

BEFORE TELANGANA REAL ESTATE STATE REGULATORY AUTHORITY

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

Complaint No. 91 of 2025

Dated: 30th January 2025

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

Mr. Venkata Sivaram Surampudy

*Flat No. #906, ARK Towers, Block 'A',
DOWA Colony, Mayuri Nagar, Miyapur, Hyderabad - 500049)*

... Complainant

Versus

M/s.Alien Developers Pvt. Ltd.

1. *Rep by MD. Venkata Challa,*
2. *Rep by MD.Hari Challa*

*Sy. No. 384, 385, and 496 A, Aliens Space Station, Tellapur, RC Puram
Mandal, Gachibowli, Sangareddy District, Telangana- 502032)*

...Respondents

The present matter filed by the Complainant herein came up for hearing before this Authority in the presence of learned Counsel for Complainant P. Ravi Kumar, and the learned Counsel for Respondent M. Ashwin Reddy, V. Sai Teja and Umesh Mantri and upon hearing submissions made by both parties, and the matter reserved over for consideration till this date, this Authority passes the following **ORDER**:

2. The Complainant has filed complaint on hand 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. Brief facts of the case:

3. The Complainant submitted that the Respondent—developer, *Aliens Developers Private Limited*, represented by its Managing Directors Mr. Venkata Prasanna Challa and Mr. Hari Challa, has collected 50% of the flat cost amounting to Rs. 48,00,000/- from the Complainant during the period in between November 2019 and March 2020. Despite collecting such substantial consideration, the Respondents failed to execute or issue a registered Agreement of Sale for the flat promised in the “Aliens Space Station” project.

4. It is further submitted that the Respondent collected GST from the Complainant without executing a valid agreement or registration, which the Complainant contends amounts to an unlawful collection of tax. Repeated requests for issuance of the Agreement of Sale were allegedly ignored by the Respondent and its staff.

5. The Complainant stated that the Respondent persistently refused to share essential project documentation and was manipulating the Customer Information Sheet (CIS) by issuing altered or duplicate copies with edited details, including changing flat numbers. The Complainant alleged that the Respondent frequently shifted the flat allotment from one unit to another and exerted pressure on him to accept a flat that had been previously rejected due to design issues and a higher cost beyond his budget.

6. The Complainant further stated that the Respondent continued to demand the remaining 50% of the sale consideration without providing any clarity or commitment regarding the final flat allotment. It is also alleged that although the Respondents initially promised a larger private corridor area exclusively for Flat No. 1959 at no additional cost, they subsequently rolled back from the promise and that the said flat was already under dispute, thereby renegeing on the earlier assurance.

B. Relief(s) Sought:

7. In view of the facts mentioned above, the complainant sought the following reliefs:
- i. Allotment of the **Flat #1759** as initially promised on the 17th Floor
(**OR**) **Flat #1959** at 19th Floor, without compromising on flat design cost and height of the floor, ventilation, clear lake view, space & size, quality, amenities & facilities as initially agreed and as applicable for any other residential projects of this kind
 - ii. Provide the registered Sale Agreement immediately for flat no. 1759 at the

Aliens space station project, Tellapur, Hyderabad.

- iii. Complete and hand over the aforementioned flat within 3-6 months for occupancy, along with the registered Sale Agreement, Sale Deed, Occupancy Certificate, and all other relevant documentation for any similar residential projects.
- iv. Though the Developer has collected 50% (Rs.46,23,511/-) of the total amount between November, 2019 and February 2020 and promised to provide the abovementioned flat for occupancy within 3years from the date mentioned on the first Customer Information Sheet (CIS) but has repeatedly failed to do so, causing huge monetary losses and mental harassment for all these years. Hence, he strongly demand the Developer to pay the interest forgone and compensate for the losses and mental harassment.
- v. Direct the Developer to provide promised large private corridor area for sole ownership at no extra price and without any obligations alongside the abovementioned flat (and not separately). The developer needs to stick to this commitment and hand it over along with the flat within 3-6 months.

C. Counter on behalf of the Respondent:

8. The respondent through, Venkata Prasanna Challa, authorised representative/joint managing director of the Respondent company, filed a counter stating that all claims that are inconsistent with or contrary to what is stated herein have been specifically denied by the Respondent and the Respondent has acted in good faith and with utmost transparency in their dealings with the Complainant, and the Respondent has on numerous occasions offered flats to the Complainant, who has either not confirmed the flats offered or requested to see an alternative. Copies of the relevant correspondence exchanged between the Complainant and Respondent are annexed with this counter.

9. The Respondent submitted that the Complainant was initially assigned a specific flat No. 1759 in Station 10. However, the complainant later expressed dissatisfaction and disapproval regarding the design and other aspects of that flat. The emails in which he was offered the flat and subsequently rejected it are already filed, and Respondent No. 1, respecting the Complainant's concerns, took proactive steps and suggested alternative flats over time across various towers, including Station 10 as well and the emails showing these offers of flats are also already filed. It is contented that either the Complainant did not revert

in time to confirm the offer or he rejected the flat that was offered and as a result despite its best efforts, no flat could be finally allotted to the Complainant and all units of area being claimed by the Complainant in station 10 have been sold out expect for one unit which is being offered to the Complainant.

10. The Respondent submitted that for contract to be concluded between the parties there must be an offer and an acceptance of that offer which leads, to formation of a promise of a contract and the in present case the Respondent submits that he has been offering units form time to time to the Complainant, but however he has not accepted any single offer and therefore a concluded contract between the parties has not yet been formed and hence as of today no concluded contract between the two parties can be enforced under law, nor can the Complainant seek specific performance for it and this renders the captioned complaint untenable and thus liable to be dismissed.

11. The respondent submitted that the Complainant's request to allot flat 1759 or 1959 in Aliens Station 10 cannot be granted, as both units currently have a third-party interest. Additionally, the request for compensation for mental harassment is untenable since no evidence has been provided to substantiate this claim, and when the Respondent has made it's best efforts, it cannot be held accountable for not being able to assign a unit to the Complainant.

12. The complainant's prayer for possession within 3-6 months, along with an occupation certificate is also untenable, as the Complainant has provided no document to indicate that he was promised possession within those timelines, and that since the allotment of the unit itself could not be finalised, the question of possession timelines does not arise.

13. The Respondent submitted that the subject project was registered with this Authority, and the completion date is December 14, 2026, and the said date is available to the public since the project received registration. The Complainant is deemed to be aware of this fact, and he has never challenged the stated date and filed this Complaint requesting possession with full knowledge of the completion date reflected on the Authority's website. Therefore, for all practical purposes, the effective date of possession for the Complainant and the public at large is only 14th December 2026. It has submitted a copy of the RERA Reg certificate showing the completion date of 14th December 2026.

14. The Respondent submitted that it cannot hold onto inventory indefinitely. If the Complainant was unable to decide about a flat offered to him, the Respondent must proceed

and sell it to other interested parties. The cash flows of the project depend on sales, and if no cash flows are generated, there would be no funds to construct and complete the project. The goal of the RERA is to ensure projects are completed. Therefore, flats cannot be blocked while the Complainant was unable to decide.

15. The Respondent submitted that if the Complainant insists on being assigned unit 1759 or 1959 in Station 10, his case will suffer from frustration. According to Section 56 of the Indian Contract Act, 1872, a contract to do the impossible is void. Therefore, even if this Authority directs the Respondent to enter into an agreement for sale for Flat 1759 or 1959 in Station 10, it will immediately be hit by the above Section.

16. The Respondent submits notwithstanding the above, and without prejudice to its rights and contentions, Respondent remains committed to resolving the issue and is prepared to offer alternative flats such as 1) Flat No.2762, measuring 1675 sq. ft in Station 10; 2) Flat No.2103, measuring 1675 sq. ft in Station 1; 3) Flat No.1711, measuring 1769 sq. ft; 4) Flat No. 1811, measuring 1769 sq. ft; 5) Flat No.1911, measuring 1769 sq. ft; 6) Flat No.2011, measuring 1769 sq. ft in Station 2, without any additional financial implication or burden on the Complainant. These flats are part of the same integrated township as Station 10.

17. The Respondent submitted that the allegations concerning the Customer Information Sheet (CIS), changes in flat numbers, GST collection, and various issues raised by the Complainant, the Respondent has denied that it misled or harassed the Complainant. The document on record itself shows that the parties were unable to reach a consensus regarding the unit to be allotted despite the Respondent's best efforts.

18. The Respondent submitted that the Complainant is trying to misuse the goodwill gestures and communications made by the Respondent in good faith to resolve the situation and to prejudice the Authority.

19. The Respondent submitted that it is settled law that no court can rewrite existing contracts. This applies to the Authority as well. If the Complainant fails to show that both parties had agreed and were ad idem regarding a particular unit, the Authority lacks the power to draw up a contract for the Complainant by directing the Respondent to provide a flat. The negotiation and consummation of contracts is a private domain, and no court can create contractual bargains on behalf of private parties. Even if the Authority directs the allotment of units 1959 or 1759, it will be nullified by the fact that a decree to do the impossible is void.

20. There is no violation of the RERA in the instant case. Section 31 of the RERA requires that a complaint be filed only when there has been a violation of the provisions of the RERA. In the present case, there is no violation of the RERA provisions; therefore, the complaint cannot be entertained by the Authority and is therefore not maintainable.

D. Rejoinder Filed by the Complainant

21. The Complainant strongly denied the allegations in the respondent's counter and asserts that the respondent has never been transparent, be it the document sharing, that allocation, communication and response are transparent, or allocate flats honestly. The complainant stated that the respondent's actions amount to harassment, arbitrary denial of flat allocation, concealment of important facts, and violations of real estate regulations. Moreover, the respondent consistently pressured the Complainant to move away from the initially chosen flat and repeatedly tried to impose unfavorable alternatives, using excuses, delays, and threats to achieve these shifts for personal gain.

22. The complainant, in his rejoinder, alleged that the respondent failed to inform or update him about important regulatory changes, such as the project's RERA registration. The main issues include collecting money for flats that were later declared unavailable, a lack of transparency regarding GST charges without a formal sale agreement, and reallocation of flats without notice or consent. These actions suggest deliberate misconduct and an intention to deprive the petitioner of his rightful property. The petitioner emphasises that all payments and commitments were made for a specific flat of his choice, and the respondent's subsequent actions amount to cheating, concealment, and non-compliance with RERA provisions.

23. Finally, the complainant stated that the respondent's actions amount to harassment, arbitrary denial of the flat allocation, concealment of important facts, and violations of real estate regulations. The complainant concluded by reaffirming his entitlement to all the reliefs, sought for, highlighting the respondent's failure to comply with RERA regulations, and affirming the right to have clear title and possession of the flat No. 1759 booked vide booking form on 23.11.2019 and for execution of agreement for sale in respect of the said No. 1759.

E. Points for consideration:

24. After deliberation on the facts and circumstances of the present case and the documents filed in this behalf, the following issues sprout for consideration: Whether the Complainant is entitled to the reliefs as prayed for? If yes, to what extent?

F. Observation of the Authority:

25. Upon a meticulous perusal of the pleadings, submissions advanced by the learned counsel for both parties, and the documentary evidence adduced on record, this Authority proceeds to adjudicate the lis on its merits. The gravamen of the Complaint revolves around the Respondent's alleged failure to execute and register an Agreement for Sale despite receipt of substantial consideration from the Complainant, coupled with assertions of coercive tactics, arbitrary reallocations, and contravention of the statutory mandates enshrined in the Real Estate (Regulation and Development) Act, 2016.

26. It stands conclusively established that the Respondent received amounts aggregating to approximately 50% of the total sale consideration from the Complainant during the period between November 2019 and February/March 2020. Despite such receipt, the Respondent admittedly failed to execute and register an Agreement for Sale in respect of the flat booked by the Complainant. Such conduct is in direct and unequivocal contravention of the mandatory statutory mandate contained in Section 13(1) of the Real Estate (Regulation and Development) Act, 2016, which prohibits a promoter from accepting more than ten percent of the cost of an apartment without entering into a registered Agreement for Sale.

27. The Respondent has sought to justify its failure by contending that no concluded contract came into existence, allegedly owing to the Complainant's non-acceptance of alternative flats offered from time to time. This Authority finds such contention to be wholly untenable in the facts of the present case. The booking form dated 23.11.2019, coupled with contemporaneous payment receipts, unequivocally evidences the allotment of Flat No. 1759, Station 10, in favour of the Complainant. The Respondent's obligation to execute an Agreement for Sale crystallised the moment it accepted consideration exceeding the statutory threshold.

28. From the record, it is further evident that the Respondent itself generated uncertainty by issuing inconsistent Customer Information Sheets (CIS), reflecting different flat numbers, and by accepting payments and GST amounts referencing Flat No. 1959, even though the Complainant had never formally sought a change from the originally booked Flat No. 1759.

29. The Respondent has sought to resist the relief sought by asserting that Flat No. 1759 presently forms part of the landowner's share under a supplementary agreement executed in the year 2025. This Authority finds that the said document is unregistered, conspicuously silent as to its date and month of execution, and has been brought into existence long after the Complainant's booking and substantial payments. In the considered view of this Authority, such a document cannot be permitted to defeat vested rights already accrued in favour of the Complainant.

30. It is a settled principle of law that a promoter cannot, by its own unilateral and subsequent acts, alter the status of an already allotted unit to the detriment of an allottee. Having accepted consideration and indicated allotment of Flat No. 1759, the Respondent was fully aware of its subsisting obligations. The subsequent transfer of the said flat to the landowner's share, if any, is entirely self-induced and cannot be used as a shield to escape statutory liability.

31. The Respondent's attempt to invoke Section 56 of the Indian Contract Act, 1872, on the plea of impossibility of performance, is equally misconceived. The doctrine of frustration cannot be invoked where the alleged impossibility is the direct result of the promisor's own conduct. The impossibility pleaded herein is not supervening or external, but self-created. A party cannot be permitted to take advantage of its own wrong.

32. In this context, the maxim *nullus commodum capere potest de injuria sua propria* squarely applies. The Respondent, having created third-party interests or contractual complications subsequent to the Complainant's booking, cannot now plead helplessness before this Authority. Such an argument, if accepted, would strike at the very root of allottee protection envisaged under the RE(R&D) Act, 2016 regime.

33. This Authority further notes that while Flat No. 1959 was demonstrably encumbered by a pre-existing third-party interest, as borne out from the orders dated 24.11.2023 passed by the Hon'ble DRT-II, Hyderabad in OA No. 343 of 2019, no such encumbrance existed in respect of Flat No. 1759 at the time of booking by the Complainant. The Respondent, despite being aware of the earlier agreement of sale and litigation pertaining to Flat No. 1959, nevertheless accepted monies and issued vouchers referencing the said flat. Such conduct borders on gross regulatory impropriety.

34. The email correspondence placed on record further reveals that the Respondent repeatedly sought to shift the Complainant to alternative units whenever the Complainant insisted on clarity and adherence to the originally booked flat. This Authority finds that the delay and failure in concluding the Agreement for Sale are wholly attributable to the Respondent's conduct and not to any indecision or default on the part of the Complainant.

35. Accordingly, this Authority holds that the Respondent has clearly violated the mandatory provisions of Section 13 of the Real Estate (Regulation and Development) Act, 2016, by collecting substantial consideration without executing and registering an Agreement for Sale. Such violation squarely attracts the consequences contemplated under Section 61 of the RE(R&D)Act.

36. However, this Authority also takes judicial notice of the fact that the project "Aliens Space Station" is presently a distressed project undergoing revival through the SWAMIH Investment Fund I, a Government of India-backed initiative. In the peculiar facts and circumstances of the present case, and in the larger interest of safeguarding the completion of the project for the benefit of all allottees, this Authority, while recording the violation, refrains from imposing a monetary penalty at this stage.

37. This indulgence shall not be construed as a precedent or a waiver of statutory compliance. The Respondent is hereby cautioned that any further deviation, non-compliance, or delay in adhering to the directions issued herein shall invite strict penal action under Section 63 of the Real Estate (Regulation and Development) Act, 2016, without any further leniency.

38. For the reasons recorded hereinabove, this Authority is satisfied that Flat No. 1759 was validly allotted to the Complainant, remained free from third-party encumbrances at the relevant time, and continues to be enforceable against the Respondent. The Respondent is, therefore, legally bound to execute and register the Agreement for Sale in respect of the said flat, subject to receipt of the balance sale consideration.

G. Directions of the Authority

39. In exercise of the powers conferred upon this Authority under Sections 37 and 38 of the Real Estate (Regulation and Development) Act, 2016, and in furtherance of the findings and conclusions drawn hereinabove, the following directions are hereby issued:

I. The Respondent shall execute the agreement of sale in respect of the flat/booked unit no. 1759 as prayed for by the complainant, subject to the complainant making payment balance sale consideration amount to the Respondent, and the Respondent shall register the Sale Agreement within thirty days from the date of receipt of this order.

40. The Respondent is hereby informed that failure to comply with the directions issued herein shall attract further penal consequences under Section 63 of the RE(R&D) Act, 2016.

Sd/-
Sri K. Srinivasa Rao,
Hon'ble Member,
TG RERA

Sd/-
Sri Laxmi Narayana Jannu,
Hon'ble Member,
TG RERA

Sd/-
Dr. N. Satyanarayana, IAS (Retd.),
Hon'ble Chairperson,
TG RERA

