four Thousand Seven Hundred and Forty-Two Only) is imposed on the Respondents herein payable within 30 days in favour of TG RERA FUNDS through Demand Draft or online payment to A/c No.50100595798191, HDFC Bank, IFSC Code: HDFC0007036; and
- ii. Respondents are hereby directed to submit an application for registration of the project in accordance with Section 4 and the Rules thereunder with immediate effect; and
- iii. In accordance with the discussion at Para Nos.15 to 24, this Authority directs the Respondents herein to refund the amounts paid by the Complainants along with interest at the rate of 10.85% in accordance with Rule 15 of the Rules, 2017.

29. Upon failure of Respondents to comply with the above directions, appropriate action shall be initiated under Section 63 of the Act, 2016.

**Sd/-**  
**Sri K. Srinivasa 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**

