

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

I.A. No.28/2024

in

COMPLAINT NO.15 OF 2024

19th Day of June 2024

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

1. M/s NCC Limited
2. M/s RNR Limited

...Complainants

Versus

1. M/s Mantri Developers Pvt. Ltd.
2. M/s Jubilee Hills Landmark Pvt. Ltd.
3. Indian Bank
4. Mr. Gaddam Sridhar Reddy
5. Mrs. Gaddam Radhika Reddy
6. Mr. N. Venkata Subhash
7. Mrs. Dr. N.V. Naveena
8. Dr. R. Sunil Reddy
9. Mr. Naveen Kumar Anne
10. Mrs. Divya Anne
11. Mr. Anne Venkata Satyanarayana
12. Mrs. Anne Sujatha
13. Mr. Setty Raja Gopal
14. Mrs. Setty Mallika Rani

...Respondents

The present Interlocutory Application filed by the Complainants herein came up for hearing on 19.06.2024 before this Authority in the presence of Counsel for Complainants, Sri Siva Acharya, and Counsel for Respondent Nos.1 and 2, Sri Anand Subramaniam and Ms. M. Geeta, none appeared for Respondent

No.3 despite service of notice and hence being set *ex-parte*, and upon hearing the arguments, this Authority passes the following **ORDER**:

2. The present Application has been filed by the Complainants seeking “to *restrain the Respondent No.3 Bank from conducting the auction on 20.06.2024*”.

Facts on behalf of the Complainants:

3. Complainants filed the present complaint seeking reliefs under Section 7 and 8 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the “Act, 2016”) read with Telangana State Real Estate (Regulation & Development) Rules, 2017 (hereinafter referred to as the “Rules, 2017”) thereof.

4. During the course of hearing on 12.06.2024 in the main complaint, the Counsel for Complainants and Counsel for the Respondent Nos.1 & 2 entered appearance, and the Complainants preferred the above-mentioned Application seeking the relief therein. The Complainants submitted that Respondent No. 1 has availed a loan of Rs. 112,00,00,000/- (Rupees One Hundred and Twelve Crores Only) from Allahabad Bank which is now Indian Bank i.e., Respondent No. 3, vide Term Loan Agreement dated 19.09.2016 ("Principal Loan Amount"). The said loan was availed on security of Equitable Mortgage of the “**Mantri – A**” Project property situated at Shaikpet Village and Mandal, Jubilee Hills Area, Hyderabad. ("Project Property") to the extent of Respondent No.1's share of 50% undivided interest in the land and 4,19,999 Sq.ft of super-built-up area, supported by General Power of Attorney ("GPA") given by Respondent No. 2 and the Joint Development Agreement.

5. That the Respondent No. 1 had defaulted on the Principal Loan Amount availed from the proposed Respondent No. 3 Bank and pursuant to the same, Respondent No. 3 Bank is taking steps under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, ("SARFAESI Act").

6. Meanwhile, it came to the notice of the Complainants that the Respondent No. 3 Bank has issued an auction sale notice for sale of the mortgaged Project Property wherein the auction is scheduled to be conducted on 06.05.2024 for recovery of Rs. 212,11,26,824.28/- (Rupees Two Hundred Twelve Crores Eleven Lakh Twenty-Six Thousand Eight Hundred Twenty-Four and paisa Twenty-Eight Only) as on 31.03.2024 with further interest, charges, and expenses due to the proposed Respondent No. 3 Bank with a reserve price of Rs. 272,50,00,000/- (Rupees Two Hundred Seventy-Two Crores Fifty Lakhs Only).

7. It was submitted that Respondent No.3 Bank is unjustly proceeding to auction the mortgaged Project Property for amounts higher than the Principal Loan Amount (plus interest accrued thereon) availed by Respondent No. 1 by jeopardizing the interests of the allottees (home buyers), and therefore Complainants preferred I.A. No.15/2024 and after due consideration of the facts and circumstances, this Authority allowed the said Application and directed the Respondent No.3 Bank to create a designated bank account for the purpose of depositing the entire auction proceeds and in the event of conducting auction on 06.05.2024 and declaration of a successful bidder thereof, the Respondent No.3 shall deposit the entire proceeds of the auction in the above-mentioned

designated bank account and the same shall not be utilized for any purpose until the final disposal of the present complaint.

8. However, the Complainants submitted that there was no successful bidder for the said auction. Subsequent to this, Respondent No.3 Bank issued another e-auction sale notice for sale of the mortgaged Project Property to be conducted on 20.06.2024 for recovery of Rs.2,14,66,84,950/- (Rupees Two Hundred and Fourteen Crores Sixty-Six Lakhs Eighty-Four Thousand Nine Hundred and Fifty only) as on 30.04.2024 with further interest and charges and expenses due to Respondent No. 3 Bank. It was also submitted that the E-Auction Sale Notice dated 30.05.2024 has mentioned flat number allotted to the Petitioner herein i.e., Flat No. F701 for the sale auction, thereby jeopardizing the interests of the Complainants.

9. It was submitted that Respondent No. 3 Bank has no authority to auction the flat allotted to the Petitioner herein, while the mortgaged property is only 50% of the Respondent No. 1's share of total land area by way of equitable mortgage, and therefore, it was prayed to restrain the Respondent No. 3 Bank from conducting the auction on 20.06.2024.

10. This Authority has considered the contentions of Complainants. The Respondent Nos.1 & 2 on the other hand, submitted orally during the course of hearing that they have no objection to the application being allowed and that on technical grounds, they have also issued an e-mail to the Respondent No.3 for recalling the notice of intended sale dated 30.05.2024 and for not conducting the auction scheduled on 20.06.2024. A Memo dated 19.06.2024 producing a copy

of the said e-mail was filed by the Counsel for Respondent Nos.1 & 2. Further, they mentioned that the Hon'ble High Court in W.P. No.41976/2022, after due consideration of the facts and circumstances of the case therein, rightly directed the Respondent No.3 Bank not to conduct auction in the interest of the allottees till decision is made by this Authority.

11. Similarly, Respondent No.4 to 14, the allottees of the Project – Mantri A, impleaded in the present matter vide Order dated 12.06.2024 in I.A. No.16/2024, submitted that they have no objection to the present Application being allowed.

12. The Complainants filed a Proof of Service and the notice for hearing on the present application was duly served on the Respondent No.3, however, they were absent for the hearing. In view of the urgency in the matter that auction is to be conducted tomorrow i.e., on 20.06.2024, the Respondent No.3 is set ex-parte and the following directions are being issued.

Interim Directions:

13. As has been observed in I.A. No.14/2024 and I.A. No.15/2024 in the present complaint, the Respondent No.3 Bank has indeed had availed loan of an amount of Rs. 112,00,00,000/- (Rupees One Hundred and Twelve Crores Only) vide Term Loan Agreement dated 19.09.2016 with the Respondent No.1 to the extent of his share of 50% undivided interest in the land and 4,19,999 Sq.ft of super-built-up area, supported by General Power of Attorney ("GPA") given by Respondent No. 2 and the Joint Development Agreement. The Complainants submission that the Respondent No.3 Bank is proceeding to auction the mortgaged Project Property, more specifically the Flat No.F701, the rightful owner

of which are the Complainants, for amounts higher than the Principal Loan Amount (plus interest accrued thereon) in view of the subsequent changes to the Building Permission by increasing number of floors and also increase in the square feet of area thereby, to the detriment of the allottees (home buyers) remains un-rebutted. In view of the same, the Authority, is of the opinion that there is force in the argument of the Complainants and no harm or adverse interest will be accrued to Respondent No.3 should the reliefs as prayed for be granted in favour of the Complainants.

14. Therefore, in the peculiar facts and circumstances of the present case, in order to protect the interests and rights of the allottees, while exercising its powers under Section 36 and 37 of the Act, 2016, this Authority directs the Respondent No.3 not to conduct the auction on 20.06.2024 failing which, appropriate action under Section 63 will be initiated against the Respondent No.3.

15. Accordingly, in view of the above directions, I.A. No.28/2024 is allowed.

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