

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

I.A. No.14/2024
in
COMPLAINT NO.15 OF 2024

2nd 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 and 02.05.2024 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 implead the Indian Bank as Respondent No. 3”

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 Application 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. It was submitted 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. It was further submitted 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. 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.

Interim Directions:

10. Accordingly, notice was issued upon the Respondent No.3, i.e., the Indian Bank and proof of service was duly filed by the Counsel for Complainants. The matter was adjourned to 02.05.2024 upon request from the Counsel for Complainants for hearing the bank in view of the urgency that auction was being conducted on 06.05.2024.

11. Matter was called on 02.05.2024, wherein the Counsels for Complainants appeared, and Counsels for the Respondent Nos.1 & 2 appeared. Counsel, Sri Aditya for Respondent No.3 appeared and submitted a Memo seeking time to enter appearance and file reply to the I.A. No.14/2024. In view of the urgency in the matter that auction was being conducted on 06.05.2024, the Complainants requested to allow the said Application and that no prejudice will be caused to the Respondent No.3 Bank, if the said Application is allowed.

12. The Counsel for Respondent Nos.1 and 2 orally submitted that they have no objection to the Impleadment Application being allowed.

12. This Authority has perused the material on record and the contentions raised by the parties. This Authority is of the view that there is force in the contentions raised by the Complainants. In view of the urgency that auction is being held on 06.05.2024 and in light of the contentions raised by the

Complainants, the Application for Impleadment bearing I.A. No.14/2024 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

