

**BEFORE THE ADJUDICATING OFFICER,
TELANGANA REAL ESTATE REGULATORY AUTHORITY,
HYDERABAD.**

Dated, this, the 6th day of JANUARY 2025.

Present:- Sri Syed Lateef-ur Rahman,
Adjudicating Officer.

C.C.P.No.7/2024/TG RERA

Between:

Smt.Kadiri Sreelatha W/o Sri Kadiri Venkata Santosh Kumar,
aged about 36 yrs, Occ: Housewife, R/o Plot No.71, 72, Dwaraka
Nagar, Managanoor village, Abdullapurmet Mandal, Ranga Reddy
District – 501 511.

...Complainant.

AND

- 1) M/s.G.K.Construction, represented by its Managing Partners
Sri Gongura Srinivasa Rao S/o G.Kotaiah, aged: 46 yrs, Occ: Business.
- 2) Sri Gongura Sandeep S/o G.Srinivasa Rao, aged: about 22 yrs,
Occ: Business.

Both are R/o H.No.8-7-12/671, Sai Colony, Madhuban Colony,
Rajendranagar, Ranga Reddy District - 500 077.

...Respondents.

This complaint came up for hearing before me on 18.12.2024 in the presence of Sri K.Udaya Kumar, Counsel for the Complainant and the Respondents remained *ex parte*, upon hearing the argument of Counsel for the complainant and having stood over for consideration till this day, the following order is passed:

ORDER

The present complaint has been filed u/s 31 of Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as 'the Act') read with Rule 35 of Telangana State Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as 'the Rules').

Case of the Complainant:

2(a). The factual matrix as gathered from the complaint reveals that the Respondents represented the complainant that they are lawful owners and possessors of open land bearing Plot No.24 admeasuring 250 Sq.yards. and Plot No.25 admeasuring 167 Sq.Yards total admeasuring 417 Sq.yards equivalent to

348.65 Sq.Mtrs in Sy.No.48/A situated at Munaganoor village, Abdullapurmet Revenue Mandal, formerly Hayatnagar Revenue Mandal, Ranga Reddy District, currently under Turka Yamjal Municipality, having got the same from one Gongura Vijaya Lakshmi W/o Gongura Srinivasa Rao under a Registered Release Deed vide Document No.6576/2021, dt.19.06.2021. It is then mentioned in the complaint that a Development Agreement-cum-General Power of Attorney bearing Document No.6997/2021, dt.25.06.2021 was also executed and later the Respondents obtained building permission under File No.000681/BP/DTCP/3127/0012/2021, dt.01.10.2021 from the Commissioner of Turkja Yamjal Municipalilty, Ranga Reddy District. It is also mentioned that the Respondents obtained requisite construction permission from Municipal authorities vide Permit No.0012/BP/3127/2021, dt.01.10.2021 to construct a residential apartment comprising stilt + 4 upper floors.

2(b). According to the complainant, the Respondents got their Project as 'Tirumala Residency' registered with the Real Estate Regulatory Authority vide Registration No.P02400003636, dt.20.11.2021. Consequently, the Respondents started construction of said Project as Flat Nos.101, 102, 201, 202, 301, 302, 401,402, 501 and 502.

2(c). It is further pleaded that the Respondents offered to sell Flat No.302 on 3rd Floor with a plinth area of 1217 Sq.feet together with undivided share of 41.7 Sq. yards or 34.86 Sq. Mtrs of land to the complainant for a total consideration of Rs.39,00,000/- (Rs.Thirty Nine Lakhs only) and undertook to deliver possession within 16 months from the commencement of construction. The complainant paid an advance of Rs.5,00,000/- (Rupees Five lakhs only) on 26.05.2021 by way of cash as part payment and Respondents have entered into an agreement of sale acknowledging receipt of said amount.

2(d). It is said that the Respondents offered a discount of Rs.1,00,000/- (Rs.One lakh only) in the month of July, 2021 on immediate payment of substantial sum in cash citing an urgent need of funds to initiate construction. The complainant trusted the statement of the Respondents and remitted a further sum of Rs.30,00,000/- (Rupees Thirty Lakhs only) on 13.07.2021 and 14.07.2021 by obtaining loans from Banks and Financial Institutions. Thereafter, the complainant paid balance amount and the Respondents have executed a Registered Sale Deed bearing Document No.1295/2022, dt.31.01.2022 and the Respondents agreed to deliver possession within 16 months from the date of commencement of construction/*Bhoomi Pooja*, which took place on 03.07.2021 and thus the construction was expected to be completed by November, 2022.

2(e) The complainant further pleads that the Flat was purchased for her elderly parent-in-laws by name Sri K.Chinna Rangaiah aged 81 years and Smt.K.Bala Rangamma aged 71 years, who had significant health issues. The parents-in-laws of the complainant anticipating completion of construction by November, 2022 have left their home town of Komarole Mandal in Prakasham District and took a rented house on a monthly rent of Rs.20,000/- (Rs.Twenty Thousand only). During the period in issue, there is force to move from one rented house to another for various reasons and as a result of which, they suffered health-wise and were hospitalized and put to additional financial burden of Rs.2,00,000/- (Rs.Two lakhs only) and another amount of Rs.1,00,000/- (Rs.One lakh only) towards shifting charges.

2(f). It is stated that due to delay in giving possession of Flat, the complainant had to pay interest on the loans obtained. The complainant has suffered both financially and mentally. Later, the complainant and other buyers and the Respondents entered into a Memorandum of Understanding, whereunder the

Respondents agreed to complete construction by 30.10.2023 together with Occupancy Certificate. However, the construction could not be completed as agreed. As per said Memorandum of Understanding, the Respondents agreed to pay compensation of Rs.10,000/- (Rs.Ten thousand only) per month from the date of Registration of Flat, in case of failure of Respondents to complete the construction. It is said that the agreed compensation does not adequately cover the financial losses suffered by the complainant. The complainant had incurred additional financial losses due to delay, increased rent payments, EMI payments and other expenses. Thus, the Respondents have not only failed to fulfil the contractual obligations, but subjected the complainant to mental harassment and monetary loss.

2(g). Therefore, the complainant prays to award a compensation of Rs.13,00,000/- (Rupees Thirteen Lakhs only) due to delay in giving possession of the Flat beside an amount of Rs.6,00,000/- (Rupees Six Lakhs only) towards compensation for mental agony and Rs.20,000/- (Rs.Twenty Thousand only) towards legal expenses.

3. After registration of the complaint, notices were issued to the Respondents through Registered Post with Acknowledgment Due. Respondent No.2 appeared representing himself and his father – Respondent No.1. When the complaint was adjourned for counter, the complainant filed a petition under Or.VI Rule 17 r/w Sec.151 CPC for amendment, which was Registered as I.A.No.13/2024

4. When I.A.No.13/2024 was called on 10.09.2024 and 21.09.2024, Respondent No.2 representing himself and his father Respondent No.1 was present, but no counter was filed by them. However, Respondent No.2 represented that they are making attempts to settle the matter and sought time. When the complaint and I.A. were taken on 28.09.2024, Respondent Nos.1 and 2 remained

absent and there was no representation both in I.A. and in complaint. Then complaint and I.A. again adjourned to 05.10.2024 for counter in IA as a last chance. On 05.10.2024, Respondent Nos.1 and 2 remained absent and as such, their right to file counter in I.A.No.13/2024 was forfeited and after hearing learned Counsel appearing for the complainant, I.A.No.13/2024 was allowed.

5. Later, the complainant has carried out the amendment and has also filed fair copy of complaint on 17.10.2024. Since the complaint and I.A., were being called simultaneously and Respondent Nos.1 and 2 had participated in the Proceedings as noted supra and had also notice of petition filed by the Complainant for amendment, the question was whether notices should again be sent to the Respondents after allowing of amendment petition. Having regard to said facts and circumstances with regard to participation of Respondent Nos.1 and 2 in the proceedings of complaint and amendment petition, it was observed that when Respondent Nos.1 and 2 have participated in the proceedings of complaint and amendment petition, they are bound to appear and contest the case and as such there is no need to send notices again. However, the complaint, after filing of fair copy of complaint, was adjourned from 17.10.2024 to 26.10.2024 to enable Respondent Nos.1 and 2 to file counter.

6. On 26.10.2024, Respondent Nos.1 and 2 remained absent and no counter was filed on their behalf. In view of this and in view of absence of Respondent Nos.1 and 2 on various dates both in complaint and amendment petition, Respondent Nos.1 and 2 have been set *ex parte* in complaint and case was posted for *ex parte* evidence on behalf of complainant.

7. The complainant filed an affidavit in lieu of her evidence. The complainant also got marked Exs.A1 to A16 to support her claim.

8. Now the POINT for consideration is *whether the complainant is entitled for compensation? And if so, for what amount?*

9. **POINT:**

The complainant has claimed compensation for delay in giving possession of Flat, mental agony and legal expenses. As noted supra, the Respondents remained *ex parte* and did not choose to contest the claim made by the complainant. Thus, the claims made by the complainant are unchallenged. The complainant, while making claim of compensation for delay in giving possession of flat, has claimed certain amounts under the heads, viz., increased rent payment, interest payment, miscellaneous expenses and compensation for delay. In view of such claims made by the complainant, the question that arises for consideration is whether the complainant is entitled for compensation under the heads mentioned above. In

“M/s. Newtech Promoters and Developers Pvt.Ltd. vs State of UP & others etc” vide Civil Appeal No(s).6745 to 6749 of 2021 vide order dated: 11-11-2021, Hon’ble Supreme Court in Para 86 held as under:

“From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like ‘refund’, ‘interest’, and ‘compensation’, a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act, 2016.”

10. Admittedly, the complainant has also filed a complaint vide Complaint No.67/2023 in Form 'M' before the Real Estate Regulatory Authority for possession of the Flat and Respondents appeared therein and promised to complete the pending work within one month and sought time for filing a detailed reply. However, the complainant and the Respondents failed to appear before the Authority in said complaint on subsequent dates and ultimately, the said complaint was dismissed for non prosecution. This is supported by copy of order of the Authority Ex.A8 filed by the complainant.

11. As far as the claim of interest of Rs.5,49,000/- (Rs.Five Lakhs and Forty Nine Thousand only) made by the complainant towards compensation is concerned, it has to be said that the complainant is not entitled for such claim in view of said decision in *M/s. Newtech Promoters & Developers Pvt.Ltd.* case.

12(a). The complainant has claimed an amount of Rs.20,000/- (Rs.Twenty Thousand only) per month as rent paid by them for the premises obtained for stay of old aged parent-in-laws of the complainant due to delay in giving possession of Flat, i.e., total Rs.3,60,000/- (Rupees Three Lakhs and Sixty Thousand only) for the period from 01.12.2022 to 30.06.2024, another amount of Rs.1,11,000/- (Rs.One Lakh and Eleven Thousand only) towards miscellaneous expenses and an amount of Rs.10,000/- (Rs.Ten Thousand only) per month towards compensation for delay for the period from 01.02.2022 to 30.06.2024, totally amounting to Rs.2,80,000/- (Rs.Two Lakhs and Eighty Thousand only).

12(b). The complainant pleaded that the Respondents agreed to deliver possession of Flat within (16) months from the date of commencement of construction, i.e., on 3rd July, 2021 and thus possession was to be delivered by November, 2022. The complainant also pleaded that the Flat was purchased for stay of her old aged parents-in-law and expecting completion of construction of Flat by November,

2022, they took a Flat nearby the house of the complainant for stay of parents-in-law of the complainant on a monthly rent of Rs.20,000/- (Rs.Twenty Thousand only). The complainant further pleaded that the Respondents along with complainants and other co-buyers executed a Memorandum of Understanding agreeing to complete construction by 30.10.2023 along with Occupancy Certificate. The Respondents also agreed to pay compensation of Rs.10,000/- (Rs.Ten Thousand only) from the date of registration of respective Flats if they failed to complete the construction. According to complainant, the agreed compensation does not adequately cover the financial losses suffered by them, as she incurred additional financial losses and miscellaneous expenses.

12(c). The complainant in her affidavit filed in lieu of her evidence has stated that the Respondents could not complete construction to some extent leaving certain works unattended till now and possession of Flat with incomplete construction has been given only in the month of November, 2024 and the Municipal Department has issued Electricity bill of the Flat on her name. She further mentioned that she is, as such, entitled for compensation towards rent @ Rs.20,000/- (Rs.Twenty Thousand only) per month from the due date of delivery of possession, i.e., December, 2022 to the date of giving possession, i.e., November, 2024, i.e., (24) months, which comes to RS.4,80,000/- (Rs.Four Lakhs and Eighty Thousand only) and she prays to grant the same.

12(d). Ex.A6 is said to be Memorandum of Understanding executed between the Respondents, complainant and other buyers. In Memorandum of Understanding Ex.A6, it is mentioned that the construction would be completed within two months and in default, the Respondents agreed to pay compensation of Rs.10,000/- (Rs.Ten Thousand only) per month to each Flat owner from the date of registration of their respective Flat.

12(e). Ex.A1 is the agreement of sale executed by the Respondents in favour of the complainant in respect of the Flat agreed to be sold. At Page No.3 as Condition No.8, it is mentioned in Ex.A1 that the construction of the property would be completed on or before 16 months period commencing from the date of *Bhoomi Pooja*. In Para 7 of complaint, the complainant has mentioned that commencement of construction/*Bhoomi Pooja* was on 3rd July, 2021 and the expected completion of construction on completion of 16 months was by November, 2022.

12(f). From said pleading and documentary evidence on record coupled with the fact that the Respondents did not choose to challenge the claim of complainant and said contentions, it has to be concluded that the Respondents were under obligation to deliver possession of the Flat by November, 2022. However, they delivered possession of the Flat, as stated by the complainant in her affidavit filed in lieu of her evidence, in Para 15, in the month of November, 2024. The complainant claimed compensation for 24 months from 01.12.2022 to 30.11.2024 @ Rs.20,000/- (Rs.Twenty Thousand only) per month totally amounting to Rs.4,80,000/- (Rs.Four lakhs and Forty Thousand only) towards increased rent payment. No doubt, the Respondents under Memorandum of Understanding Ex.A6 agreed to pay compensation in case of delay @ Rs.,10,000/- per month. Now the question is whether the complainant has to restrict her claim only to Rs.10,000/- per month as per Ex.A6 Memorandum of Understanding or she is entitled to compensation towards rent at said rate. The complainant has pleaded in various ways as to how they suffered financially and mentally. If the contention of the complainant is untenable, it was for the Respondents to participate in the proceedings of present complaint and contest the claim of the complainant, which they did not do so. Having regard to these facts and circumstances and the prevailing rates of rent in Hyderabad City, I am of the considered view that the complainant is entitled for grant of compensation towards rent not at the rate of

Rs.20,000/- per month as claimed by her, but she is entitled for grant of compensation towards rent @ Rs.10,000/- per month for (24) months for the said delay in giving possession of Flat. Accordingly, the complainant is granted an amount of Rs.2,40,000/- (Rs.Two Lakhs and Forty Thousand only) incurred by her as compensation towards rent.

13. The complainant has next claimed an amount of Rs.1,11,000/- towards miscellaneous expenses. She did not explain such miscellaneous expenses incurred by her. However, one has to incur some expenditure towards transportation for shifting to rented portions and as such, it is just and appropriate to award an amount of Rs.30,000/- (Rs.Thirty Thousand only) as compensation towards transportation charges, inasmuch as the complainant has pleaded that they had to shift from one rented portion to another during the period of delay in giving possession.

14. It is to be noted that the complainant has claimed beside rent, a compensation of Rs.2,80,000/- towards compensation for delay and another amount of Rs.5,49,000/- towards interest payment. As noted supra, the complainant cannot claim interest in the present complaint as laid down by Hon'ble Supreme Court and similarly the complainant would not be entitled for said amount of Rs.2,80,000/- towards compensation for delay when compensation towards rent awarded as above. Thus, the complainant is not entitled for said two amounts as compensation as claimed.

15. It is pertinent to mention that the complainant could not get possession of Flat in time and had to wait for nearly 24 months. The complainant has obtained loans etc as pleaded for purchase of Flat with an intention to reside peacefully and happily. One has to consider the psyche of the Indian society. Normally Indians are emotionally attached to own a residential house for the family. They will be

prepared to spend major share of their lifetime earnings and ready to obtain loan from the Financial Institutions with the hope of getting home for the family. Because of fault and mischief on the part of the Respondents, the complainant could not get possession of Flat in time as pleaded and had to seek the remedy under existing law and for that they had to suffer mental agony due to harassment and had to incur expenses to obtain legal assistance to pursue their claim. The harassment of the complainant could be gauged from the fact that she was made to pay huge amount for the purchase of Flat, but the possession of the Flat was not delivered in time. Considering such harassment and mental agony, the quantum of mental agony has to be assessed, especially keeping in view the amount paid coupled with other facts and circumstances of the case. Therefore, keeping in view the psychology of the Indian society in respect of owning a house for family, mental agony suffered by the complainant referred above which fall under the scope of Section 72(d) of the Act and other reasons assigned supra, I am of the considered view that award of compensation for mental agony and harassment, which is non-pecuniary, at Rs.2,50,000/- (Rs.Two Lakhs and Fifty Thousand only) would meet the ends of justice.

16. Beside above, the complainant is also entitled for compensation towards legal assistance to pursue the litigation. Having regard to such attempts in getting legal assistance by engaging an Advocate etc., this Authority is of the considered view that award of an amount of Rs.25,000/- (Rs.Twenty Five Thousand only) towards cost of legal assistance would meet the ends of justice.

17. For the reasons recorded supra, the conclusion that emerges on the POINT is that the complainant is entitled for compensation from the Respondents as under:

Sl.No.	Head(s)	Amount (in Rupees)
1	Compensation towards amount incurred for rent paid during the period of delay in giving possession.	Rs.2,40,000-00
2	Compensation towards Transportation charges.	Rs. 30,000-00
3	Compensation towards harassment and mental agony.	Rs.2,50,000-00
4	Compensation towards legal expenses.	Rs. 25,000-00
	TOTAL	Rs.5,45,000-00

(Rupees Five Lakhs and Forty Five Thousand only)

18. In the result, the Respondents are directed to pay an amount of **Rs.5,45,000/- (Rupees Five Lakhs and Forty Five Thousand only)** to the complainant towards compensation within (60) days from the date of this Order, failing which they shall be liable to pay interest at the highest MCLR rate of 8% plus 2% i.e., 10% per annum from the date of complaint till realization, as per Rule 15 of the Rules. The complaint is partly allowed accordingly.

Typed to my dictation, corrected and pronounced by me in open Court on this, the 6th day of JANUARY, 2025.

Sd/-
ADJUDICATING OFFICER,
TG RERA: HYDERABAD.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR COMPLAINANT:
PW-1: Smt.Kadiri Sreelatha.

FOR RESPONDENTS
Ex parte

EXHIBITS MARKED FOR COMPLAINANT

Ex.A-1: Dt.26.05.2021: Photocopy of Agreement of Sale.
Ex.A-2: Dt.31.01.2022: Photocopy of Sale Deed document No.1295/2022.
Ex.A-3: NIL Bank Transaction Receipt.
Ex.A-4: Dt.06.11.2024: Copy of latest Original EC.

- Ex.A-5: Dt.01.10.2021: Copy of Building Permission copy issued by Municipality.
- Ex.A-6: Dt.08.09.2023: Copy of Memorandum of Understanding.
- Ex.A-7: Dt.20.11.2021: Copy of RERA Registration Certificate.
- Ex.A-8: Dt.29.08.2024: Copy of order of RERA in Complaint No.67/2023.
- Ex.A-9: Dt.02.11.2024: Gold loan Bank Statement-Telangana Grameena Bank, Loan A/c.No.79066575206.
- Ex.A-10: Dt.02.11.2024: Gold loan Bank Statement-Telangana Grameena Bank, Loan A/c.No.79068429582.
- Ex.A-11: Dt.02.11.2024: Gold loan Bank Statement-Telangana Grameena Bank, Loan A/c.No.79068429366.
- Ex.A-12: Dt.02.11.2024: Gold loan Bank Statement-Telangana Grameena Bank, Loan A/c.No.79068429707.
- Ex.A-13: Dt.09.11.2024: Electricity Bill for the month of November, 2024.
- Ex.A-14: Dt.02.12.2024: Electricity Bill for the month of December, 2024.
- Ex.A-15: Dt.19.06.2021: GK Construction Link Sale Deed vide Doc.No.6576/2021.
- Ex.A-16: Dt.25.06.2021: Development Agreement-cum-GPA vide Doc.No.6997/2021.

EXHIBITS MARKED FOR RESPONDENTS

NIL

Sd/-
ADJUDICATING OFFICER,
TG RERA: HYDERABAD.

Cc.