

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

COMPLAINT NO.41 OF 2024

7th October, 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 Rajaseakhar Kosuru

...Complainant

Versus

M/s Manjeera Enterprises LLP rep by Yoguanand Gajjala & Vivekananda
Gajjala

...Respondent

The present matter filed by the Complainant herein came up for final hearing on 25.07.2024 before this Authority in the presence of Complainant present in person and none appeared on behalf of Respondent and upon hearing the arguments of the Complainant, 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.

3. This project is not registered with TG RERA. A show-cause notice was issued by this Authority on 12.07.2024, directing the Respondent to explain within one week from the date of receipt of the notice why action should not be initiated for violating Section 3(1) of the RE(R&D) Act, 2016. However, the Respondent has failed to comply.

4. The crux of the complaint is that the Complainant had booked an apartment with the Respondent, Manjeera Enterprises LLP, and paid an advance of ₹24,00,000/-. Subsequently, the Complainant discovered that the project lacked necessary sanctions from the relevant authorities. As a result, the Complainant demanded a refund of the entire amount paid. To date, the Complainant has received only ₹5, 00,000/- as a partial refund.

5. Despite repeated requests made by the Complainant to refund the remaining amount of ₹19, 00,000/-, the Respondent failed to do so. Left with no option, the Complainant approached this Authority, seeking a refund along with 14% interest from October 2022.

6. Upon the registration of the complaint, notices were duly issued to the Respondent, with proof of service acknowledged. However, despite such notices, the Respondent failed to appear before the Authority on the dates of hearing scheduled on 12.06.2024, 11.07.2024, and 25.07.2024. Consequently, in light of the Respondent's continued non-appearance, the Authority proceeded to set the Respondent ex parte.

7. In support of his claim, the Complainant has submitted documents, including (1) Booking Form, (2) Payment Receipt for ₹19,00,000/-, (3) Emails exchanged between the Complainant and Respondent, and (4) Bank Statements.

8. The Complainant was heard, and based on the averments made; the following issue arises for consideration:

Point 1. Whether the Complainant is entitled to the relief claimed?

Findings:

9. The Complainant booked an apartment in the Respondent's project and paid ₹24,00,000/- on 18.05.2022. The Respondent did not obtain the necessary permissions for the project, which came to the Complainant's attention only after a significant delay. Upon multiple requests for a refund,

the Respondent made a partial payment of ₹5,00,000/-, and the balance of ₹19,00,000/- remains unpaid.

10. Attention is drawn to the decision of Hon'ble Supreme Court of India in Civil Appeal No(s) 3581-359 2022, Civil Appeal Diary No: 9796/2019 between M/s Imperia Structures Limited vs. Anil Patni & Ors., it is held as under:

"In terms of Section 18 of the RERA Act, if a promoter fails to complete or is unable to give possession of an apartment by the date specified in the agreement, the promoter would be liable, on demand, to return the amount received in respect of that apartment if the allottee wishes to withdraw from the project. Such a right of the allottee is 'without prejudice to any other remedy available to him'. This right is unqualified, and if availed, the deposited money must be refunded with interest as prescribed. The proviso to Section 18(1) contemplates that if the allottee does not intend to withdraw from the project, they are entitled to interest for every month of delay until possession. It is upto the allottee to proceed either under section 18(1) or under proviso to Section 18(1)......"

....The RERA Act thus definitely provides a remedy to an allottee who wishes to withdraw from the Project or claim return on his investment.

11. Therefore, as per section 18(1) of the RE(R&D) Act, the promoter is liable to return the amount received along with interest and compensation only if the promoter fails to complete or provide possession of an apartment/plot.

Similarly, in Hon'ble Supreme Court in Civil Appeal Nos. 6745-6749 of 2021, M/s Newtech Promoters and Developers Private Limited vs. State of UP & Others, it was held:

"Section 18(1) of the Act spells out the consequences if the promoter fails to complete or is unable to give possession of an apartment, plot, or building in terms of the agreement for sale.

The allottee/home buyer holds an unqualified right to seek a refund of the amount with interest as prescribed."

12. From the Complainant's submissions, it is evident that a substantial amount has been paid, and the Respondent, without any legal approvals or registration, collected funds from the Complainant and made false promises regarding project completion. The Respondent's failure to refund the amount for nearly two years reflects malafide intentions. Moreover, the Respondent ignored notices and failed to appear before this Authority, indicating a lack of defence.

13. Despite several notices being duly served upon the Respondent, he failed to appear before this Authority and continuously remained absent on all scheduled dates of hearing. Consequently, the Respondent has not filed any statement of objections nor furnished documents in support of his defence, thereby choosing not to contest the matter. In the absence of any resistance or rebuttal from the Respondent, and upon careful consideration of the claim of the Complainant, which is substantiated by credible documentary evidence, this Authority has no alternative but to accept the Complainant's. The Complainant is entitled to the refund with interest.

14. Therefore, it is incumbent upon the respondent to refund the amount with interest. The Respondent should pay interest as per Rule 15 of the TG RE(R&D) Rules, which stipulates the Marginal Cost of Lending Rate (MCLR) plus 2% interest. The current MCLR of the State Bank is 8.85% plus 2%. The refund shall include interest at the rate of 10.85% per annum, calculated from the date of receipt of each payment until the date of repayment.

15. In view of the above, the point under consideration is answered in the affirmative.

16. Accordingly, the Respondent is directed to refund the balance amount of ₹19, 00,000/- (Rupees Nineteen Lakhs Only) along with interest at the rate of 10.85% per annum, calculated from the date of receipt of each payment until the date of repayment. The Respondent is to comply with this order within 45 days from the date of this order.

17. For contravening section 3 & 11 of the RE(R&D) Act, this Authority, exercising its powers under section 59 of RE(R&D) Act, imposes a penalty on Respondent Rs.5,66,280/- (Five Lakhs Sixty-Six Thousand Two Hundred and Eighty Rupees Only) .The amount is payable in favour of TGRERA FUND through a Demand Draft or online payment to A/c No.50100595798191, HDFC Bank, IFSC Code: HDFC0007036, within 30 days of the receipt of this Order by the Respondent/Promoter.

18. The Respondents are hereby informed that failure to comply with this Order shall attract Section 63 of the Act.

19. In the result, the complaint stands disposed of. The parties shall bear their own costs.

20. If aggrieved by this Order, the parties may approach the Telangana Real Estate Appellate 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