

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

I.A. No.15/2024

in

COMPLAINT NO.15 OF 2024

4<sup>th</sup> Day of May 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. M/s NCC Limited  
2. M/s RNR Limited ...Complainants

Versus

1. M/s Mantri Developers Pvt. Ltd.  
2. M/s Jubilee Hills Landmark Pvt. Ltd.  
3. Indian Bank ...Respondents

The present Interim Application filed by the Complainant herein came up for hearing on 01.05.2024, 02.05.2024, 04.05.2024 before this Authority in the presence of Counsel for Complainants, Sri Siva Acharya, and Counsel for Respondent Nos.1 and 2, Sri Anand Subramaniam and Ms. M. Geeta and upon hearing the arguments, this Authority passes the following **INTERIM ORDER:**

2. The present Application has been filed by the Complainants seeking “to direct the proposed Respondent No. 3 Bank to deposit the entire proceeds received after auctioning the mortgaged Project Property before this Hon'ble Authority or in an Escrow account created for the purpose of depositing the amounts”.

**Facts on behalf of the Complainants:**

3. Complainants filed the present complaint seeking reliefs under Section 7 and 8 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act, 2016") read with Telangana State Real Estate (Regulation & Development) Rules, 2017 (hereinafter referred to as the "Rules, 2017") thereof.

4. During the course of hearing on 01.05.2024, the Counsel for Complainants and Counsel for the Respondent Nos.1 & 2 entered appearance, and the Complainants preferred the above-mentioned Applications seeking the relief therein. The Complainants submitted that Respondent No. 1 has availed a loan of Rs. 112,00,00,000/- (Rupees One Hundred and Twelve Crores Only) from Allahabad Bank which is now Indian Bank i.e., Respondent No. 3, vide Term Loan Agreement dated 19.09.2016 ("Principal Loan Amount"). The said loan was availed on security of Equitable Mortgage of the "**Mantri - A**" Project property situated at Shaikpet Village and Mandal, Jubilee Hills Area, Hyderabad. ("Project Property") to the extent of Respondent No.1's share of 50% undivided interest in the land and 4,19,999 Sq.ft of super-built-up area, supported by General Power of Attorney ("GPA") given by Respondent No. 2 and the Joint Development Agreement.

5. That the Respondent No. 1 had defaulted on the Principal Loan Amount availed from the proposed Respondent No. 3 Bank and pursuant to the same, Respondent No. 3 Bank is taking steps under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, ("SARFAESI Act").

6. Meanwhile, it came to the notice of the Complainants that the Respondent No. 3 Bank has issued an auction sale notice for sale of the mortgaged Project Property

wherein the auction is scheduled to be conducted on 06.05.2024 for recovery of Rs. 212,11,26,824.28/- (Rupees Two Hundred Twelve Crores Eleven Lakh Twenty-Six Thousand Eight Hundred Twenty-Four and paisa Twenty-Eight Only) as on 31.03.2024 with further interest, charges, and expenses due to the proposed Respondent No. 3 Bank with a reserve price of Rs. 272,50,00,000/- (Rupees Two Hundred Seventy-Two Crores Fifty Lakhs Only).

7. That Respondent No.3 Bank is unjustly proceeding to auction the mortgaged Project Property for amounts higher than the Principal Loan Amount (plus interest accrued thereon) availed by Respondent No. 1 by jeopardizing the interests of the allottees (home buyers). That banks are considered as promoters for the purposes of the Act, 2016 and that the moment a bank takes recourse to any of the measures under SARFAESI Act, it triggers statutory assignment of right of the borrower in the secured creditor.

8. That the Respondent No. 3 Bank does not in any manner whatsoever have the right to curtail and infringe the rights of the allottees (home buyers) including the Complainants herein who have paid substantial amounts for their flats. Furthermore, the Respondent No.3 Bank cannot unjustly enrich itself by auctioning the Project Property for amounts higher to its entitlement. In the event the auction process is continued to take place and the proposed Respondent No.3 Bank receives amounts as mentioned in the sale notice, there is every scope and likelihood that the proposed Respondent No.3 Bank would misappropriate the proceeds of auction process.

9. Therefore, he prayed to make Respondent No.3, a party to the proceedings. Accordingly, Application for Impleadment bearing I.A. No.14/2024 was allowed vide

Order dated 02.05.2024. The matter was accordingly adjourned to 04.05.2024 to hear arguments on the I.A. No.15/2024 duly directing the Respondents to file their counters.

10. The matter was called on 04.05.2024, wherein the Counsel for Complainants and Counsel for Respondent Nos.1 & 2 were present. The Respondent No.3 Bank failed to appear despite service of notice. Therefore, Respondent No.3 is set *ex-parte*.

11. The Complainants reiterated the contentions raised in the I.A.No.15/2024 and submitted that unless the interests of the allottees are protected by allowing the present application and passing an order directing the proposed Respondent No. 3 Bank to deposit the entire proceeds of auction process, the Complainants and the other allottees will suffer irreparable harm and injury.

12. The Complainants also submitted that the Hon'ble High Court of Telangana in W.P. No.41976/2022 vide Order dated 22.02.2023 directed this Authority to consider the complaint lodged by the petitioners on 14.11.2022 by giving due opportunity to all the parties and decide the matter as expeditiously as possible and till a decision was made by this Authority, further the Respondent No.3 Bank herein was categorically directed not to proceed with the auction of the Project Property.

13. The Complainants further stated that in light of the said observations by the Hon'ble High Court, this Authority, vide considering the Complaint of the petitioners in W.P. No.41976/2022 vide Complaint No.678/2022/TSRERA, also directed the Respondent No.3 Bank not to conduct auction of the Project Property as per Memorandum of Deposit of Title-deeds, dt.28.09.2016 (Document No.5078/2016) over and above ground + 7 floors where permission has been obtained subsequently.

14. In light of the above-made submissions, it was prayed that Respondent No.3 Bank in the event of auction being conducted on 06.05.2024 and a successful bidder has been declared, then the entire proceeds of the auction may be directed to be deposited in a designated bank account/escrow account and not to utilize the same until the disposal of the matter.

15. Respondent Nos.1 & 2 orally submitted that they have no objection to the reliefs prayed for the Complaint in this regard.

**Interim Directions:**

16. This Authority has perused the material on record and the contentions raised by the parties thereto. The Respondent No.3 Bank has indeed had availed loan of an amount of Rs. 112,00,00,000/- (Rupees One Hundred and Twelve Crores Only) vide Term Loan Agreement dated 19.09.2016 with the Respondent No.1 to the extent of his share of 50% undivided interest in the land and 4,19,999 Sq.ft of super-built-up area, supported by General Power of Attorney ("GPA") given by Respondent No. 2 and the Joint Development Agreement. The Complainants submission that the Respondent No.3 Bank is proceeding to auction the mortgaged Project Property for amounts higher than the Principal Loan Amount (plus interest accrued thereon) in view of the subsequent changes to the Building Permission by increasing number of floors and also increase in the square feet of area thereby, to the detriment of the allottees (home buyers) remains un-rebutted. In view of the same, the Authority, is of the opinion that there is force in the argument of the Complainants and no harm or adverse interest will be accrued to Respondent No.3 should the reliefs as prayed for be granted in favour of the Complainants.

17. Therefore, in the peculiar facts and circumstances of the present case, in order to protect the interests and rights of the allottees, while exercising its powers under Section 36 and 37 of the Act, 2016, this Authority directs the Respondent No.3 as under:

- a. To create a designated bank account for the purpose of depositing the entire auction proceeds and submit compliance of the same to the Authority before next date of hearing; and
- b. In the event of conducting auction on 06.05.2024 and declaration of a successful bidder thereof, the Respondent No.3 shall deposit the entire proceeds of the auction in the above-mentioned designated bank account and the same shall not be utilised for any purpose until the final disposal of the present complaint.

18. Accordingly, in view of the above directions, I.A. No.15/2024 is allowed.

**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**