

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

COMPLAINT NO.1325 OF 2023

31st day of May, 2024

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

Sri Kanimahanthi Ram Nikhil
SmtKanimahanthi Sunita Patnaik

...Complainants(s)

Versus

M/s Cybercity Infrastructures Pvt.Ltd. rep MD Sri VenuVedra
Mr. KamashrettySuarabh

...Respondent(s)

The present matter filed by the Complainants herein came up for final hearing on 18.04.2024 before this Authority in the presence of Complainants's authorised representative Vasanth K and K .Kiran Kumar Reddy authorised representative on behalf of the Respondent and upon hearing the arguments of the parties, 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 "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") seeking directions from this Authority to take action against the Respondent.

A. Brief Facts on behalf of the complainants:

3. The complainantss made a provisional booking for flat 2710, Tower 3, in Project Cybercity West Brook on August 14th, 2023.Booking advance

amount paid: Rs. 1,00,000/- Complainantss' interest in the flat has been hindered due to deficiencies in documentation provided by M/S Cybercity Infrastructure Pvt. Ltd., Respondent (a).

4. Mr. Kamshetty Saurabh, Respondent (b), has executed various agreements, mortgages, and gift deeds using names not consistent with the title deeds. Lack of clarification from M/S Cybercity Infrastructure Pvt. Ltd., Respondent (a), regarding the authority under which these transactions were conducted.

5. Difficulty in establishing a clear flow of title from Mr. K. Eshan alias Saurabh to Mr. Kamshetty Saurabh, Respondent (b), due to discrepancies in documentation.

6. Temporary water connection approval obtained, but no approval for permanent water connection after project completion.

7. Temporary electricity connection approval obtained, but no approval for permanent electricity connection after project completion.

8. Application for approval/NOC pending examination and issuance by the committee.

9. Lack of official approval/seal on stormwater pipe plan and sewage treatment plan.

10. Approval for land conversion obtained for part of the project, but clearance for the remaining portion pending, possibly due to its location in the buffer zone.

B. Relief(s) Sought:

11. The complainantss sought for the following reliefs:

- a. Clarification and establishment of the authority behind transactions conducted by Mr. Kamshetty Saurabh, Respondent (b), has executed his liberty to execute such Agreements, Mortgages, gift deeds etc for land title belonging to Mr.K.Eshan alias Saurabh and to reconcile

agreements, mortgages, gift deeds etc wherever required, after the establishment of this Authority to execute such documents.

- b. Establishment of a clear flow of title from Mr. K. Eshan alias Saurabh to Mr. Kamshetty Saurabh, Respondent (b) with legitimate documentation like name change or through a court or through your Hon'ble regulatory authority Order.
- c. To clarify the requirement of approval or NOC from HMWSSB for providing Permanent Water connection to the project Cybercity Westbrook, as approval for only a temporary water connection is obtained.
- d. To clarify the requirement of approval or NOC from Central Power distribution co.ltd or electricity department for providing Permanent Electricity to the project cybercity westbrook, as approval for only a temporary Electricity connection is obtained.
- e. To clarify the requirement of Approval/NOC from the irrigation and Revenue department as it is observed that application for same has been placed before a committee for examining and issue of Approval/NOC. But NOC has not yet obtained.
- f. To clarify the requirement of Approved/Sanctioned Storm Water Pipe Plan, with the Official Seal/ Sign of HMDA or the approving authority, to indicate that the same has been approved, as the Storm Water Plan sent to me is as designed/proposed and submitted to authorities. It does not have the Official Seal/ Sign of HMDA or the approving authority, to indicate that the same has been approved.
- g. To clarify the requirement of Approved/Sanctioned Sewage Treatment Plan, with the Official Seal/ Sign of HMDA or the approving authority, to indicate that the same has been approved. The Sewage Treatment Plan sent to me is as designed/proposed and submitted to authorities. It does not have the Official Seal/ Sign of HMDA or the approving authority, to indicate that the same has been approved.
- h. To clarify the requirement of NALA Clearance from RDO for conversion from Agricultural to Non Agricultural Land, for the remaining 1 Ac-22Gts of the 7Ac-36Gts for the Project.

- i. Approval for Land Conversion to Non Agricultural Land has been obtained for total 6Ac-14Gts. Possibly, since it falls in Buffer Zone, it may not be required.
- j. Praying this Authority to kindly clarify same.
- k. It is also prayed to pass such other order or orders as this Hon'ble Authority deem fit and proper in the interests of justice and fair play, to direct M/S Cybercity Infrastructure Pvt. Ltd. to proceed with our signing the Agreement of Sale for Flat No. 2710, in Tower 3, as per the agreed Application no. 1915, dated 14th August 2023, in the event that we decide to continue with the Application No.1915, or Refund the Full Amount of Rs.1,00,000/- paid as Booking Amount in the event that it is decided to cancel the application due to deficient documentation, as we have already paid the booking advance amount of Rs. 1,00,000/-, (Rupees One Lakh Only), in the Residential Apartments in Project Cybercity WestBrook, T.S. RERA No.P02400003031, that is being built by M/S Cybercity Infrastructure Pvt. Ltd., Respondent (a).

C. Interim Relief Sought:

12. The complainantss sought for the following interim reliefs:
 - a. Clarification on the authority behind transactions by Mr. Kamshetty Saurabh, Respondent (b).
 - b. Establishment of a clear flow of title from Mr. K. Eshan alias Saurabh to Mr. Kamshetty Saurabh, Respondent (b).
 - c. Clarification on necessary approvals for water, electricity, and other infrastructure requirements.

D. Respondent Reply:

13. The Respondent has submitted a detailed reply addressing the concerns raised by the Complainants regarding the title of a piece of land, as

well as various other issues related to approvals and proceedings. The Respondent asserts that all necessary clarifications and documentation have been provided to substantiate the ownership of the land and compliance with regulatory requirements.

14. The land was originally purchased in the name of Master Eshan, who later changed his name to K.Saurabh. However, official documents such as Aadhaar card, PAN card, and Passport have been obtained with the name "Kamshetty Saurabh."

15. The Respondent argues that the mentioning of the nick/pet name alongside the official/registered name does not affect the title of the property. Sworn affidavits and declarations from the parents and the landowner have been provided to clarify this issue.

16. The Respondent provides a point-by-point response to the deficiencies raised by the Complainants:

- I. Concerns regarding the name change and title clarification have been addressed through sworn affidavits and declarations.
- II. The Respondent asserts that no other individual or authority has questioned the land title based on the name issue.
- III. Assurance is given regarding the provision of necessary NOCs and certificates upon completion of the project.
- IV. Approval for stormwater pipeline and sewerage treatment plan is claimed to be included in the approved building permit.
- V. NALA proceedings have been provided for the project land, but no separate proceedings will be provided for FTL/buffer zone.
- VI. The Respondent expresses willingness to cancel the application if the Complainants is not convinced with the explanation provided.

17. The Respondent states that the Complainants's application has been cancelled due to non-payment within the stipulated timeframe.

18. Despite informing the Complainants to provide account details for refund, no response was received.

19. The Respondent argues that the complaint is frivolous and litigative in nature, aimed at tarnishing their image and reputation.

20. The Respondent prays for the dismissal of the complaint, citing the comprehensive response provided to address all concerns raised by the Complainants. They argue that the complaint lacks merit and is an attempt to waste the time of the Hon'ble Authority.

E. Rejoinder

21. The submission of the Title Flow, in the reply filed by the Respondent, M/s Cybercity Infrastructure Private Limited, is convincing and reassuring, but it only reinforces the assumptions and interpretations regarding the Title of the said Landowner, Mr. Kamishetty Saurabh, and his authority to sign and execute various Mortgages, Gift Deeds, Agreements, etc. However, it is important to note that these are only assurances.

22. The filing of the Affidavit-cum-Declaration-cum-Undertaking by his Parents, in the reply filed by the Respondent, further reassures and reinforces these assumptions and interpretations regarding the Title of Mr. Kamishetty Saurabh and his authority to sign and execute various Mortgages, Gift Deeds, Agreements, etc. Yet, it is essential to note that this is only a sworn statement.

23. The Title is in the name of Mr. K. Eshan as per the Title Documents (Page 14 of this Rejoinder) and K. Eshan alias Saurabh as per The Lok Adalat O.S. No. 364 of 2013 and the Award passed in terms of the compromise (pg 66 of 84 of Complaint no. 1325 of 2023).

24. Mr. Kamshetty Saurabh, Respondent (b), Aadhar No. 343311442557, PAN No. ASVPK4801V (pg 34 of Complaint no. 1325 of 2023), has executed various Agreements, Mortgages, Gift Deeds, etc., in the Name of Mr. K.Eshan @ Saurabh, for Land Title belonging to Mr. K. Eshan alias Saurabh, without establishing or reconciling the Title.

25. The submission of the Title Flow as well as the Affidavit-cum-Declaration cum-Undertaking by his Parents, in the reply filed by the Respondent, does not establish the Title of the Landowner Mr. Kamishetty Saurabh nor the Authority of the Landowner Mr. Kamishetty Saurabh to sign and execute various Mortgages, Gift Deeds, Agreements, etc.

26. The submission of the Title Flow as well as the Affidavit -cum-Declaration cum-Undertaking by his Parents, in the reply filed by the Respondent, does not reconcile the various Mortgages, Gift Deeds, Agreements, etc. executed by Landowner Mr. Kamishetty Saurabh.

27. Since there is a Name Change from Master Eshan to K. Saurabh and Kamishetty Saurabh, and he has used multiple other names like K.Eshan @ Saurabh and K. Eshan alias Saurabh, the Name Change can only be established through legitimate documentation of the Name Change by a Competent Authority at the Department of Publication, Government Gazette Office, after following the due procedure as set out by the Competent Authority. The Affidavit-cum-Declaration-cum-Undertaking by his Parents constitutes a very important document in the Name Change Procedure by a Competent Authority, but does not, by itself, establish the Name Change.

28. It is prayed to the Hon'ble Authority to direct the Respondent, Mr. Kamishetty Saurabh, to carry out the Name Change by a Competent Authority at the Department of Publication, Government Gazette Office and establish the name change for the multiple names used and identities. The Title of Mr. Kamishetty Saurabh can then and only then be registered as the Landowner, in the Land and Revenue Records, after getting the Name Change from the Competent Authority.

29. It is prayed to the Hon'ble Authority to direct the Respondent, Mr. Kamishetty Saurabh, to carry out the registration of the Name Change in the Land and Revenue Records. This would establish the Title to said Land through a legally valid document as per Chapter II, Clause 3, Sub Clause 1 (d) of RERA Act. The various Mortgages, Gift Deeds, Agreements, etc.

executed by Landowner Mr. Kamishetty Saurabh can then be Reconciled, due to the Name Change. It is prayed to the Hon'ble Authority to direct the Respondent, Mr. Kamishetty Saurabh, to carry out and reconcile all the various Mortgages, Gift Deeds, Agreements, etc. executed by Landowner Mr. Kamishetty Saurabh, with regard to the Name Change.

30. The explanation and clarification provided by the Respondent, M/s Cybercity Infrastructure Private Limited, Represented by its Authorized Signatory: Mr. K. Kiran Kumar Reddy, on 03rd April 2024, in his reply, states that the "Permanent NOC from HMWSSB for potable water will be provided only after completion of the entire project and upon obtaining the Occupancy Certificate from the concerned authorities".

31. The Building Permit Order, Office of Narsingi Municipality File No. G1/495/2021 Dts 27.04.2021, Pg 2, Point no. 8 states that Public Amenities such as Water Supply, Electricity Connections will be provided only on production of Occupancy Certificate. Hence, this explanation and clarification are found to be satisfactory by us, the Complainantss.

32. The NOC from the Irrigation and Revenue Department is already obtained. However, the Respondent has not submitted this NOC. As per the documents provided to us by the Respondent, it is observed that the application for the same has been placed before a committee for examining and issuing Approval/NOC. But the NOC from the committee has not yet been obtained. It is prayed to the Hon'ble Authority to direct the Respondents to submit/provide the NOC from the Irrigation and Revenue Department.

33. "No separate Approval for the Storm Water Pipeline is provided by the Authorities since the same is shown in the plans and drawings which are submitted to the authorities and which are duly approved also (already provided approved building permit)".

34. The approved drawings (File Number: 040632/ZOA/R1 /U6/ HMDA/19112020, 6 Sheets), that have been provided to us, the Complainantss, have been scrutinized and observed that it does not show

any Storm Water Pipeline. The Storm Water Pipe Plan, (SANCTION DRAWING, SITE PLAN STORM WATER DRAINAGE LAYOUT AND SCHEMATIC DIAGRAM DUAL PIPING SYSTEM, I SHEET, DTD 21.01.2021, pg 76 in Complaint 1325 of 2023), that has been provided to us, the Complainantss, does not have the Official Seal/Sign of HMDA or the approving authority, to indicate that the same has been approved. Also, by naming this drawing "SANCTION DRAWING", it does not become a sanctioned or approved drawing. It requires an attestation of approval with the Official Seal/Sign of HMDA or the approving authority, to indicate that the same has been approved. It is prayed to the Hon'ble Authority to direct the Respondents to submit/provide the approved plans and drawings showing the Storm Water Pipeline.

35. "Sewerage Water Treatment Plan: No separate Approval for the Sewerage Water Treatment Plan is provided by the Authorities since the same is shown in the plans and drawings which are submitted to the authorities and which are duly approved also (already provided approved building permit)".

36. The Approved drawings (File Number: 040632/ZOA/R1/U6/HMDA/19112020, 6 Sheets), that have been provided to us, the Complainantss, have been scrutinized and observed that it does not show any Sewerage Water Treatment Plan. Instead, Point No.21 in the Legend of the Approved drawings (File Number: 040632/ZOA/R1/06/HMDA/19112020, 6 Sheets), states: "To provide Sewerage Treatment Plant for recycling of sewage water for usage of recycled water for gardening etc. As per APPCB". The Sewerage Water Treatment Plan, (SANCTION DRAWING, SITE PLAN STORM WATER DRAINAGE LAYOUT AND SCHEMATIC DIAGRAM DUAL PIPING SYSTEM, I SHEET, DTD 21.01.2021, pg 76 in Complaint 1325 of 2023), that has been provided to us, the Complainantss, does not have the Official Seal/Sign of HMDA or the approving authority, to indicate that the same has been approved. Also, by naming this drawing "SANCTION DRAWING", it does not become a sanctioned or approved drawing. It requires an attestation of approval with

the Official Seal/Sign of HMDA or the approving authority, to indicate that the same has been approved. It is prayed to the Hon'ble Authority to direct the Respondents to submit/provide the approved plans and drawings showing the Sewerage Water Treatment Plan.

37. "NALA proceedings are already provided for the project land and however in respect of FTL/buffer zone, no separate NALA proceedings will be provided".

38. This explanation and clarification are found to be only partially satisfactory by us, the Complainantss. The approved drawings (File Number: 040632/ZOA/R1/U6/HMDA/19112020, 6 Sheets), states that the Area of Plot and Net Area Of Plot, and the Building Permit Order, Office of NarsingiMunicipality File No. G1/495/2021 Dts 27.04.2021, Pg 2, Point no. 11 states that this sanction is accorded on surrendering of Road affected portion of the site to NarsingiMunicipality free of cost without claiming any compensation at any time as per the undertaking submitted. It is assumed that the difference in Area and Net Area is the Road Affected Area and Gifted to The Commissioner, NarsingiMunicipality, through Ratification Deed, Doct No. 4697/2020, Dtd 28.05.2020 (for 905 Sq. Yds/757.12 Sq.M),. The Supplementary Cum Area Sharing Agreement Doct No. 8614 of 2021, dated 03.05.2021, states that land admeasuring 3 Acres-6.4 Gts (3.16 Acres) is the Corrected Schedule "C" Property, and that land admeasuring 7 Acres-33.6 Gts (7.84 Acres) is the Corrected Schedule "B" Property, that is being developed as Westbrook at Kokapet, TS RERA No.: P024 0000 3031. However, if the Road Affected Area (that has been gifted) is deducted from the Corrected Schedule "B" Property, then the Land earmarked from the Schedule "B" Property, that is being developed as Westbrook at Kokapet, TS RERA No. P024 0000 3031, is 7.65 Acres or 7 Acres-26Gts. It appears that the Gifted Road Affected Area is being monetized at the cost of the Flat owners, although gifted by the Landowners. It has been observed, that the Brochure, by the Respondent, M/s Cybercity, for Westbrook at Kokapet, TS RERA No. P024 0000 3031, states that the project Westbrook has 3 Towers in 7.8 Acres, on Page 01,. This is about 0.188 Acres more than the area as

calculated above, It is prayed to the Hon'ble Authority to direct the Respondents, to submit/provide the clarification for the discrepancies in the Areas of the Project Westbrook at Kokapet, TS RERA No. P024 0000 3031, and also, to clarify the UDS for the Flat Owners.

39. We would like to convey our continued interest in a Flat no.2710 in Tower 3, in Westbrook, to the Respondent, M/s Cybercity Infrastructure Private Limited. This has already been mentioned on lines 16, 17 on pg 5 of 84 of the Complaint No.1325 of 2023. And appreciate the reply filed by the Respondent, M/s Cybercity Infrastructure Private Limited, Represented by its Authorized Signatory: Mr. K. Kiran Kumar Reddy, on 03rd April 2024. TS RERA was informed regarding the Cancellation along with a request for fast tracking the Complaint No.1325 of 2023 as well as a request for Clarification of the position of TS RERA with regard to the Cancellation, was made through our letter to The Registrar, TS RERA, dated 18th Dec. 2023. However, since the matter is presently with TS RERA since 9th October 2023 in Complaint No.1325 of 2023, and your cancellation was received on 15th December 2023, the cancellation can be deemed as invalid and we shall have to wait for the order of the Hon'ble TS RERA. Yourselves should be aware of this, being a RERA registered Builder/Promoter.

40. It is, therefore, prayed that this Hon'ble Authority may be pleased to call for the records and direct the respondents to clarify, establish, and reconcile the deficiencies described above and pass such other order or orders as this Hon'ble Authority deems fit and proper in the interests of justice and fair play.

F. Hearing Conducted:

41. The complainants submitted to the Authority that he is willing to purchase a flat in the concerned project. However, during his diligence for the said project, there were a few discrepancies that he came across. Hence, he is requesting this Authority to direct the Respondent to give the complainants access to the relevant documents. No one appeared on behalf

of the Respondent on the last date of the hearing; however, the Respondent filed a letter previously, seeking an adjournment. Hence, the matter is posted for hearing on 03.04.2024

42. On the Subsequent date of hearing, the Respondent submitted that the concerned flat had been cancelled due to non-adherence to the payment schedule, and the token amount would be returned to the complainants. However, the complainantss informed the bench that they are willing to continue with the project if the said documents are provided by the Respondent or would like to proceed with the cancellation of the concerned unit.

G. Observation and Directions by the Authority:

43. Having considered the contentions advanced by both parties and the reliefs claimed, it must be stated that the complainant is obligated to verify the documents before entering into the alleged transactions and making payment. After entering into the transaction and making the payment, the complainant cannot allege and plead for reliefs as made in the present case.

44. The reliefs sought, in the considered view of this Authority, are peculiar and cannot be entertained. In one way, it can be said that the reliefs claimed are vague and cannot be considered. The complainant cannot seek reliefs as provided under the Act. In the facts and circumstances, and subject to what was observed above in earlier paragraphs, it must be said that the present complaint has to be dismissed as not tenable. However, the complainant is at liberty to take appropriate steps and seek reliefs tenable under the law by initiating separate proceedings as advised.

46. Subject to the observations made above, the complaint is dismissed as not tenable.

47. In lieu of the above findings and directions, the present complaint stands disposed off. The parties shall bear their own cost. The parties are hereby informed that failure to comply with this order shall attract section 63 of the Act.

48. 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) as per Section 44 of the Act, 2016.

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

