

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

COMPLAINT NO.414 OF 2022

30th Day of December, 2023

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

Smt. D. Ramadevi ...Complainant

Versus

M/s EIPL Projects ...Respondents

The present matter filed by the Complainant herein came up for hearing on 15.07.2023, 17.08.2023 and 09.08.2023 before this Authority in the presence of Dr. D. Ramadevi, the Complainant, the Complainant, and Sri K Manoj Kumar on behalf of the Respondent and upon hearing the arguments of both the parties, this Authority passes the following **ORDER:**

A. Facts of the Complaint:

2. The present Complaint has been filed by the Complainant above-named vide her representation dated 13.07.2022 addressed to this Authority praying for taking necessary action against Sri P Reddisekhar Reddy, representative of M/s EIPL Projects for not allotting car parking spaces to the Complainant as per the National Building Code, 2005.

2. That the case of the Complainant, in brief, is that the Complainant is the owner of Flat C 306 at Apila Apartments, Narsingi (hereinafter referred to as the

“Project”). She purchased the said flat with 2 (two) car parking spaces from the Respondent herein. That the HMDA accorded technical approval to the said Project on 19.01.2018 with certain conditions which specifically obliges the Respondent, under condition no.13, to comply with provisions of the National Building Code, 2005. Further, this Authority granted registration to the Project on 16.01.2019 and the representative of the Respondent submitted all the details with regard to the Project including, specifically, the plan of car parking spaces.

3. She submits that the Respondent allotted 2 (two) car parking spaces which are 15 ft 1 inch in length and 7 ft 4 inches in width each. She states that, as per the National Building Code, 2005, the car parking space to be provided must not be less than 13.75 sq meters (148.004 sq ft) i.e., 5.24 meters length and 2.6 meters width [17 ft 2 inches (length) x 8 ft 6 inches (width)].

4. She further submits that the number of car parking spaces to be provided in the Project are 788 as per the plan submitted by the Respondent before this Authority but more than 810 car parking spaces were allotted. That also, she submitted representations to the in-charge of maintenance wing, APILA on 18.12.2021 and 29.01.2022, however no action was taken. A similar representation was also submitted to Sri P. Reddisekhar Reddy, authorized person for the Respondent and to HMDA, but to no avail.

5. Aggrieved by this, the Complainant approached the Hon'ble High Court of Telangana at Hyderabad vide Writ Petition No.41006/2022, wherein, vide Order dated 14.11.2022, the Hon'ble Court was pleased to direct this Authority to

consider the representation filed by the Complainant herein. Accordingly, the present complaint is being considered on merits.

6. Along with the said Representation, the Complainant also submitted the following documents:

- (a) Letter dated 18.12.2021 addressed to in-charge of maintenance wing, APILA
- (b) Letter dated 29.01.2021 addressed to in-charge of maintenance wing, APILA
- (c) HMDA Technical Approval Letter dated 19.01.2018
- (d) Proceedings of Executive Officer, Gram Panchayat, Narsingi dated 02.06.2018
- (e) TS RERA Registration Certificate dated 16.01.2019
- (f) Details of project particulars furnished by M/s EIPL Projects to TS RERA including car parking spaces
- (g) Letter dated 30.03.2022 addressed to Sri P Reddisekhar Reddy

B. Reply on behalf of the Respondent:

7. That this Authority issued Notice dated 23.05.2023 directing the Respondent to submit its reply to the contentions raised by the Complainant along with Architect Certificate certifying the area and measurements provided for car parking in respect of Flat No. C 306. And, vide Reply dated 03.07.2023, the Respondent only submitted that as per specifications under the Sale Deed, Flat bearing No. C 306 consisting of 2160 sq ft including the common areas with double car parking has been handed over to the complainant. He further submitted that such car parking is as per HMDA norms and therefore, the complaint is frivolous. Along with the reply, he filed a photograph of the parking space assigned to the complainant where 2 cars are parked. Vide another Reply

dated 07.09.2022, the Respondent reiterated that the car parking space had been allotted to Flat C-306 owner, Smt. D. Ramadevi as per the HMDA norms. It is pertinent to note that the Respondent did not file Architect's Certificate certifying the area and measurements provided for car parking along with its Reply.

C. Points for consideration:

8. After consideration of the facts and circumstances of the present case, the following issues arise for adjudication:

(i) Whether the Respondent Builder has violated Section 14(1) by virtue of not complying with the mandatory conditions under the Approval Layout plan issued by the HMDA?

(ii) Whether the Complainant's relief, as prayed for, be granted? If yes, to what extent?

Point (i)

9. Admittedly, the HMDA has accorded Occupancy Certificate to the Project on 25.05.2021 and in the said Certificate it is clearly mentioned that "*the Owners/Builder/Developer/Licensed Architect/Engineer/Structural Engineer have given the Building Completion Notice that the Building has been completed as per the specifications of Sanctioned Plans and it is declared that the building conforms in all respects to the requirements of the building regulations contained under the statutory provisions in the respective Municipal Act and Building Bye Laws/Rules issued by the Govt.*" And further that "*this is to certify that the building has been inspected and is declared fit for occupation.*" This establishes that the HMDA has scrupulously inspected the Project premises and

accordingly certified the same to be fit for occupation which in turn signifies that the sanction has been followed in *stricto sensu*. It is also pertinent to note herein that the description of the Building in the Occupancy Certificate issued by HMDA is as per the sanction plan including the parking area.

10. Therefore, the Respondent has not violated Section 14 (1) of the Act, as the Occupancy Certificate duly certifies that the Building is as per the Sanction Plan issued by the HMDA.

Point (ii)

11. As far as the relief is concerned, this Authority has considered the facts and circumstances and hereby brings to the notice of the Complainant that the Authority has registered the Project as per the sanctioned plan & proceedings given by HMDA and since the Occupancy Certificate is issued to the Project, it is presumed that the said conditions have been inspected carefully and followed in accordance with the Sanction Plan.

12. In this regard, it is also pertinent to mention that Clause 15 of the G.O.Ms No.168 dated 07.04.2012 under sub-clause (a)(iv) particularly states that *“the parking requirements shall comply as given in these rules. The parking facilities and vehicles driveways etc. shall be maintained to the satisfaction of the Sanctioning Authority.”* Hence, as the Sanctioning Authority has already certified the Building to be in consonance with the applicable rules and the sanctioned plan, therefore no violation of Section 14 arises on part of the Respondent Builder.

13. Therefore, in light of the above discussions, the present matter is disposed of.

14. 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) within 60 days from the date of receipt of this Order.

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

