

BEFORE TELANGANA REAL ESTATE REGULATORY AUTHORITY

[Under the Real Estate (Regulation and Development) Act, 2016]

CASE NO: 84/2025

28th of March 2025

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

1. Mohmmmed Mushtaq S/o Late M.A. Razack
(R/o H.no8-2-293/82/A, Plot 424, Jubilee hills, Hyderabad)
 2. Azizunnisa W/o Mohmmmed Mushtaq
R/o H.no8-2-293/82/A, Plot 424, Jubilee hills, Hyderabad)
 3. Mohd. Imtiaz, S/o Late M.A.
(R/o H.no8-2-293/82/A, Plot 424, Jubilee hills, Razack Shaikpet(v), Hyderabad
 4. Tabassum Sultana, W/o Mohd. Imtiaz R/o film Nagar, Shaikpet(v), Hyderabad.
(R/o H.no8-2-293/82/A, Plot 424, Jubilee hills, Razack Shaikpet(v), Hyderabad
-Complainant(s)**

And

M/s Sanali Housing Projects Pvt Ltd., Rep by its Director Mr.Ali Mohammed Haq
Mr.Amir Mohammed Haq and Mr. Noor Haq.

(B Block, Sanali Infor Park, 8-2-120/113, Road No.2, Banjara Hills, Hyderabad-500034)

....Respondent

This present complaint, came up for final hearing on 13.03.2025 before us for hearing in the presence of Counsel Sri.Khaja Aizajuddin, for the complainant and Mr. Mahammad Hanif for the Respondents and upon hearing both the arguments on both sides and the matter reserved over for the consideration till this date, this Authority passes the present complaint order.

ORDER

2. The 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"), alleging commission of violation and contravening of the provisions of the said Act and Rules and sought for the appropriate reliefs against the Respondent.

A. The Brief facts of the case of complaint as per allegations/averments contained in the complaint are as follow:

3. The Complainants are the lawful owners of land bearing Municipal No. 8-1-332/3/12 and 8-1-332/3/12/A in TS/No./Sy.No. 16,17, measuring 2986.11 sq. yards, situated in Aziz

Bagh Colony, Shaikpet, Hyderabad. The ownership was acquired through G.O.Ms.No.1387 dated 16.07.2005.

4. The Complainants executed a Development Agreement-cum-General Power of Attorney (DAGPA) No. 3227/2021 dated 30.04.2021 with the Respondent for the development of a Residential cum Commercial Project (2 Cellars + 17 Upper Floors). The agreement stipulated that development would commence only upon obtaining requisite approvals from GHMC. However, even after three years, the Respondents failed to secure necessary permissions or provide updates.

5. The Complainants discovered that the Respondents commenced illegal excavation without GHMC approval. Consequently, a legal notice dated 03.05.2024 was issued for cancellation of the agreement. GHMC also issued orders on 15.05.2024 directing the Respondents to remove unauthorized constructions. Upon non-compliance, the Complainants filed O.S. No. 224/2024 before the Hon'ble XXV ACJ, CCC, Hyderabad, securing interim orders (I.A. No. 789/2024) dated 11.06.2024, restraining GHMC from granting building permissions.

6. The Respondents failed to register the project with TGRERA and proceeded to advertise "Sanali Pinnacle" on various platforms, including Google, real estate websites, and their official website, falsely claiming approvals had been secured. Additionally, advertisement boards displaying "Sanali Coming Soon..." were erected at the site.

B. Relief sought for:

- i. To direct the Respondents to remove the advertisement boards displayed at the front side of the project or across to the project at the main boundary wall.
- ii. To levy penalty on Respondents upto 10% of estimated cost of the real estate project for violation of section 3 of the RERA Act, 2016. As per the market value certificate, the cost of the project is Rs,23,46,05492/- and as such the Respondent is liable to pay Rs2,34,60,549 towards penalty.

C. Respondent Reply:

8. That they have executed a Development Agreement cum GPA with the complainants/land owners on 10/05/2021 vide Doc.No.3227/2021 and the agreement is still in live.

9. That the said land owners are the joint promoters of the Project with 52% share, and as such they comes within the purview of Sec 2 (zk) Act,2016 and requested to consider the land owners as promoters and liable to both in the ratio of 52% and 48% in case of guilty of violation of sec 3(1) of RE(R&D) Act 2016.

10. That they received the legal notice from landowners on 03.05.2024 for cancellation of DAGPA, which represents that they are travelling with them for last there years.

11. The land owners have not filed any complaint with the GHMC for excavation done but compliant filed by the M/s. Man Petro Products who a neighbor is running a business of Petrol outlet.

12. They have not started any advertisement in any social media websites, but they have shown in their website as ongoing project without showing the location, area, locality, prices, plans etc, and as such it may not be taken as advertisement and no sale taken place.

13. As per the Development Agreement in between them (at point No.44) the land owners appointed and nominated the directors of the company Mr.Ali Mohammed Haq and Mr.Amir Mohammed Haq as their lawful attorney holders which means the acts of the developers are ratified by the land owners and that they are also giving the right to advertise the project.

14. They submitted the cost of "Estimated Cost of Real Estate Project as 14,58,908/- as per the cost of the land and registration charges, stating that the cost of the constructions Cannot be arrived at this point as the total built-up area was not yet approved by the GHMC.

Observation of the Authority:

15. After we have heard learned counsels for the parties at length, the following questions emerges for our consideration in the present complaint are as under:

Point for consideration:

a) Whether the Respondent has violated Section 3 of the Real Estate (Regulation and Development) Act, 2016?

16. At the outset, it is imperative to examine the provision of Section 3 of the said Act, which explicitly states:

"3. No Promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment, or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act."

17. A plain reading of Section 3 of the Act establishes a statutory prohibition on any form of advertising, marketing, booking, selling, or offering for sale of a real estate project unless the said project has been duly registered with the Telangana Real Estate Regulatory Authority (TGRERA).

18. In the present case, the Respondent has published an advertisement on its official website, presenting the project as an "ongoing project," despite not having secured registration under TGRERA. The Respondent, in its defense, contends that the publication does not constitute an advertisement as it merely provides the name of the project without specifying the location, area, pricing, or other material particulars.

19. To assess the validity of this defense, it is necessary to refer to Section 2(b) of the Act, which defines "advertisement" as follows:

"advertisement" means any document described or issued as advertisement through any medium and includes any notice, circular or other documents or publicity in any form, informing persons about a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes;

20. A perusal of the definition makes it abundantly clear that any material that informs the public about a real estate project irrespective of whether it specifies pricing, location, or other details constitutes an advertisement under the Act. The Respondent's assertion that the mere reference to the project name does not amount to an advertisement is untenable, as the said Act does not make a distinction based on the level of detail provided in the publication.

21. In the present case, it has been established that the Respondent's act of publishing the project as an "ongoing project" on its website, describing it as an uber-luxurious apartment complex comprising 40 units, and further displaying a board on-site stating, "Exquisitely crafted residences for exceptional 40," constitutes an act of promoting the project without prior registration under TGRERA. This falls within the definition of "advertisement" under Section 2(b) of the RE(R&D) Act. By engaging in such advertising without obtaining the requisite registration, the Respondent has violated the express mandate of Section 3(1) of the RE(R&D) Act.

22. Considering the facts vi-s-vis law discussed hereinabove, it can be said that beyond doubt the promoter has violated the provisions of Section 3(1) of the RE(R&D) Act, 2016. This omission attracts penal consequences under Section 59(1) of the Act, which is reproduced below:

"If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten percent of the estimated cost of the real estate project as determined by the Authority.

23. In view of the above a penalty of Rs.4,27,013/-(Four lakh, twenty seven thousand hundred and thirteen) is imposed upon the promoter under section 59 of the RE(R&D) Act for violation of section 3 & 4 of the RE(R&D) Act.

24. The said penalty shall be payable in favour of TGRERA FUND through a Demand Draft or online payment to A/c No. 50100595798191, HDFC Bank, IFSC Code: HDFC0007036, within 60 days of receipt of this order by the Respondents.

25. It is hereby directed that the Respondent shall take steps to register the project "Sanali Pinnacle" under Section 3 & 4 of the Real Estate (Regulation and Development) Act, 2016, Until

such registration is obtained, the Respondent is restrained from advertising, marketing, booking, selling, offering for sale, or inviting any person(s) to purchase any unit in the said project.

26. Failure to comply with above said directions by the Respondents and complainant shall attract penalty in accordance with Section 63 of the said Act, 2016.

27. In light of the foregoing, the complaint stands disposed of accordingly. There shall be no order as to costs.

**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**

