

TELANGANA STATE REAL ESTATE REGULATORY AUTHORITY

COMPLAINT NO.821 OF 2021

Date of Decision: 29.08.2023

Rock Gardens Flat Owners Welfare &
Maintenance Co-Operative Society

...Complainant

Versus

M/s Rainbow Builders

...Respondents

Quorum:

Dr. N. Satyanarayana, Hon'ble Chairperson
Sri K. Srinivasa Rao, Hon'ble Member
Sri Laxmi Narayana Jannu, Hon'ble Member

Argued by:

Mr. Deepak Chowdary, Advocate, Mr. B. Prakash, Mr. R. Laxman Chowdary, Mr. K. Somasekhar Babu for the Complainants.

None for the Respondent.

ORDER

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 to take appropriate action against the Respondent Builder.

A. Brief facts of the case:

2. The present Complaint involves the Respondent Firm's ownership of a land measuring 4,632 Sq Yds, designated as Plot Nos. 155/P to 169 in "MARWA TOWNSHIP-B," Narsingi Village, Telangana. In 2017, the Respondent obtained permissions to construct a Residential Apartment Complex with multiple floors and

blocks. The Complainant contends that the Respondent violated Rules 3 and 4 of the 2017 Rules, applicable to real estate projects approved after 01.01.2017, by not adhering to project completion timelines in agreements with various allottees. The Complainant asserts that the Respondent's actions misled allottees about completion timelines, prompting them to enter into agreements.

B. Interim Prayer:

3. That in the interim, the Complainant has prayed for:

“(i) direction to restrain the Respondent from unauthorised sale of space allocated for entrance access to cellar and its adjacent parking space on the ground floor to third parties for any other purpose which is in contravention to the sanction plan,

(ii) stay of all further registration on unregistered flats in favour of any potential allottees in the Residential Project,

(iii) direction to attach the bank accounts of the Respondent firm and its registered partners,

(iv) and pass such other order or orders as this Hon’ble Authority may deem fit and proper in the circumstances of the case.”

C. Notices served upon the Respondent:

4. Accordingly, vide Notice dated 24.01.2022, served upon the Respondent, this Authority directed the Respondent to submit a reply along with such other information with regard to the Project. Further, on the same day, i.e., on 24.01.2022, this Authority also served Show Cause Notice as to why penalty should not to be imposed upon the Respondent for violation of Section 3 & 4 of the Act, 2016.

5. Subsequently, another Show Cause Notice dated 12.05.2023 was served to the Respondent seeking explanation as to why this Authority shall not levy penalty under Section 63 of the Act, 2016 for failing to comply with and contravening the orders or directions of the Authority. Despite issuing three notices, there was no response from the Respondent.

D. Hearing Conducted:

6. Therefore, a Summons dated 01.08.2023 was served to the parties to appear before the Hon'ble Authority for hearing in the matter on 09.08.2023. Accordingly, the Complainant Association represented by its Advocate, Mr. Deepak Chowdhary along with office bearers of the Complainant Association appeared on 09.08.2023 and there was no representation on behalf of the Respondent on the said day.

7. On the said day, the Complainant Association reiterated the contentions raised in the complaint and sought for time to file additional documents. It was prayed that interim orders may be passed restraining the Respondent to register any further flats as the Respondent failed to register before RERA, failed to provide amenities as promised under the Agreement of Sale and also failed to obtain Occupancy Certificate and accordingly the matter was adjourned to 29.08.2023. On 29.08.2023, the Respondent failed to appear before this Authority, yet again, and the Complainants submitted that only 2 out of 68 flats are left and the rest of them have been sold by the Respondent Builder without registering before this Authority.

E. Observations of the Authority:

8. As per the online Encumbrance Certificate filed by the Complainant on record, it is apparent that the Respondent is entering into registered the flat with allottees even after Show Cause Notices dated 24.01.2022 and 12.05.2023 have been served upon him, which imminently calls for the present interim order.

F. Interim Directions of the Authority:

12. Therefore, upon consideration of the facts and circumstances of the present case, this Authority deprecates the behaviour of such Builders who evade the law. For contravening Section 3 of the Act, Order under Section 59 is being simultaneously issued and vide its powers under Section 36 of the Act, this Authority restrains the Respondent Builder, not to register/alienate any further flats until the present matter is disposed of.

9. The matter is listed on 21.09.2023 for hearing.

**Sd/-
Sri K. Srinivasa Rao, Hon'ble Member
TS RERA**

**Sd/-
Sri Laxmi Narayana Jannu, Hon'ble Member
TS RERA**

**Sd/-
Dr. N. Satyanarayana, Hon'ble Chairperson
TS RERA**