

BEFORE TELANGANA REAL ESTATE REGULATORY AUTHORITY

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

Rectification Order

COMPLAINT NO.90 OF 2024

10th Day of February 2026

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

Ch. Niyanthi Reddy

*(R/o Plot No.70/A, MLA Colony,
Road No.12, Banjara Hills,
Hyderabad, Telangana 500034
Temporarily residing at Germany,
Represented by GPA Holder,
Sri Ch. Baba Prasad Reddy)*

...Complainant

Versus

- 1. M/s Speed Projects and Infrastructure Pvt. Ltd.**
*(Office at, No.8 & 9, Vasantha Cyber View Apartments,
Madhapur, Hyderabad & also at, Villa No.61, Legend Chimes,
Kokapet Village, Ranga Reddy District, Telangana
Represented through its Authorised Representative)*
- 2. M/s Legend Estates Pvt. Ltd.**
*(Office at, No.6-3-1238, 6th floor,
Legend Apartments, Renuka Enclave, Raj Bhavan Road,
Somajiguda, Hyderabad
Represented through its Authorised Representative)*

...Respondents

The present Complaint No. 90 of 2024 was earlier dismissed by this Authority vide order dated 14.07.2025 on the ground that a valid and duly executed General Power of Attorney authorising the signatory to institute the proceedings was not placed on record. Subsequently, the Complainant filed I.A. No. 64 of 2025 under Section 39 of the Real Estate (Regulation and Development) Act, 2016, seeking rectification of the said order on the ground of mistake apparent on the face of the record. Upon consideration, this Authority, by order passed in I.A. No. 64 of 2025, found that the General Power of Attorney was available on record and that the earlier dismissal had arisen due to an inadvertent oversight. Accordingly, the said order dated 14.07.2025 stood rectified and this Authority proceeds to consider the matter for orders on merits, on the basis of the material and submissions already on record.

2. The present matter filed by the Complainants herein came up for hearing before this Authority in the presence of Counsel for Complainants, Sri Nikunj Dugar and Sri Tarun Kumar Agarwal and the Counsel for the Respondent No.1, Ms. Sarvani Desiraju along with Counsel for Respondent No.2, Sri Rusheek Reddy K.V. and after hearing the arguments, this Authority passes the following **ORDER:**

3. The present Complaint has been filed by the Complainants under Section 31 of the Real Estate (Regulation & 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 “TG RE(R&D) Rules”) seeking appropriate relief(s) against the Respondents.

A. Brief facts of the case:

4. The Complainant submitted that she is the sole and absolute landowner to the extent of lands Ac. 0.20 guntas in Survey Nos. 162, situated at Kokapet village of Ranga Reddy District. That the Complainant along with other landowners to the subject lands, had entered into various separate Development Agreement Cum General Power of Attorney (DGPAs) with the Respondent No. I herein vide Document Nos.368/2007 dated: 06-01-2007. It was submitted that Respondent No.1, on the strength of DGPAS executed by the Complainant and other landowners, became the Developer to the subject lands. That Respondent No.1 without any consent and intimation to the Complainant and other landowners, had entered into a Memorandum of Understanding (MOU) dated 10-07-2007, with Respondent No. 2, and thus Respondent No. 2, by the virtue of the said MOU became the Co-Developer to the subject lands.

5. Complainant further submitted that Respondent No.1 in collusion with Respondent No.2, had recorded several one-sided clauses in the MOU, dated 10-07-2007, including ownership of club house to Respondent No.2, Mortgage of villas to HMDA, falling to the share of the Complainant and other landowners herein, which are in violation of term of DGPAs. Respondent No. 1 entered into another MOU dated 04-12-2008, based on which it is categorically recorded that the club house in the project shall exclusively belong to all the landlandownersthe project which is conflicting with the terms of the MOU dated 10-7-2007. Thus, any alienation of the clubhouse is in contravention of the said MOU 04-12-2008 as well as the DGPA in-between the parties.

6. Complainant further submitted that Respondent No. 1, had made an application to the HMDA authority for sanction plan for construction of Villas and Clubhouse, pooling the lands of the Complainant and other landowners herein, and obtained permission No. L.P No. 02/MP2/P1g/HMDA/ 2009, dated 06-01-2010. As per this permission and layout, Respondent No.1 was required to construct a Gated Community over an extent of land ad-measuring Ac. 42-35 gts. That the Respondents herein are obliged to complete the entire constructional works within 3 years from the date of obtaining permission from the HMDA authorities, i.e., 03-02-2010 to 03-02-2013. That the Respondents are obliged to construct a total of 270 housing units comprising 244 residential villas and 26 EWS/LIG units and every villa must be a type designed unit.

7. Complainant submitted that Respondent Nos. 1 and 2 herein had entered into a Supplementary Agreement dated 08-03-2011 wherein Respondent No.1 represented the Complainant and other landowners herein and registered the same as document No.577/2011 containing 45 pages and the said supplementary agreement is available with the sub-registrar, Gandipet. That Respondent No. 1 had unilaterally entered into another Supplementary Agreement with Respondent No. 2, dated 08-03-2011, registered as Document No. 577 of 2011. As stated originally all allotment of villa / plots were made in favour of either the landowners or Respondent Nos. 1 and 2 solely through Supplementary Agreement, dated 08-03-2011. Respondent No. 1 without being legal owners of Plot / Villa Nos. 40 to 53 chose to unilaterally and high-handedly mortgage those villas with HMDA vide Document No. 3075/2009 dated 02-12-2009. Thus, on the date of execution of the said Mortgage Deed, Respondent No. 1 was never an owner of any of the plots / villa, which are mortgaged to HMDA and thus the Original Permission of 2010 granted by HMDA is void and invalid.

8. That the Respondents herein had removed two Villas bearing Nos. 50 and 51 from the mortgage, and the same belonged to the wife of the Managing Partner of Respondent No. 1 herein. The Complainant has raised several issues with respect to the specific clauses of the development agreement between the Complainant and the Respondent No.1 which is not subject matter jurisdiction before this Authority. The respondents even sold the said villas falling onto the open areas of the project, which is a violation of condition number 15 of HMDA's permission dated 06-01-2010. The said fact was also suppressed from the HMDA before obtaining the 2013 permission. Plot / Villa sizes falling to the share of the Respondents are much bigger in size, as compared to the Complainants and other landowners, which is a clear breach/violation of terms

and conditions of the DGPA's of the landowners and also a violation of the Original Sanction layout permission as granted by the HMDA, vide permission No. L.P No. 02/MP2/Plg/HMDA/2009, dated 06-01-2010.

9. Complainant further submitted that the Respondents also lied to the Complainant and other landowners that the clubhouse is not encumbered/ alienated in the said meeting, dated 09-11-2014 even though the Respondent No. 1 had already sold the clubhouse to Respondent No. 2 in the year 2011. Respondents herein, had once again applied for second revised permission layout from the HMDA on 15-12-2016, and obtained the 2017 second revised permission on 28-07-2017 without the consent and permission from the Complainant and other landowners.

10. That Writ petitions bearing No. 19234 of 2020 filed by two of the aggrieved landowners, wherein the HMDA was directed by the Hon'ble High Court to submit an inspection report of the Project containing all violations and irregularities in the project. Respondent Nos. 1 and 2 on 01-11-2021, 02-11-2021 and 03-11-2021 executed Gift settlement deeds in favour of the Commissioner Narsingi Municipality conveying road areas and open areas ad-measuring 43682 sq.meters for road area, and 23860 sq. meters for open area respectively by stating that it is as per HMDA's permission dated 03-06-2013. Further, that even as per the Joint Inspection Report filed by HMDA and Narsingi Municipality before the Hon'ble High Court, the encumbered open areas which belong to all the landowners and the Complainant is also alienated by the Respondent Nos. 1 and 2 making the project irreparable and thus the present project can never obtain a final OC from the HMDA authorities. That in spite of the HMDA filing an inspection report dated 18-07-2021 and highlighting 10 pertinent violations and irregularities in the present project, and also the HMDA is aware that the Respondents conveyed 4885 sq. meters less road area

11. That Respondents, even as on today, did not obtain the final Occupancy Certificate from the HMDA authorities for the entire project, but the Respondents herein had sold a large share of villas falling to their share, and the Respondents had also let in the Buyers / Purchased to reside in the Villas, without obtaining final Occupancy Certificate. Complainant herein, despite executing the DGPA in favour of the Respondent No. 1 in 2007 vide Doc No. 368 of 2007, dated 06-01-2007, as such the Complainant herein did not get a completed villa as a part of his/her share, as agreed between the parties, nor the Respondent No. 1 has released / returned the lands to the Complainant. The Hon'ble High Court vide its Interim Orders dated 24-04-2018, in W.P No. 32521 of 2017 filed by five other landowners, restrained further sale / alienations of villas in

the said project. Despite the orders being in force of the Hon'ble High Court, the Respondents are alienating the Villas in the Project even as of today.

12. That the Respondents herein had mortgaged villas / plots which falls to the share of the Complainant and other landowners as per the supplementary agreement, which was executed by the Respondents, and as such the Construction works of the same is unfinished. That even as on today, the Respondents have utterly failed to finish off the Constructional works of the said villas and obtain Occupancy Certificate, nor the Respondents could get the villas mortgaged to HMDA released, which fall to the share of the landowners.

B. Relief sought:

13. Aggrieved by the actions of the Respondents, Complainant sought for the following reliefs:

- i. *“To penalise the Respondents herein, for violation of Sections 3(1), 4(1) of TS RERA Act.*
- ii. *To direct the Respondents to finish off / complete the Constructional and Developmental works of the unfinished villas / plots pertaining to the Complainant and other landowners, within 6 months,*
- iii. *To award monetary compensation to the Complainant and other landowners from the Respondents.*
- iv. *To cancel the certificate of the project*
- v. *To display the names of the developers and their officers in the RERA website under defaulters list.*
- vi. *To direct the Respondents to pay a sum of Rs. 10,00,00,000/- towards RERA funds, in compliance with section 60 & 61 of RERA act.*
- vii. *To direct the Respondents to obtain environmental clearance from SEIAA, obtain release of the Villas under Mortgage and to obtain final OC for the entire project known as "Legend Chimes Project", situated at Kokapet village of Ranga Reddy District, Failing which, this Hon'ble RERA tribunal may take up the completion of the subject project.”*

C. Counter on behalf of Respondent No.1:

14. Respondent No.1 filed a reply and categorically submitted that the present complaint ought to be returned as the signatory to the complaint failed to file the copy of the general power of attorney based on which the present complaint came to be filed on behalf of his daughter.

Though the same is referred to, the Complaint does not include a copy of the GPA or any letter of authority basis which the present complaint came to be filed.

15. That the present complaint is not maintainable as the provisions of RERA are not applicable to the present project. That Section 84 empowered the respective State Governments to formulate rules and accordingly the State Government of Telangana had promulgated the Rules, 2017 which defined the applicability and the manner of applicability of the provisions of the Act, 2016 for real estate projects based in Telangana. That the Rule 1(2) of the \ Rules, 2017, explicitly states that the ("Rules") as well as the Act, 2016 shall be applicable for the real estate projects of Telangana, whose building permissions were approved on or after 01.01.2017 by the competent authorities and had therefore excluded the applicability of the Act and the Rules to those projects for which building permissions were already received. In terms of the said Rules which are not subject of challenge before this Hon'ble Authority and which Rules have been followed and implemented by this Hon'ble Authority in all its orders and circular, RERA is inapplicable to the present project and thus, the present complaint ought to be rejected as the present dispute is in respect of the real estate project, "Legend Chimes", which was granted the construction permissions in the years 2010 and 2013.

16. The real estate project in question by name "Legend Chimes", was granted permission in the year 2010, vide permission No. L.P. No. 02/MP2/P1g/HMDA/2009, dated 06.01.2010 and the same is admitted by the Complainant herein. Further, the revised construction permission from the HMDA was also received in the year 2013. The Complainant herein mentions that the Respondents had received second revised construction permission in the month of July 2017; however, the same was suspended immediately and was never acted upon, which is also to the admission and knowledge of the Complainant and in fact, the Complainant herself confirmed in the other proceedings initiated that 2013 approval is the binding approval. Hence, considering that the permissions were accorded in the year 2010 and 2013, much before the period of 01.01.2017, the project, "Legend Chimes" does not come under the purview of the Act, 2016, and as a consequence, the present complaint is not maintainable against the Respondents herein.

17. Respondent No.1 also submitted that the present Complainant is also not maintainable as this Hon'ble Authority does not have the jurisdiction to deal with the present dispute as the present complaint is not a dispute or grievance filed by any consumer/purchaser of villa in the real estate project. The Complainant, as admitted by herself, is owner of land admeasuring Acres 0-20Guntas located at Sy.No. 162, Kokapet Village and had entered into a Development Agreement

cum General Power of Attorney dated 06.01.2007, registered as Document No. 368 of 2007 (hereinafter referred as the "DAGPA") with the Respondent No.1 and subsequently through the Respondent No. 1 a Memorandum of Understanding dated 10.07.2010 with Respondent No. 2.

18. That in terms of the definition of "promoter" under Section 2(zk) of the Act, 2016, it includes a person who causes to construct an independent building. That the present dispute is in relation to the contractual disputes between the Landowner and the Developer in terms of the DAGPA and the subsequent agreements executed by the Landowners through Respondent No. 1 with Respondent No. 2, which are beyond the purview of this Hon'ble Authority. That it is settled law that disputes arising out of Development Agreements or such arrangements cannot be resolved by a RERA Tribunal and such disputes falls within the jurisdiction of the civil court. That the said DAGPA provides that any disputes arising out of the development agreement shall be resolved through arbitration, failing resolution of disputes through mutual discussion. Clause 22 of the Development Agreement which provides for the arbitration mechanism is reproduced below:

"22. Any disputes arising out of or in connection with this agreement shall be initially resolved by mutual discussions among the Developer and Land Owner or the nominated representatives of both the parties. In case of disputes not being resolved by mutual discussions the same shall be referred to the arbitration in accordance with the provisions of the arbitration and conciliation act 1996. The disputes shall be referred to the mutually agreed arbitrator. The award of the arbitrator shall be binding and final on both the parties. The jurisdiction shall be at Hyderabad only."

19. That further, the MOU dated 10.07.2007 also provided for an arbitration clause for the resolution of disputes arising out of the said MOU which is produced as under:

"22. ARBITRATION:

In the event of any dispute arising between the parties, the same shall be resolved amicably. If the parties fall to resolve the dispute amicably, the matter should be referred to arbitration and the provisions of arbitration and conciliation Act, 1998 shall apply to the arbitration proceedings. A sole Arbitrator shall be appointed by both the parties. The place of arbitration shall be the courts situated in the Ranga Reddy District. They alone shall have the territorial Jurisdiction to entertain the dispute."

20. It was submitted that the Complainant has in fact signified her intent to resolve the present dispute through arbitration by addressing a notice dated 27.01.2024 to the Respondent No.1 herein expressing her desire to pursue arbitration proceedings against the Respondent No.1, however, arbitration proceedings have not commenced related to the same and the Complainant preferred the instant Complaint before this Authority in order to harass the Respondent No.1 herein, based on claims which are beyond the scope of the jurisdiction and ambit of this Authority. The Complainant cannot initiate the current proceedings against her fellow promoter in the same real estate project, the Respondent No.1 herein as neither the Act, 2016 nor the Rules, 2017, provide the mechanism for pursuing such proceedings or for quantifying of damages as sought as one of the prayers in the present complaint.

21. That the Complainant is also guilty of forum shopping initiating multiple legal proceedings against Respondent No.1 and Respondent No. 2 before the Hon'ble High Court alleging the very same violations and initiating criminal proceedings by registering an FIR bearing No. 883 of 2020 registered with Narsingi Police Station. The allegations made by the Complainant in the present Complaint are the same and fall as the same subject matter of pending litigation before various for a including the Hon'ble High Court which the Complainant herself has initiated.

22. That initially, the Complainant had filed WP No. 26701 of 2016 before the Telangana High Court against inter alia this Respondent and Others seeking action against alleged violation with respect to the development of the Legend Chimes project. The said case is pending adjudication. Subsequently, she caused FIR No. 883 of 2020 to be registered with Narsingi Police Station, which was quashed by the Telangana High Court vide its order dated 17.09.2021 in CRLP No. 6531 of 2020 filed by Respondent No.1 against which order the Complainant had preferred a Special Leave Petition before the Hon'ble Supreme Court, which is currently pending. The Complainant further filed representations against Respondent No.1 before the Hyderabad Metropolitan Development Authority ("HMDA") and Narsingi Municipality alleging inaction by the said authorities. The Complainant once again approached the Hon'ble High Court by way of WP No. 7194 of 2021. In its interim order dated 23.03.2021, the Telangana High Court directed that necessary action be taken after hearing this Respondent. Accordingly, this Respondent filed detailed written representations before HMDA and Narsingi Municipality. The proceedings before HMDA, Narsingi Municipality and those in WP No. 7194 of 2021 are pending. In another attempt, the Complainant herein also filed WP No. 30813 of 2022 before the Telangana High

Court and the Respondents have filed counter affidavits therein. The said writ petition is pending as well. Again, in the year 2024, she had issued notice invoking the arbitration clause under the DAGPA, to which this Respondent had sent a reply notice. Subsequently, she again filed another writ petition, being W.P. Nos. 13982 of 2024 and W.P. No. 14047 of 2024 against Respondent No.1 personally in respect of the OC received for the villas.

23. That the Complainant is a habitual litigant and she is responsible for initiating vexatious legal proceedings against the Respondent No.1 and therefore, the Complainant and her father i.e. her GPA holder are filing consistent and frivolous cases against Respondent No.1 in order to harass it personally. In any event, as the Complainant had already raised the issues regarding alleged violations in the project before the Hon'ble High Court in the above writ petitions by also making the municipal authorities also as a party, the Hon'ble High Court is seized of the matter and thus the present Complaint ought not be entertained.

24. Further, that the present complaint is filed without disclosing all the aforementioned writ petitions and legal proceedings initiated by the Complainant. Thus, she has intentionally suppressed the details of the various pending *lis* before this Hon'ble Authority and for this reason as well the Complaint is liable to be dismissed.

D. Counter on behalf of Respondent No.2:

25. Respondent No.2, vide its counter affidavit, submitted that the present Complaint is basing on false and baseless allegations and the same is not maintainable. It was submitted that the Complainant is guilty of misrepresentation and suppression and that the Complainant had preferred W.P. No. 14136/2021, W.P. No. 7194/2021 and W.P. No. 17150 of 2021 before the Hon'ble High Court for the State of Telangana seeking to declare the action of the officials of the respondent No 2 to 3 therein in not taking action on the representation dated 07/06/2021 made by the petitioner to cancel the layout permit No 2/LO/HMDA/2009/ dated 06.01.2010 File No 372/MP2/Plg/HMDA/2009 and cancellation of mortgage deeds executed by M/s Speed Projects and Infrastructure Private Ltd in favour of HMDA vide document no 3075/2009 dated 02.12.2009 as arbitrary, illegal and discriminative in violation of principles of natural justice violative of the Fundamental Right guaranteed under Articles 14 and the Constitutional Right. That the Complainant has filed series of vicious complaints as against the Respondent No.2 only to gain illegally by abusing the process of law. That all of the allegations made under the present Complaint by the Complainant have already been urged and contested before the Hon'ble High

Court and as such the averments/allegations are barred by principles of res-judicata and are also sub-judice in WP No. 7194/2021.

26. It was further submitted by Respondent No.2 that the Tribunal does not have jurisdiction to adjudicate the instant complaint. That the Project "The Legend Chimes" was undertaken by virtue of the Development cum General Power of Attorney Agreements executed in 2007, especially DGPA Document No. 368/2007 dated 06.01.2007 executed by the Complainant in favour of the Respondent No. 1 herein. Further, the Memorandum of Understanding was executed by Respondent No. 1 representing all the landowners including Complainant herein by assigning certain specific works to the Answering Respondent herein is executed on 10.07.2007. Further, a Supplementary Agreement dated bearing Document No.577/2011 dated 08.03.2011 was executed allocating the villas to all concerned including the Complainant herein, other landowners and the Respondents 1 and 2 herein. In furtherance of the project, the HMDA permission to develop the project in contention was obtained on 06.01.2010 vide Letter No.372/MP2/PIg/HMDA/2009 and revision of the said plan was obtained on 03.06.2013. That all the works completed so far were completed under the said 2013 permission only. In fact the allotments were made by consensus amongst the landowners in 2010 itself which was later captured under the Supplementary Agreement based on the Revised Permission of 2013 only.

27. Further, it was submitted that admittedly the Respondent No. 1, representing all the landowners including the Complainant herein has stopped execution of sale deeds from 2015 in favour of the Nominees and purchasers in violation of their obligations under the MoU dated 10.07.2007 and the Supplementary Agreement dated 08.03.2011. Under the Supplementary Agreement, it was agreed by all concerned including the Complainant that in the event their agent i.e., the Respondent No. 1 herein stops or withholds execution of any sale deeds in favour of purchasers of Villas falling to the share of Respondent No.2, then the Respondent No.2 is under no obligation to undertake any further constructions. As such the Respondent No.2 was under no obligation to make any further constructions in the Project owing to the breach of obligations by the Complainant and their agent being the Respondent No.1 herein.

28. Simultaneously, G.O.Ms. No.7 of 2016 MA & UD dated 05.01.2016 was issued wherein as per Amendment No. 18, amending Rule 19 Sub Rule (d), the time period to complete all the Non Highrise/ Highrise buildings and group development Schemed including the instant Project from 3 years to 6 years was extended, thereby making the project completion period valid up till 02.06.2019.

29. That subsequently, few of the landowners have also obtained an Order preventing sale of Villas falling to the share of the Respondent No.2 from the Hon'ble Ranga Reddy District Court vide OP 656 of 2016 and OP 657 of 2016 and the said Interim Order was vacated vide Order dated 10.04.2017 passed by the Hon'ble Ranga Reddy District Court. Thereafter, upon the said Orders dated 10.04.2017 being challenged before the Hon'ble High Court vide CMA No. 856/2017 and CMA. No. 859/2017, a similar Order dated 01.08.2017 of Injunction preventing the Respondent No.2 from proceeding with execution of Sale Deeds in respect of Villas falling to its share vide Order dated 01.08.2017 was passed by the Hon'ble High Court. As such, the Respondent No.2 is well within its rights to stop the construction of villas falling to the share of the land owners in accordance with Clause 5 (iii) of the Supplementary Agreement dated 08.03.2011.

30. Meanwhile, the Act, 2016 was notified with effect from 01.05.2016. The Rules made by the State of Telangana clearly specify that it is only in respect of projects where permission was granted after 01.01.2017 that would be subjected to the specific provisions and requirements of the Act, 2016. In view of the abovementioned facts, since the constructions have been undertaken only as per the permission of 2010 which was later revised in 2013, it is clear that Respondent No.2 is not in contravention of any of the provisions of the Act, 2016 or the rules made thereunder. Further, as per the Circular dated 22.09.2018 bearing No. 1/2018 issued by this Authority, it is clear that only such real estate projects that have taken permissions between 01.01.2017 to 31.08.2018 from the competent authorities were directed to get their projects registered with TG RERA before 30.11.2018 to avoid penalties. Since the Project "Legend Chimes" was For Legend Estates Pvt. Ltd., approved in 2010, it was not bound to be registered under TG RERA.

31. It was submitted that the TG RERA Rules specifically state in Rule 1(2) that Real Estate Projects approved on or after 01.01.2017 must be registered with TG RERA. Since the project "Legend Chimes" was approved way back in the year 2010 and later only revised in 2013, the requirement of registration does not apply to the said project. In fact, the definition of "ongoing projects" under Rule 1(2)(j) of the TG RERA Rules, 2017 excludes projects for which building permissions were approved prior to 01.01.2017. At the cost of repetition, it is reiterated that the project "Legend Chimes" has been taken up under the 2010 building permit which was subsequently revised in the year 2013 and therefore, Respondent No.2 is not in contravention of any provisions either under the Act, 2016 or Rules, 2017 or any other statutes.

32. Respondent No.2 further submitted that the Complainant herein does not have Locus to file the instant Complaint as the Complainant herein is admittedly the sole and absolute Landowner to the extent of lands admeasuring Ac. 0.20 Guntas in Survey Nos. 162, situated at Kokapet village of Ranga Reddy District. That all the landowners have pooled lands and have entrusted the development works to Respondent No.1. In turn, Respondent No.1, with the consent of all the landowners and as a representative of all landowners entrusted specific works of construction to the Respondent No.2.

33. That the Complainant, being the landowner, holds an interest in the developmental works, cannot raise the grievance before this Authority as she is one of the promoters and not an allottee or a buyer or any other 'person' under Section 31 or Section 38 of the Act, 2016 having locus to file the instant complaint. As such, this Authority does not have jurisdiction to adjudicate the disputes raised herein and the instant complaint is liable to be dismissed.

34. It was also submitted that the Complaint is barred by limitation and that the cause of action to file the instant complaint arose the last time on 02.06.2019, which is admittedly the date on which the construction works are ought to be completed. That due to non-execution of sale deeds in favour of Respondent No.2 and the subsequent litigations, the constructions were stopped in 2015 itself. That no new cause of action arose since 2015. As such, the instant complaint is barred by limitation, the claim being specific performance and related damages, the instant Complaint is liable to be dismissed.

E. IA:64 of 2025:

35. The Complainant had filed Complaint No. 90 of 2024 against Respondent Nos. 1 & 2. The present I.A No. 64 of 2025 has been filed under Section 39 of the RE (R&D) Act, 2016 r/w Section 37 of the RE (R&D) Act, 2016 praying before this Hon'ble Authority to recall/rectify its Final Order in CC No. 90 of 2024, dated 14.07.2025 on the ground that the order passed has an error on the face of the record.

F. Counter Affidavit Filed on behalf of Respondent No.1

36. Respondent No.1 challenged the petition and prayers sought as it is beyond the scope of the Authority to recall such order dated 14.07.2025 and is not maintainable. Respondent No.1 also relied upon the orders passed by Haryana RERA in order dated 28.03.2023 passed in Complaint No. 1444 of 2019 which has held that a "prayer seeking taking on record the SPA

filed subsequently cannot be sought under Section 39 of the Act as it does not fall within the scope of rectification order". The Respondent No.1 further states that Section 39 of the RE (R&D) Act, 2016 empowers the Hon'ble Authority to amend the orders however, it shall be limited to errors apparent and no amendments shall be made to the substantive part of the order. As per the case of Ashok Kumar Maurya v. Uttar Pradesh Real Estate Regulatory Authority in Writ (C) No. 2052 of 2024 in Hon'ble High Court of Allahabad, it has been held that Section 39 of RE(R&D) Act, 2016 restricts the power of authority to rectify only the errors in an order passed by it and it does not extend to modification of the substantive amendment in the part of the order. Therefore, the Complainant cannot under the guise of rectification of order seek its review.

G. Counter Affidavit filed on behalf of the Respondent No.2

37. Respondent No.2 had filed a counter against the I.A. No. 64 of 2025 and submits that this Authority's power under Section 39 of RE (R&D) Act, 2016 is narrow and restricted solely to the rectification of mistakes that are apparent on the face of the record. Such power cannot be stretched into a review or reconsideration of the matter on merits nor is it invoked for altering, modifying or interfering with the findings or conclusions contained in order already passed. The Respondent No.2 has relied on *order dated 27.06.2022* passed by *Maharashtra Real Estate Appellate Tribunal in Appeal No. ATO0600000052153* wherein it was held that while rectifying the mistakes or errors, substantive part of order cannot be amended and that such provision has a very limited scope. It was submitted that in *para 13 of the order dated 20.03.2019 in Appeal No. 00600000010841*, it was held that Section 39 of the Act is almost at par with Section 152 of the Civil Procedure Code, 1908 under which the party can rectify any minor typographical or arithmetical mistake in the order which arises out of technical error or typing mistake or mistake arising out of slip of hand and not for mistakes regarding grant of substantive relief sought by any party.

38. Further, they have relied on the *Order dated 22.04.2022 in Appeal No. 47 of 2022 of the Hon'ble Haryana Real Estate Appellate Tribunal* in para 46 has held that the legislature in its wisdom did not consider it appropriate to confer powers of review upon the Learned Authority and is not authorized to rectify the mistake apparent from the record by amending the order and without changing or altering the substantive part of the order.

39. The Respondent No.2 has also submitted that as per para 12 of *Deva Metal Powders Pvt. Ltd. V. Commissioner, Trade Tax, Uttar Pradesh, (2008) 2 SCC 439*, the Hon'ble Supreme Court

while dealing with Section 22 of the UP Trade Tax Act, has held that the power to rectify a mistake does not cover cases where a revision or review of the order is intended.

H. Observation of the Authority in IA:64:

40. This Authority has carefully considered the submissions advanced on behalf of Respondent No.2 and the material placed on record. There is no quarrel with the settled legal position that the power conferred under Section 39 of the Real Estate (Regulation and Development) Act, 2016 is limited in scope and does not extend to a review or reconsideration of the matter on merits.

41. The decisions relied upon by Respondent No.2, including the orders of the Maharashtra Real Estate Appellate Tribunal, the Haryana Real Estate Appellate Tribunal, and the judgment of the Hon'ble Supreme Court in Deva Metal Powders Pvt. Ltd. v. Commissioner, Trade Tax, Uttar Pradesh, correctly lay down that the power of rectification cannot be exercised as a cloak for review or modification of substantive findings. However, the application of the above principle must necessarily depend upon the nature of the error sought to be corrected.

42. In the present case, the Complaint No. 90 of 2024 came to be dismissed solely on the ground that the Complainant had allegedly failed to place on record a valid and duly executed General Power of Attorney authorising the signatory to institute the proceedings, rendering the Complaint non-maintainable.

43. Upon consideration of I.A. No. 64 of 2025 and a careful re-perusal of the record, this Authority finds that the General Power of Attorney was, in fact, already part of the record at the relevant time. The earlier observation regarding its absence did not arise from any adjudication on merits or from appreciation of competing legal contentions, but from an inadvertent oversight in noticing a document placed on file.

44. Correction of such an error squarely falls within the scope of Section 39 of the RE(R&D)Act, as it relates to a mistake apparent on the face of the record. Rectifying the said mistake does not involve re-examination of evidence, reconsideration of findings, or alteration of the substantive conclusions of the order. It merely restores the factual position as it existed on record at the time of passing the earlier order.

45. Therefore, the objection of Respondent No.2 that the present application amounts to a review of the order on merits is misconceived and is hereby rejected.

46. In view of the above, the procedural objection recorded earlier regarding non-production of a valid General Power of Attorney does not survive for consideration. Accordingly, I.A. No. 64 of 2025 is allowed, and the earlier dismissal of Complaint No. 90 of 2024 on the said procedural ground stands rectified.

I. Points for consideration:

47. After deliberating upon the contentions of the parties and the documents filed by them, the following issues sprout for consideration:

- 1) Whether the Complaint is maintainable under the provisions of the RE(R&D) Act, 2016?
- 2) Whether the Respondents have failed to complete the Project and hand over possession of the allotted villa within the stipulated time?
- 3) Whether the Complainant is entitled to compensation/relief, and if so, to what extent?
- 4) Whether the Respondents have violated Sections 3 and 4 of the RE(R&D) Act by not registering the Project?

J. Observations of the Authority:

Point 1: Maintainability of the Complainant:

48. The Respondents have raised multiple preliminary objections questioning the maintainability of the present Complaint, namely:

- a) that the Complainant does not fall within the definition of an "allottee" under Section 2(d) of the Real Estate (Regulation and Development) Act, 2016;
- b) that the Complaint filed through a General Power of Attorney holder is untenable due to alleged non-production of the GPA;
- c) that the existence of arbitration clauses under the Development Agreement-cum-General Power of Attorney and Memorandum of Understanding ousts the jurisdiction of this Authority;
- d) that the Complainant is guilty of forum shopping and suppression of pending proceedings; and
- e) that the provisions of the Act are inapplicable as the Project had obtained permissions prior to 01.01.2017.

a) Whether the Complainant falls under the definition of "allottee" under Section 2(d) of the RE((R&D) Act:

49. The Respondents contend that the Complainant, being a landowner who executed a Development Agreement-cum-General Power of Attorney dated 06.01.2007, is a co-promoter and not an allottee. Per contra, the Complainant submits that in consideration of pooling her land admeasuring Ac. 0.20 guntas, she was allotted a specific residential unit, namely Villa No. 48,

under the Supplementary Agreement dated 08.03.2011, without any role in development, promotion, marketing, sale or decision-making of the Project.

50. **Section 2(d) of the RE(R&D) Act**, defines allottees as- *“allottee” in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent”*

51. The essence of the definition of “allottee” under Section 2(d), read in light of the consumer-protective object of the Real Estate (Regulation and Development) Act, 2016, is to safeguard persons who acquire a defined unit in a real estate project, irrespective of the form of consideration. Upon a careful examination of the record, this Authority finds no material to suggest that the Complainant shared any profit, risk, control, or promotional responsibility in the Project so as to assume the character of a promoter under Section 2(zk) of the Act. The arrangement between the parties is in the nature of consideration in kind, whereby land was exchanged for the allotment of a single, identified residential villa. It is further evident that the Complainant had no role in marketing, sale, decision-making, or commercial exploitation of the Project, all such activities having been undertaken exclusively by the Respondents.

52. Accordingly, this Authority holds that the Complainant squarely falls within the definition of an “allottee” under Section 2(d) of the Act and is entitled to invoke the jurisdiction of this Authority under Section 31.

53. The contention of the Respondents that the Complainant is a co-promoter is therefore rejected as legally untenable.

b) **GPA holder:** The objection regarding non-production of the General Power of Attorney is purely procedural. It is noted that a valid GPA has since been placed on record, and the authority of the GPA holder is not disputed on merits. No prejudice has been demonstrated to have been caused to the Respondents.

Such an objection does not go to the root of jurisdiction and is therefore rejected.

c) Arbitration clause and jurisdiction:

54. The Authority finds this objection untenable for the following reasons: The relevant Dispute Resolution clause in the Agreement of Sale is reproduced below for ready reference:

“Any disputes arising out of or in connection with this agreement shall be initially resolved by mutual discussions among the Developer and Land Owner or the nominated representatives of both the parties. In case of disputes not being resolved by mutual discussions, the same shall be referred to the arbitration in accordance with the provisions of the Arbitration and Conciliation Act 1996. The disputes shall be referred to the mutually agreed arbitrator. The award of the arbitrator shall be binding and final on both the parties. The jurisdiction shall be at Hyderabad only”

And clause 22 of the MOU dated 10.07.2007 The relevant Dispute Resolution clause in the Agreement of Sale is reproduced below for ready reference:

22. ARBITRATION:

In the event of any dispute arising between the parties, the same shall be resolved amicably. If the parties fail to resolve the dispute amicably, the matter should be referred to arbitration and the provisions of the Arbitration and Conciliation Act, 1996, shall apply to the arbitration proceedings. A sole Arbitrator shall be appointed by both the parties. The place of arbitration shall be the courts situated in the Ranga Reddy District. They alone shall have the territorial jurisdiction to entertain the dispute.

55. It is noted that Such a clause is at best directory and cannot oust or restrict the statutory jurisdiction of this Authority. Section 79 of the RE(R&D) Act expressly bars the jurisdiction of Civil Courts in respect of any matter which this Authority, the Adjudicating Officer, or the Appellate Tribunal is empowered to determine. Likewise, Section 88 clarifies that the provisions of the RE(R&D) Act are in addition to, and not in derogation of, other laws. Thus, the intention of the legislature is that remedies under this beneficial legislation must remain open to allottees, irrespective of any private clause for amicable settlement.

56. Even in cases where agreements contained arbitration clauses, the Hon'ble Supreme Court and the Hon'ble NCDRC have consistently held that such clauses cannot circumscribe the jurisdiction of consumer fora or statutory authorities constituted under special enactments.

57. In National Seeds Corporation Ltd. v. M. Madhusudhan Reddy (2012) 2 SCC 506, the Supreme Court held that remedies under special statutes are in addition to, and not in derogation of, other remedies. For ready reference, the relevant extract is reproduced below:

**“49. Support to the above view is also lent by Section 79 of the recently enacted Real Estate (Regulation and Development) Act, 2016 (for short "the Real Estate Act"). Section 79 of the said Act reads as follows:- '79. Bar of jurisdiction - No civil court shall have jurisdiction to*

entertain any suit or proceeding in respect of any matter which the Authority or the adjudicating officer or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.' It can thus, be seen that the said provision expressly ousts the jurisdiction of the Civil Court in respect of any matter which the Real Estate Regulatory Authority, established under Subsection (1) of Section 20 or the Adjudicating Officer, appointed under Subsection (1) of Section 71, or the Real Estate Appellate Tribunal established under Section 43 of the Real Estate Act, is empowered to determine. Hence, in view of the binding dictum of the Hon'ble Supreme Court in A. Ayyaswamy (supra), the matters/disputes, which the Authorities under the Real Estate Act are empowered to decide, are non-arbitrable, notwithstanding an Arbitration Agreement between the parties to such matters, which, to a large extent, are similar to the disputes falling for resolution under the Consumer Act. 56. Consequently, we unhesitatingly reject the arguments on behalf of the Builder and hold that an Arbitration Clause in the afore-stated kind of Agreements between the Complainants and the Builder cannot circumscribe the jurisdiction of a Consumer Fora, notwithstanding the amendments made to Section 8 of the Arbitration Act."

58. Similarly, in *Aftab Singh &Ors. v. Emaar MGF Land Ltd. &Ors.* (Consumer Case No. 701 of 2015, decided on 13.07.2017), it was held that arbitration clauses in builder-buyer agreements cannot oust the jurisdiction of consumer fora. The said view was later upheld by the Hon'ble Supreme Court in Civil Appeal Nos. 23512–23513 of 2017. The relevant para reads:

"25. This Court in the series of judgments as noticed above considered the provisions of Consumer Protection Act, 1986 as well as the Arbitration Act, 1996 and laid down that complaint under the Consumer Protection Act being a special remedy, despite there being an arbitration agreement the proceedings before the Consumer Forum have to go on and no error committed by Consumer Forum on rejecting the application. There is a reason for not interjecting proceedings under the Consumer Protection Act on the strength of an arbitration agreement under the Act of 1996. The remedy under the Consumer Protection Act is a remedy provided to a consumer when there is a defect in any goods or services. The complaint means any allegation in writing made by a complainant has also been explained in Section 2(c) of the Act. The remedy under the Consumer Protection Act is confined to a complaint by a consumer as defined under the Act for defects or deficiencies caused by a service provider, a cheap and quick remedy has been provided to the consumer, which is the object and purpose of the Act as noticed above."

59. The arbitration clauses relied upon by the Respondents are directory in nature and do not constitute a mandatory bar to the exercise of statutory jurisdiction by this Authority. It is well settled through judicial precedents that arbitration clauses in builder–buyer or development agreements cannot circumscribe or oust the jurisdiction of statutory fora constituted under special enactments. In view of the object and scheme of the Real Estate (Regulation and Development) Act, 2016, which mandates efficacious redressal of grievances of allottees, this Authority holds that the Complainant is not required to exhaust arbitration or amicable settlement mechanisms prior to invoking the remedies under the RE(R&D) Act.

60. Accordingly, the objection raised by the Respondents on the ground of existence of an arbitration clause is rejected.

d) Forum shopping and suppression of pending litigations:

61. The Respondents have alleged forum shopping on account of multiple proceedings pending before the Hon'ble High Court and other fora. While parallel proceedings are not encouraged, Section 88 of the Act makes it clear that remedies under the Act are independent. However, this Authority notes that issues relating to sanctioned plans, deviations, permissions, inspections, mortgages and alienation of open areas are already pending consideration before the Hon'ble High Court in W.P. Nos. 7194 of 2021 and 19234 of 2020. To avoid conflicting findings, issues sub-judice before the Hon'ble High Court will not be adjudicated here.

e) Applicability of RE(R&D) Act:

62. The Respondents have raised a preliminary objection contending that the present complaint is not maintainable before this Authority on the ground that the subject Project is exempt from the applicability of the Real Estate (Regulation and Development) Act, 2016 [RE(R&D) Act] and the Telangana Real Estate (Regulation and Development) Rules, 2017, as the Project had received building permissions before the commencement of RE(R&D) Act.

63. The Complainant, on the other hand, vehemently opposes the said objection and asserts that the Project is squarely covered under the ambit of Section 3(1) of the RE(R&D) Act, as the Project has not yet obtained a final Occupancy Certificate (OC) and construction activities are admittedly ongoing. . It is further submitted that in light of the authoritative pronouncement of the Hon'ble Supreme Court in *Newtech Promoters and Developers Pvt.Ltd. v. State of Uttar Pradesh &Ors. [(2021) 18 SCC 1]*, the RE(R&D) Act has retroactive application to all "ongoing projects" that have not received a completion certificate or occupancy certificate as on the date of commencement of the RE(R&D) Act.

64. To appreciate the controversy, it is necessary to refer to the plain language of Section 3(1) of the RE(R&D) Act, which reads as follows:

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:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter

shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act: Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

65. Further, this Authority takes judicial notice of G.O.Ms.No.60 dated 04.03.2025 issued by the Government of Telangana, which amended Rule 2(1)(j) to align with the central enactment.

The amended Rule now defines “ongoing project” as:

“Ongoing Project” means a project where development is going on and for which Occupancy certificate or completion certificate from the competent authority has not been issued as on date of coming into force as per sub section (1) of section 3 of Real Estate (Regulation & Development) Act, 2016.

66. This clarification conclusively removes any ambiguity and reinforces the position that the applicability of the RE(R&D) Act hinges not on the date of building permission but on the existence (or absence) of an occupancy or completion certificate.

67. In the present case, it is not disputed by the Respondents that the Project has not been fully completed and that the partial occupancy certificate dated 10.11.2021, permit no. Lr.372/MP2/Plg/ HMDA/2009 was obtained after the commencement of the RE(R&D) Act, and to be noted that it is partially obtained subject to the outcome of various cases pending before the Hon’ble High Court.

68. Therefore, non-applicability of the complaint stands debarred. In view of the above findings, consequently, the preliminary objection raised by the Respondents is devoid of merit and stands rejected. The present complaint is held to be maintainable before this Authority.

Point No. 1 is answered accordingly.

Point 2: Whether the Respondents have failed to complete the Project and hand over possession of the allotted villa within the stipulated time?

69. The Complainant's grievances include delays in villa completion/handover, mortgage on allotted villa, deviations from permissions, and control over the clubhouse. Respondents deny violations, attributing delays to litigations and inter se clauses.

70. It is to be noted that Allegations of unauthorised deviations, mortgage invalidity, HMDA permissions' legality, and inspection report violations (e.g., reduced road/open areas via Gift Deeds 2021) are sub-judice this Authority refrains from adjudicating these.

a) Complete the Unfinished work of Complainant Villa and handover of the possession:

71. The principal grievance of the Complainant is that the Respondents have failed to complete the development of the Project and hand over possession of the villa allotted to her within the stipulated time.

72. It is an admitted fact that the Complainant pooled her land admeasuring Ac. 0.20 guntas situated at Kokapet Village, Rajendranagar Mandal, Ranga Reddy District, and in consideration thereof, she was allotted one residential villa in the subject Project.

73. It is also undisputed that the Respondents obtained layout and development permission from the competent planning authority, vide Letter No. 372/MP2/Plg/HMDA/2009 dated 06.01.2010. Clause 9 of the said permission expressly mandated that the entire development works shall be completed within a period of three (3) years from the date of grant of permission. Further as per, G.O.Ms. No.7 of 2016 MA & UD dated 05.01.2016 was issued wherein as per Amendment No. 18, amending Rule 19 Sub Rule (d), the time period to complete all the Non Highrise/ Highrise buildings and group development Schemed including the instant Project from 3 years to 6 years was extended, thereby making the project completion period valid up till 02.06.2019.

74. The Complainant contends that despite the lapse of several years far beyond the stipulated period, the Respondents have failed to complete the Project and hand over possession of the allotted villa. In response, Respondent No.2 sought to justify the delay by contending that construction was stalled on account of multiple litigations and court orders restraining alienation of villas falling to its share, and that under the inter se Memorandum of Understanding, Respondent No.2 was entitled to stop construction upon being prevented from alienating its units.

75. This Authority finds the said justification wholly untenable.

76. A chronological examination of the contractual obligations between the parties clearly demonstrates the extent of delay. Under the Development Agreement-cum-General Power of Attorney dated 06.01.2007, Clause 5 obligated Respondent No.1 to complete construction of the built-up area falling to the share of the landowners and deliver possession within a period of six

(6) years from the date of obtaining statutory approvals. Clause 9 of the said agreement empowered Respondent No.1 to enter into development agreements, construction agreements, revenue sharing agreement etc., with third parties for effectuating the Project.

77. Pursuant thereto, Respondent No.1 obtained statutory approval on 06.01.2010 and, exercising the authority conferred under the DGPA, entered into a Supplementary Agreement dated 08.03.2011 with Respondent No.2, appointing it as Co-Developer. Clause 3 of the said Supplementary Agreement imposed a clear and categorical obligation upon Respondent No.2 to complete and deliver fully finished luxury villas, along with all agreed amenities, to the developers and landowners within a period of twenty-four (24) months from the date of execution of the agreement. The agreement further stipulated payment of compensation at the rate of Rs. 25,000/- per month per villa in the event of delay. Thus, even on the most liberal interpretation of timelines:

- a) under the Supplementary Agreement, possession ought to have been handed over by 08.03.2013; and
- b) under the DGPA, possession ought to have been handed over by 06.01.2016.
- c) G.O.Ms. No. 7 of 2016, MA & UD Department, dated 05.01.2016, by Amendment No. 18 to Rule 19, sub-rule (d), the time period prescribed for completion of all Non-Highrise / Highrise Buildings and Group Development Schemes, extended from three (3) years to six (6) years, thereby rendering the project completion period valid up to 02.06.2019.

78. Admittedly, the Respondents failed to comply with either of these timelines.

79. What is more significant is that the litigations relied upon by the Respondents to justify the delay were initiated only after the lapse of 06.01.2016, after the contractual timelines for completion had already expired. Litigation arising subsequent to default cannot retrospectively legitimise or excuse prior delay. This Authority cannot accept the attempt of the Respondents to evade responsibility by attributing non-completion to litigations that arose after the breach had already crystallised.

80. The conduct of the Respondents reflects a gross and unexplained delay, as a result of which the Complainant has been deprived of possession of the allotted villa. Such delay strikes at the very object and purpose of the Real Estate (Regulation and Development) Act, 2016, which seeks to ensure timely completion of projects and to protect allottees from prolonged uncertainty and hardship.

81. As regards the issue of mortgage of the Complainant's villa, Clause 16 of the Development Agreement expressly contemplated the creation of mortgage in favour of the competent authority as a condition for layout approval, and recorded that the selection of the land or built-up area to be mortgaged would be at the discretion of the competent authority and binding on both parties. To that extent, the Authority does not enter into the merits of allocation of mortgaged units, as the same falls within the domain of the competent authority.

82. However, the existence of a mortgage does not absolve the Respondents of their obligation to complete construction of the Complainant's villa in all respects. The Respondents are duty-bound to complete the villa strictly in accordance with the sanctioned plan and obtain the Occupancy Certificate for the Project, and thereafter take all necessary steps for release of the mortgaged villa and execution of conveyance in favour of the Complainant, in accordance with Section 17 of the RE(R&D) Act, 2016.

83. Internal arrangements, inter se disputes, or mortgage conditions cannot be used as a shield to indefinitely delay possession to an allottee. This Authority finds it necessary to observe that promoters who take extended timelines from allottees for the completion of projects cannot thereafter cite litigations often arising out of their own defaults as justification for non-completion. Such conduct defeats the purpose of the RE(R&D) Act and cannot be countenanced.

84. Accordingly, the Respondents are directed to complete the Complainant's villa in all respects, ensure completion of the Project and obtain the Occupancy Certificate at the earliest, subject to the outcome of pending proceedings before the Hon'ble High Court, and thereafter proceed to secure release of the mortgaged villa and execute conveyance in favour of the Complainant without further delay. Allottees cannot be made to wait indefinitely for possession of their rightful entitlements.

d) *Observations with respect to the Clubhouse / Common Amenities:*

85. Though no specific relief has been sought by the Complainant with regard to the clubhouse, this Authority cannot remain a passive spectator where statutory obligations under the Real Estate (Regulation and Development) Act, 2016 are being diluted or defeated by contractual arrangements. The RE(R&D) Act casts an affirmative duty upon this Authority to ensure compliance with statutory mandates, particularly in relation to common areas and amenities forming part of a real estate project.

86. It is the case of the Complainant that the clubhouse forms part of the common amenities intended for the benefit of all landowners/allottees, as reflected in the Memorandum of Understanding. The Respondents, on the other hand, seek to justify their control over the clubhouse by relying upon the Supplementary Agreement, under which the clubhouse is claimed to have been allotted or leased to Respondent No.2.

87. This Authority is of the considered view that such inter se contractual arrangements are wholly irrelevant insofar as statutory obligations under the RE(R&D) Act are concerned.

Under Section 2(n) of the RE(R&D) Act defines common areas as:

"common areas" mean—

(i)the entire land for the real estate project or where the project is developed in phases and registration under this Act is sought for a phase, the entire land for that phase;(ii)the stair cases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits of buildings;(iii)the common basements, terraces, parks, play areas, open parking areas and common storage spaces;(iv)the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel;(v)installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;(vi)the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;(vii)all community and commercial facilities as provided in the real estate project;(viii)all other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use;

88. The clubhouse, being an amenity block forming part of the approved project layout, squarely falls within the definition of “common areas” under Section 2(n). The statutory character of a common area cannot be altered, assigned, leased, or retained by the promoter or any third party on the basis of private agreements.

89. Under Section 11(4)(f) and Section 17(1) of the RE(R&D) Act, which is read as:

Section 11(4)(f)execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of this Act;

Further section 17(1) of RE(R&D) Act states as follow:

17. (1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees

or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws: Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate. (2) After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, as per the local laws:

90. These provisions are mandatory in nature. The promoter is vested with no discretion whatsoever to retain control over common areas or to transfer such amenities to a co-developer, commercial entity, or any third party. Any such act would amount to a clear breach of statutory duty.

91. The act of leasing out or otherwise transferring control of a statutory amenity such as a clubhouse to a third party or co-developer, instead of handing it over to the Association of Allottees, is not only contrary to the representations made to allottees but also constitutes a direct violation of Sections 2(n), 11(4)(f), and 17 of the Real Estate (Regulation and Development) Act, 2016.

92. Permitting either the landowners or the Respondents to unilaterally retain or assert exclusive control over the clubhouse under the guise of MOUs, DGPAs, or Supplementary Agreements would amount to misappropriation of a common asset and would cause serious prejudice to the allottees. Such conduct would also defeat the very object of the Real Estate (Regulation and Development) Act, 2016, which is to ensure transparency, accountability of promoters, and protection of allottee rights.

93. Accordingly, this Authority holds and declares that the clubhouse, being an integral part of the approved layout and falling within the scope of “common areas” under Section 2(n) of the RE(R&D) Act, shall be handed over to the duly constituted Association of Allottees, strictly in accordance with Sections 11(4)(f) and 17(1) of the Real Estate (Regulation and Development) Act, 2016.

94. This Authority reiterates that statutory rights of allottees cannot be diluted, postponed, or defeated by private contractual arrangements, pending litigations, or unilateral acts of the

promoter. The obligations imposed upon promoters under the Real Estate (Regulation and Development) Act, 2016 are clear, binding, and non-negotiable.

Point 3: Reliefs sought on behalf of other landowners and claim for compensation:

95. The Complainant has sought certain reliefs on behalf of other landowners of the Project. This Authority notes that the said landowners are not parties to the present proceedings. In the absence of their impleadment and independent invocation of jurisdiction, no relief can be granted on their behalf. The claim, to the extent it seeks reliefs for persons who are not before this Authority, is therefore not maintainable and is rejected.

96. With regard to the claim for compensation sought by the Complainant, as well as on behalf of other landowners, it is well settled that jurisdiction to adjudicate claims for compensation under the Real Estate (Regulation and Development) Act, 2016 vests exclusively with the Adjudicating Officer under Section 71 of the said Act, to be invoked in the prescribed manner under Form 'N'.

97. Accordingly, this Authority refrains from adjudicating the claim for compensation. The Complainant is at liberty to avail the appropriate remedy before the Adjudicating Officer, in accordance with law.

Point 4: Whether the Respondents have violated Sections 3 and 4 of the RE(R&D) Act by not registering the Project?

98. Before proceeding to examine the merits of the alleged violation under Sections 3 and 4 of the Real Estate (Regulation and Development) Act, 2016, this Authority deems it appropriate to clarify the procedural position.

99. In Complaint No. 90 of 2024, vide order dated 14.07.2025, this Authority had refrained from examining the merits of the issue of registration, as the Complaint was then held to be non-maintainable on account of absence of a valid General Power of Attorney. In the said order, the Secretary, Telangana Real Estate Regulatory Authority, was directed to initiate suo motu proceedings for alleged violation of Sections 3 and 4 of the RE(R&D) Act, 2016.

100. Subsequently, upon consideration of I.A. No. 64 of 2025, this Authority found that the General Power of Attorney had, in fact, been placed on record and that the earlier dismissal arose due to an inadvertent oversight. This Authority now proceeds to examine the issue of violation of Sections 3 and 4 of the RE(R&D) Act on merits in the present proceedings themselves. In

view thereof, no separate suo motu proceedings are required to be initiated, and the issue of non-registration is being observed herein to avoid multiplicity of proceedings.

101. This Authority had issued a Show Cause Notice dated 30.07.2024 to Respondent No.1, calling upon it to explain why action should not be initiated under Sections 59 and 60 of the Real Estate (Regulation and Development) Act, 2016 for alleged violation of Sections 3(1) and 4(1) thereof, on account of non-registration of the Project.

102. Respondent No.1 has contended that the Project “Legend Chimes” received building permissions in the years 2010 and 2013, i.e., prior to 01.01.2017, and therefore does not fall within the scope of mandatory registration. Reliance has been placed on the Telangana Real Estate (Regulation and Development) Rules, 2017 and the circulars issued thereunder, to contend that only projects sanctioned on or after 01.01.2017 are required to be registered.

103. It is further contended that although a revised permission was granted in 2017, the same was kept in abeyance within a short period and was never acted upon. Respondent No.1 has also relied upon the pendency of W.P. No. 18274 of 2020 before the Hon’ble High Court and W.P. (C) No. 1216 of 2020 before the Hon’ble Supreme Court to submit that the issue of applicability of registration itself is under judicial scrutiny.

104. Respondent No.2 has reiterated the above submissions and has further relied upon the unamended Rule 2(1)(j) of the Rules, 2017 and Circular No. 1 of 2018 dated 22.09.2018 to contend that the Project stands excluded from the definition of “ongoing project”.

105. At the outset, it is necessary to reiterate a settled principle of statutory interpretation, subordinate legislation cannot curtail, override, or whittle down the mandate of the parent enactment. Section 3(1) of the Real Estate (Regulation and Development) Act, 2016 mandates that no promoter shall advertise, market, sell, or offer for sale any apartment, plot, or building without registering the real estate project with the Authority.

106. Proviso to Section 3 categorically stipulates that:

“Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act.”

107. Thus, the statutory trigger for registration under the RE(R&D) Act is not the date of building permissions, but the absence of a Completion Certificate or Occupancy Certificate as on the date of commencement of the RE(R&D) Act.

108. In the present case, the following facts are undisputed The Project received initial permission on 06.01.2010 and revised permission on 03.06.2013, that the Project did not obtain a Completion Certificate or Occupancy Certificate as on 01.05.2017, the date on which the provision came into force. Respondent No.2 has admitted that by virtue of G.O.Ms.No.7 dated 05.01.2016, the permissible completion period for the Project stood extended up to 02.06.2019. A partial Occupancy Certificate was obtained only on 10.11.2021, i.e., long after commencement of the RE(R&D) Act.

109. These admitted facts clearly establish that the Project was an ongoing project within the meaning of the first proviso to Section 3 of the RE(R&D) Act.

110. The reliance placed by the Respondents on the Telangana RE(R&D) Rules, 2017 and the circulars issued thereunder is misplaced. Even assuming that the said Rules, 2017, restricted mandatory registration to projects sanctioned after 01.01.2017, such restriction cannot operate to nullify the statutory mandate of Section 3 of the RE(R&D) Act. The Hon'ble Supreme Court in *Newtech Promoters and Developers Pvt. Ltd. v. State of Uttar Pradesh & Ors.* has categorically held that projects which had not obtained Completion Certificates fall within the regulatory ambit of the Authority.

111. The judgment in *Newtech Promoters* do not approve exclusion of ongoing projects from the operation of the RE(R&D) Act merely on the basis of State Rules. On the contrary, it affirms that the legislative intent of the RE(R&D) Act is to bring all incomplete projects within the regulatory framework, so as to safeguard the interests of allottees.

112. The reliance placed on *L. Chandra Kumar v. Union of India* is wholly misconceived. This Authority is not examining the constitutional validity of any Rule or statutory provision. It is merely enforcing the plain language of Section 3 of the RE(R&D) Act. The present proceedings do not involve adjudication on vires, but only statutory compliance, which squarely falls within the jurisdiction of this Authority.

113. This Authority has consistently held that in the event of a conflict, the substantive provisions of the RE(R&D) Act override subordinate rules, and that projects which had not obtained Occupancy Certificates as on the date of commencement of the said Act regardless of

the date of approval qualify as ongoing projects under Section 3. Even prior to the amendment brought in by G.O.Ms.No.60 dated 04.03.2025, this Authority had, in several precedents, pronounced orders wherein promoters with approvals prior to 01.01.2017 to register their projects, observing that the legislative intent was to bring all incomplete developments also within the regulatory framework.

114. The amendment to Rule 2(1)(j), as effected by G.O.Ms.No.60 dated 04.03.2025, only affirms this settled position. It removes the earlier ambiguity by explicitly defining ongoing projects as those where development is in progress and where the Occupancy or Completion Certificate has not been issued as on the date of coming into force of Section 3 of the RE(R&D) Act. This clarification further reinforces the mandatory requirement for the present Project to be registered.

115. Therefore, both statutorily and factually, the Project qualifies as an ongoing project within the meaning of the first proviso to Section 3 of the Real Estate (Regulation and Development) Act, 2016. This Authority has no hesitation in holding that the Respondents were under a legal obligation to register the Project and that their failure to do so constitutes a violation of Sections 3(1) and 4(1) of the Real Estate (Regulation and Development) Act, 2016.

116. However, having regard to the regulatory position prevailing at the relevant time, including the interpretation then placed on the State Rules and circulars, and treating the present case as one arising out of interpretational ambiguity, this Authority, in exercise of its discretion, refrains from imposing penalty under Sections 59 and 60 of the RE(R&D) Act at this stage.

117. The Respondents are nevertheless directed to forthwith take all necessary steps to register the real estate project “Legend Chimes” with the Telangana Real Estate Regulatory Authority, strictly in accordance with the provisions of the Real Estate (Regulation and Development) Act, 2016 and the rules and regulations made thereunder, within a period of thirty (30) days from the date of this Order.

118. Until such time as the Project is duly registered, the Respondents are restrained from advertising, marketing, booking, selling, offering for sale, or inviting persons to purchase any plot or villa in the Project in any manner whatsoever, in terms of Section 3(1) read with Section 4 of the Real Estate (Regulation and Development) Act, 2016. Any contravention of the above direction shall invite consequences under sections 59 and 63 of the RE(R&D) Act and accordance with the law.

K. Final Directions of the Authority:

119. In view of the findings, observations, and conclusions recorded hereinabove, and in exercise of the powers conferred under the Real Estate (Regulation and Development) Act, 2016, this Authority issues the following directions:

- a) The Respondents are hereby directed to complete the construction of the villa allotted to the Complainant in all respects, strictly in accordance with the sanctioned plans and approved specifications undertaken by them.
- b) The Respondents shall ensure completion of the Project and obtain the Occupancy Certificate from the competent authority at the earliest, subject to the outcome of proceedings pending before the Hon'ble High Court, if any.
- c) Upon issuance of the Occupancy Certificate, the Respondents shall take all necessary steps for release of the mortgaged villa allotted to the Complainant, and within a period of fifteen (15) days from the date of such release, shall execute and register the conveyance deed in her favour, in compliance with Section 17 of the Real Estate (Regulation and Development) Act, 2016, without any further delay.
- d) The Respondents are hereby directed to forthwith take all necessary steps to register the real estate project "Legend Chimes" with the Telangana Real Estate Regulatory Authority, in accordance with Sections 3 and 4 of the Real Estate (Regulation and Development) Act, 2016, within a period of thirty (30) days from the date of this Order.
- e) Until such registration is completed, the Respondents are restrained from advertising, marketing, booking, selling, offering for sale, or inviting persons to purchase any plot, villa, or unit in the Project, in any manner whatsoever, in terms of Section 3(1) of the RE(R&D) Act.
- f) Any violation of this direction shall invite action under Sections 59 and 63 of the Real Estate (Regulation and Development) Act, 2016, in accordance with law.

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