

**TELANGANA REAL ESTATE APPELLATE TRIBUNAL: HYDERABAD**

Krishna Hostel, First Floor, Dr. MCR HRD Institute Campus, Road No.25,  
MP & MLAs Colony, Jubilee Hills, Hyderabad-500 033.

CORAM: Hon'ble Sri Justice A. Santhosh Reddy, Chairperson  
Hon'ble Sri P. Pradeep Kumar Reddy, Judicial Member  
Hon'ble Sri Vemula Sreekar, Administrative Member

**T.A.No. 35 of 2024****Between:**

1. Trendset Jayabheri Projects LLP,  
Ground Floor, 4<sup>th</sup> block, Temple steps,  
184-187, Annasalai, Little Mount,  
Chennai.  
...Appellant/ developer
  2. Dr.K.L.Narayana, S/o Late K.S.Ramachandra  
Rao, 64 years, Business, H.No.8-2-623/5/1,  
Road No.10, Banjara Hills, Hyderabad.
  3. Kaza Kavya, D/o Dr.K.L.Narayana, 32 years,  
H.No.8-2-623/5/1, Road No.10, Banjara Hills,  
Hyderabad.  
...Appellants/Landowners
- AND
- Neelima Vanguru, D/o V.Narayana Reddy,  
37 years, Flat No.1606, Block-C, Ramkey  
Towers, Gachibowli, Hyderabad.  
...Respondent/complainant

|                        |                       |
|------------------------|-----------------------|
| Counsel for Appellants | : Mr.M.V.Durga Prasad |
| Counsel for Respondent | : Mr.Rajesh Maddy     |
| Date of Decision       | : 09.09.2026          |

**ORDER::** (*Per Hon'ble Sri Justice A. Santhosh Reddy*)

This appeal is filed at the instance of appellants/promoter/Landlords assailing the Order, dated 05.09.2024 as modified by Order dated 11.09.2024, passed by the Telangana Real Estate Regulatory Authority, Hyderabad, (hereinafter referred to as 'the Regulatory Authority'), in Complaint No. 664 of 2023, whereby the learned Regulatory Authority, while dismissing the complaint filed by the respondent/complainant, imposed a penalty of Rs.27,50,000/-, under Sections 60 and 61 of the Act, on the 1<sup>st</sup> appellant/promoter for contravention of Sections 11 and 14 of the Act.

2. For the sake of convenience, the parties are referred as they are arrayed in the present appeal.

3. Brief facts of the case, as per the complaint filed by the respondent/complainant, are that appellant No.1 is a Limited Liability Partnership firm and appellants 2 and 3 are landlords. Appellant No.1 had taken the land for development from appellants 2 and 3 and that they entered into a Development Agreement-cum-General Power of Attorney, dated 10.02.2016, (hereinafter referred to as DAGPA), wherein the 1<sup>st</sup> appellant/promoter agreed to develop multi-storeyed residential apartment complex under the name and style of Trendset Jayabheri

Elevate (hereinafter referred to as Project). Pursuant to the said DAGP, on 09.02.2018, a supplementary agreement was also entered into between the parties, whereunder the flats shown in schedule 'A' fell to the share of appellants 2 and 3 and accordingly, Flat No. B1004, 10th floor, Block B admeasuring 4094 sq. Ft. of saleable area along with allotment of 3 car parking area fell to the share of the 2<sup>nd</sup> appellant (hereinafter referred to as Flat-1), and Flat No. F1402, 14th Floor, Block F, admeasuring 2832 Sq. ft, of saleable area along with 3 car parking area fell to the share of the 3<sup>rd</sup> appellant (hereinafter referred to as Flat-2). It was further stated that complainant and the 2<sup>nd</sup> appellant had entered into an agreement of sale, dated 25.11.2021, in respect of Flat No. 1 and 2<sup>nd</sup> appellant agreed to sell Flat 1, for a total sale considerations of Rs.2,41,32,000/- and that the complainant had paid an advance amount of Rs.40,00,000/- to the 2<sup>nd</sup> appellant and the balance amount was agreed to be paid as per the Payment plan mentioned therein in schedule 'C', and thereafter, after receiving entire amount, a sale deed, dated 11.04.2022 was executed by the 2<sup>nd</sup> appellant in favour of the complainant, however, the 2<sup>nd</sup> appellant failed to handover the flat in habitable condition. Similarly, in respect of Flat 2, another agreement of Sale, dated 03.11.2020, was entered into between the complainant and the 3<sup>rd</sup> appellant and the 3<sup>rd</sup> appellant

agreed to sell Flat No.2 for a total sale consideration of Rs.1,89,55,000/- and the complainant had paid a total sum of Rs.1,55,00,000/- to the 3<sup>rd</sup> appellant. However, as the Project is getting delayed, 3<sup>rd</sup> appellant neither executed the sale deed nor returned the payment made by the complainant. It was further stated that the complainant filed a Suit for specific performance, vide O.S.No.38 of 2023 on the file of the VI Additional District Judge, Ranga Reddy District. It was further stated that as per Clause 5.1 of the respective agreements of Sale, the 2<sup>nd</sup> and 3<sup>rd</sup> appellants assured to handover possession of the apartments with all amenities on or before 30.6.2022 & 30.11.2021 respectively. However, the appellants had obtained the occupancy certificate only on 06.06.2023, which reveals that they have applied for the revised plan, without consent of the allottees and as such they have contravened the provisions of Section 14 of the Act. As there is a delay of nearly 12 and 19 months in completing the project in respect of Flat Nos.1 and 2, the complainant is entitled for compensation as envisaged under Section 18 of the Act. It was further stated that the appellants did not provide the amenities, specifications and facilities as promised in the agreements of sale and prospectus. The appellants instead of completing the residential blocks in time, diverted the payments towards the commercial blocks owned by the developers,

at the same premises. It was further stated that the appellants totally failed to comply with the provisions of Section 11 of the Act. It was further stated that the appellants have deviated from the sanctioned plan without taking approval as mandated under clause (ii) of sub-section 2 of Section 14 of the Act. Therefore, the respondent/complainant prayed for the following reliefs:

- (a) To conduct enquiry about the irregularities committed by the appellants and take appropriate action against them, by imposing maximum penalty for contravention of section 4 of RERA Act;
- (b) To impose penalty for deviating the sanction plan without obtaining prior written permission as mandated under Section 14 of RERA Act;
- (c) To conduct enquiry for diverting the fund of allottees in contravention to Sub-clause (D) of clause (1) of sub-section 2 of section 4 of the Act and impose penalty.

4. Appellants filed a Counter by raising preliminary objections, *inter alia*, contending that the project was completed by 06.06.2023 and the application for Occupancy Certificate in respect of the project was applied on 22.02.2023 and the same was issued on 06.06.2023. The complainant had filed another complaint No.663 of 2023 before the Adjudicating Officer, for compensation, on the basis of the same documents, camouflaging her claim and the Civil Suit. The complainant has played fraud on appellant Nos. 2 and 3 and filed O.S No.38 of 2023 on the file of

the VI Additional District Judge, Kukatpally in respect of F.1402 and the said suit was dismissed, on rejection of the plaint in IA.No.663 of 2023, by an order dated 09.08.2023, and the same was suppressed by the complainant. It was further stated that the complainant has not purchased the flat No.F.1402 and flat No. B1004 from the 'promoter' within the meaning of section 2 (zk) of the Act, but from the share of the landowners and, therefore, the complainant is not an 'allottee' within the meaning of section 2 (d), and hence it is not maintainable. The complainant has taken the handing over letter of the flat No. B1004, without demur, for the purpose of interior works, on 16.05.2022, and made alterations of her own, beyond recognition and, therefore, she is estopped by conduct to make any complaint against the promoter in any manner. The Complaint is filed on 02.08.2023, beyond reasonable time from taking possession in context of the facts and that the complaint is barred by laches. The alleged delay on the part of the promoter is not correct. The Government of India and the Government of Telangana have treated the outbreak of novel coronavirus (Covid -19) as Force Majeure circumstances and in order to facilitate the Real Estate Sector, the Regulatory Authority had decided to extend the validity of the completion dates granting extension sporadically by 6 months each time, for about 1 ½ years by virtue of the



Order Nos.14, 15 and 16, dated 13.05.2020, 29.09.2020 and 01.06.2021 respectively due to the unexpected departure of the labourers to their native places. Accordingly, the Regulatory Authority issued a fresh registration from 12.03.2019 to 08.05.2023 in the place of the initial registration from 12.03.2019 to 30.06.2021. The project was completed during the period of registration and possession of the flat was taken by the complainant on 16.05.2022 after being satisfied about the completion as per the terms and conditions and acknowledging by letter, dated 16.05.2022, that "Trendset Jayabheri Projects LLP" has completed the construction in compliance to all the terms and conditions and specifications." Hence, the complainant is estopped from making claims to the contrary, after more than one and half year which is motivated and fraudulent. The complaint is not maintainable as the complainant has sought the same relief under Form 'N' filed before the Adjudicating officer. The two applications are under Section 31 of the Act, which provide for a complaint with the Regulatory Authority or Adjudicating Officer as the case may be and therefore, parallel proceedings before both the Authorities are not permissible. The filing of multiple complaints on the same frivolous grounds before the Adjudicating Officer shows the ill conduct of the complainant, and the present complaint shall be dismissed

on this ground alone. It was further stated that the complainant has suppressed these material facts in her complaint and hence the complaint is liable to be dismissed in limine, on this ground alone, in view of the Judgment reported in *Ramjas Foundation and another vs. Union of India and others*<sup>1</sup>.

5. Before traversing the allegations made by the complainant, it was stated by the appellants that they have constructed a project named "Trendset- Jayabheri Projects Elevate" in Sy.No.5 of Kondapur, Serilingampally Mandal, Ranga Reddy District, for which OC was granted by GHMC on 06.06.2023. The brother of complainant by name Nikhil Reddy Vanguru approached them in the month of August 2019 and a booked Unit No. A 1904 (Floor area 2,730 sq. ft) in the Project "Elevate" on 17.08.2019 for a total sale consideration of Rs.2,14,40,475/- including GST, for which he entered into an agreement on 17.12.2020. He applied for a home loan from the Axis Bank, Tarnaka branch, who insisted on a tripartite agreement for the said flat and the bank collected originals. The said Nikhil Reddy made some payments through the bank for the flat A.1904 and got changed the standard floor plan and thereafter changed his booking for a bigger flat Unit No. E 1601 and entered into a fresh

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<sup>1</sup> (2010) 14 SCC 38



agreement of sale and tripartite agreement in respect of Unit No. E 1601 which was collected by the Bank and then induced the promoter to register the sale deed by giving photocopies of the balance payable, altered the interiors, and sent letters with false allegations and after obtaining the original Sale deed on representation of getting original Demand Drafts, he dishonestly got Demand Drafts cancelled to downsize his home loan in collusion with the bank officials and when this was detected, the appellants threatened him to file a criminal case and that the said Nikhil Reddy and his father settled the matter by making payment. The same modus operandi was adopted by the complainant, who along with her father approached one of the landowners, Dr.K.L.Narayana, (appellant No.2 herein) has initially chosen flat bearing Unit No. F1402 admeasuring 2835 sft belonging to his daughter (appellant No.3) and entered into an agreement of Sale on 03.11.2020 and requested for customization of the said flat, changing the standard floor plan and thereafter, requested to sell a bigger flat bearing Unit No. B1004 admeasuring 4095 sft, belonging to the 2<sup>nd</sup> appellant, getting the agreement for Unit No. F1402 cancelled. The complainant and her father brought the letter dated 06.10.2021 and requested a refund of the entire consideration in respect of Flat No.1402 after she opted for a bigger flat.

The 2<sup>nd</sup> appellant in good faith has accepted the same and accordingly, his daughter, the 3<sup>rd</sup> appellant herein, refunded the consideration amount of Rs.1,55,00,000/- paid in respect of flat No.1402 by the complainant through RTGS on 02.03.2022 and 06.04.2022 as the transaction under the agreement was cancelled at her request. There is no dispute about the refund and the letter, dated 06.10.2021, and the civil court has given a clear-cut finding in the judgment, dated 09.08.2023, in IA.No.663 of 2023 in O.S.No.38 of 2023 filed by the complainant that, "As per the plaint, the amount of advance sale consideration was refunded on 06.04.2022 and the plaintiff filed suit on 13.02.2023". But, with dishonest and fraudulent intention, the complainant avoided returning the original agreement, dated 03.11.2020. In the circumstances, a fresh agreement was entered into in respect of Unit No. B1004 admeasuring 4095 sft on 25.11.2021. The second appellant executed the Sale Deed, dated 11.04.2022, registered as Doc No.5886/2022 in respect of flat B-1004 without receiving the entire consideration payable in respect of B1004, believing their promise to pay the same. The complainant and her father V. Narayana Reddy requested appellant No.2 not to mention the outstanding GST amount of Rs.5,85,750/-, out of the agreement price, with a view to making gain in terms of stamp duty registration, promising

to pay the said GST amount separately. Believing their statements, the sale deed was drafted as per their requirement, reciting only Rs.2,35,46,250/- as the sale price payable under the agreement and accordingly the total consideration as recited was shown as paid, which is not correct. The Complainant made the payment of corpus fund, 2 year upfront of maintenance, GST on maintenance payable under the agreement to the association and still she is in default of Rs.5,85,750/- with interest payable thereon at the rate of 18% per annum and, therefore, she being a defaulter under Section 19 (6) of the Act is not entitled for any relief and on the other hand, she being a defaulter is liable to pay interest under section 19 (7) of the Act with effect from the date of sale deed on 11.4.2022 on the delayed payment of corpus fund & 2 year upfront maintenance charges, GST on maintenance charges and also the defaulted amount. The complainant, without paying the balance amount including the amounts payable to the Association, namely, corpus fund and upfront maintenance charges for 2 years as above, as per the terms of the sale deed tried to take occupation of the flat, for which the appellants did not permit. Then the complainant once again requested for possession and they agreed to deliver possession, subject to certain terms that possession given would be without prejudice to our right to recover the balance, on

her payment of the corpus fund and up-front maintenance charges payable to the Association. In view of the said letter, she cannot make any claim contrary and allegedly seek compensation. The complainant is liable to pay/refund the amount of Rs.5,85,750/- towards GST on sale price with interest 18% till date. Hence, being a defaulter, she cannot maintain a complaint under Section 18 of the Act and is liable to be directed to pay an amount of Rs.7,17,545/- and dismiss the complaint.

6. The respondent/complainant filed a rejoinder to the Counter of the appellants, *inter alia*, contending that the complainant had filed a Complaint No.663 of 2023 before the Adjudicating Officer for compensation under Section 18 of the Act read with Rule 15 of the Rules, 2017 and other reliefs. Mere obtaining the Occupancy Certificate will not exonerate the appellants from their statutory obligations. It was further stated that the complainant had not suppressed the filing of civil suit and that the relief sought before the Adjudicating Officer is different from the reliefs sought in the present complaint. The landowner and the developer/promoter are jointly liable for the functions and responsibilities specified under the Act or the Rules or Regulations made thereunder. The complainant has denied that she had taken handing over letter of the flat No. B-1004 without any demur and that the complainant

had made alterations beyond recognition. It was further stated that the complainant had to undertake certain works as the appellants utterly failed to fulfil their promises, commitments made in the prospectus and agreement of sale. It was further stated that the appellants entered into agreements of Sale on 25.11.2021 and 03.11.2022, both the dates are after the pandemic was declared. The appellants cannot take shelter of any of the Government Orders, even if were in existence, as the appellants under clause 5 of the agreement, dated 25.11.2021 made commitment to the complainant, that the possession of the Flat B 1004, would be on or before 30.06.2022. Further, under clause 7 of the agreement of sale, it was mentioned that, 'ready to move in possession 'shall mean that the apartment shall be in a habitable condition which is complete in all respects including the provision of all specifications, amenities and facilities, as agreed to between the parties, and for which occupation certificate, as the case may be, has to be issued by the competent authority. Even according to the appellants, it is only on 06.06.2023 occupancy certificate was issued, as such, there is clear delay in completing the project and delivering actual possession in a habitable condition. In respect of the letter, dated 16.05.2022, the complainant was forced to sign without making any remarks, otherwise the appellants threatened that

they would not give flat for interior works. The complainant has admitted that her brother entered into an agreement of Sale in respect of Flat No. A. 1904 in Project "Elevate", believing the false reputation and prospectus of the appellants in the market that they would adhere to their commitments, and agreed terms. The complainant has denied that she had adopted the same modus operandi, and approached one of the land owners, (appellant No.2) along with her father and got the agreement cancelled for Flat No. F 1402. Further, the complainant has denied that she along with her father gave a letter, dated 06.10.2021 to appellant No.2 to cancel the agreement of sale, dated 03.11.2020, as the complainant wanted to take a bigger size of flat in the project and to refund the amount to her bank account duly acknowledging the same by affixing her signature. It was also denied that, the 2<sup>nd</sup> appellant executed the Sale Deed, dated 11.04.2022, registered as Document No. 5886/2022 in respect of Flat No. B-1004 without receiving the entire consideration payable in respect of B-1004. The complainant had paid all the amounts as agreed between the parties. In fact, there is no need for the appellant No.2 to collect the GST amounts, as he being a landlord sold his share in the project. The amounts collected by appellant No.2 for GST are liable to be returned to the complainant with interest. Hence, the complainant is not a defaulter, and



she need not to pay an amount of Rs.7,17,545/- to the appellants. It was further stated that the complainant never violated any of the condition as alleged by the appellants. In view of the above submissions, it is prayed that the appeal filed by the appellants is liable to be dismissed.

7. After hearing the parties and perusing the entire material available on record, the learned Regulatory Authority, vide impugned order, dated 05.09.2024, as modified by order, dated 11.09.2024, while dismissing the complaint filed by the respondent/complainant, imposed a penalty of Rs.27,50,000/-, under Sections 60 and 61 of the Act, on the 1<sup>st</sup> appellant/promoter for contravention of Sections 11 and 14 of the Act.

8. Being aggrieved by the aforesaid orders of the learned Regulatory Authority, dated 05.11.2024, as modified by the order, dated 11.09.2024, the appellants filed the present appeal.

9. We have heard the learned Counsels appearing for the appellants, as well as the respondent/complainant, and have gone through the entire material placed on record including the written arguments and legal precedents submitted by the learned Counsels appearing on either side.

10. The point that arises for consideration in this appeal is as under:

*Whether the impugned order, dated 05.09.2024, as modified by order, dated 11.09.2024, passed by the learned Regulatory Authority is sustainable in law?*

**POINT ::**

11. The contention of the learned Counsel for the respondent/complainant is that the complainant had entered into an agreement of sale, dated, 03.11.2020, with appellant No.3/landowner in respect of Flat No. F-1402, admeasuring 2835 sq.ft., in the project named as 'Trendset Jayabheri Elevate' and paid a sum of Rs.1,55,00,000/-, out of total sale consideration of Rs.1,89,55,000/-. However, as the project is getting delayed, the appellant No.3 assured that she will execute the sale deed by honouring the agreement of sale, dated 03.11.2020, and till such time, the 3<sup>rd</sup> respondent returned the payments made by the complainant. Subsequently, the respondent/complainant entered into another agreement of sale, dated 25.11.2021, with appellant No.2/landowner in respect of Flat No. B-1004 for a sale consideration of Rs.2,41,32,000/- and later a registered sale deed, dated 11.04.2022, was executed in favour of the respondent/complainant after receipt of entire sale consideration.

12. It is the contention of the learned Counsel for the appellants that the respondent/complainant initially entered into an agreement of sale, dated 03.11.2020, with appellant No.3 for Flat No.F-1402 and later she requested for cancellation of the said Flat, with a view to purchase a bigger Flat and as such the cancellation was accepted and total amount

was refunded without any deduction, but the respondent fraudulently retained the original agreement, which stood cancelled on account of receipt and acceptance of refund. Subsequently, the respondent/complainant entered into another agreement of sale, dated 25.11.2021, with appellant No.2 for Flat No. B-1004 and later a registered sale deed was executed on 11.04.2022 after receiving the sale consideration excluding GST.

13. It is borne out from the record that the respondent/complainant had filed O.S.No.38 of 2023 against appellant No.3 before the VI-Additional District and Sessions Judge, Ranga Reddy District at Kukatpally for specific performance of agreement of sale, dated 03.11.2020, in respect of Flat No.1402. Further, appellant No.3 filed I.A.No.663 of 2023 in O.S.No.38 of 2023 seeking to reject the plaint. After hearing both sides and perusing the record, the learned Additional District Judge held that, admittedly, the defendant (appellant No.3) returned the amount of Rs.1,55,00,000/- paid by the plaintiff (complainant) towards part sale consideration through RTGS on 02.03.2022 and 06.04.2022. In the plaint, the respondent/complainant has not clearly mentioned the reason as to why the advance sale consideration was refunded and it was only averred that as there was delay in execution

of sale deed, appellant No.3 proposed to return the advance sale consideration amount. Since respondent/complainant failed to show that there was subsisting contract between herself and appellant No.3 herein as on the date of filing the suit, the learned Additional District Judge rejected the plaint, vide order dated 09.08.2023. Aggrieved by the said order, the respondent/complainant preferred A.S.No.112 of 2024 and a Division Bench of the Hon'ble High Court of Telangana, vide its judgment dated 01.12.2025, allowed the said appeal by setting aside the order, dated 09.08.2023, in I.A.No.663 of 2023 in O.S.No.38 of 2023. However, liberty has been granted to both the parties to take all the pleas and grounds which they have raised before the High Court during trial and the trial Court was directed to consider the same and dispose of the suit strictly in accordance with law. Against the said judgment, appellant No.3 preferred SLP before the Hon'ble Supreme Court of India.

14. Learned Counsel for the appellants submitted that the respondent/complainant initiated parallel proceedings under the Act based on the subsequent sale deed in respect of Flat No. B-1004 by way of filing the present complaint in Form 'M' before the Regulatory Authority.

15. A perusal of the record makes it clear that the Complaint No.663 of 2024 filed before the Adjudicating Officer relates to the claim of refund

and payment of compensation, by the respondent/complainant. Further, the respondent/complainant by way of present complaint sought action against the appellants for violations of the provisions of the Act, which cannot be addressed by the Adjudicating Officer. However, in the instant case, since the reliefs sought by the respondent/complainant are entirely different from the reliefs claimed by her in the complaint filed before the Adjudicating Officer, the learned Regulatory Authority rightly held that the present complaint is maintainable under the provisions of the Act.

16. That apart, the respondent/complainant prayed this Tribunal that an inquiry be conducted into the irregularities committed by the appellants and also for diverting the funds of allottees. It is born out from the record that the respondent/complainant has not produced any substantial evidence that may raise suspicion to warrant an investigation against the alleged irregularities committed by the appellants. Therefore, the said relief prayed for by the respondent/complainant cannot be granted.

17. So far as the alleged deviation from sanctioned plan without consent is concerned, it is the contention of the respondent/complainant that the appellants had obtained the revised building permission on 23.05.2023 without consent of the flat owners and as such they had

deviated from the sanctioned plan without obtaining approval as mandated under clause (ii) of sub-section 2 of Section 14 of the Act.

18. Learned Counsel for the appellants submitted that the learned Regulatory Authority has failed to see that the provisions of Section 14 of the Act have no application to the present case as there is no such alteration after the sanction plan as contemplated by Section 14 (2) of the Act and that there is no material change or prejudice caused to the allottees and as such the impugned finding and penalty are wholly unjust and without jurisdiction. He further submitted that the alleged violation is technical but not real, as the extra area is for the benefit of the flat owners without any extra payment and that the violation was denied in paragraph No.5(ii) of the counter, however, the learned Regulatory Authority erroneously ignored and recorded a finding in paragraph No.69 of the impugned order, which is an error apparent on the face of record. He further submitted that even assuming without admitting it is a violation, it is too trivial and innocuous and hence does not require the consent as contemplated by Section 14 (2) of the Act and as such there is no violation as alleged by the complainant. In support of his contention, he relied upon a decision of the Hon'ble Supreme Court in *Zircon Venture*



*Co-Operative Housing Society Ltd., Lohagaon, Pune vs. Zircon Ventures, Pune and others*<sup>2</sup>.

19. As per the provisions of Section 14 of the Act, it is manifest that any additions/alterations in the sanctioned plan with respect to a particular flat that has been allotted to a particular allottee can only be made subsequent to a written consent taken in advance from the said allottee. Similarly, where promoter seeks to make any additions/alterations in the entire project, the consent of two-third allottees is mandated.

20. The respondent/complainant submits that, initially the 1<sup>st</sup> appellant/promoter had uploaded a Building Permit Order, vide Permit No. 53212/HO/WZ/Cir-11/2016, dated 09.05.2017, on RERA website, which designates the amenities block as Ground + 2 floors. The layout plan copy uploaded corresponds to the aforementioned permit. However, the Occupancy Certificate uploaded vide proceedings No. 1774/GHMC/SLP/2023, dated 06.06.2023, references a different Building Permit number, namely 53653/HO/WZ/Cir-11/2016, which was obtained on 25.05.2023, and indicates that the amenities block is Ground Floor + 3 upper floors.

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<sup>2</sup> 2014 SCC Online Bom 612

21. Therefore, the learned Regulatory Authority has rightly observed that the 1<sup>st</sup> appellant/promoter had uploaded the Occupancy Certificate, dated 06.06.2023, but failed to upload the revised plan bearing Permit No.53653/HO/WZ/Cir-11/2016, which was obtained on 25.05.2023, due to a server outage, which is a gross violation of the Section 11(3) of the Act, which categorically lays a mandated obligation on the part of the promoter to make available to the allottee the sanctioned plans, layout plans, along with specifications, approved by the competent authority, and also the stage-wise time schedule of completion of the project including such revised permissions which had been taken during the completion of the project. Providing incomplete information to the allottees and to the Regulatory Authority is a gross violation of the Act. Further, it is also a mandated obligation on the part of the 1<sup>st</sup> appellant, under Section 14(2) of the Act, to obtain written consent of at least two-third allottees in the project before making any additions/alteration in the project. When the respondent/complainant alleged such violation on part of appellant No.1, it was incumbent upon him to have substantiated whether any consent was taken or not. Therefore, we are of the view that failing to deny the said allegation or failing to produce a document to disprove it does not automatically absolve appellant No.1 from

responsibility or liability. Therefore, the learned Regulatory Authority has rightly held that appellant No.1 is liable for violation of provisions of Section 14(2) of the Act by not taking two-third consent from the allottees in the project before obtaining revised sanctioned plan and as such he is liable for penalty under Section 61 for the said violation.

22. Insofar as non-uploading of the status report of the project in the website of the Regulatory Authority is concerned, as per the provisions of Section 11(3)(a) of the Act, it is the duty of the promoter to display all sanctioned plans and layout plans, along with specifications, approved by the competent authority at the site or such other place, as may be specified by the regulations made by the Authority. It is borne out from the record that appellant No.1 has failed to provide such information and misrepresented the allottees by not uploading the revised plan vide Permit No.53653/HO/WZ/Cir-11/2016, dated 25.05.2023. Therefore, the learned Regulatory Authority has rightly held that appellant No.1/promoter had failed to comply with the provisions of Section 11(1) of the Act.

23. With regard to the quantum of penalty imposed by the learned Regulatory, the learned Counsel for the appellants submitted that the construction of clubhouse is as per the revised sanctioned plan and more

than what was shown in the original sanctioned plan. Further, the Regulatory Authority ought to have directed the 1<sup>st</sup> appellant to rectify the alteration, if it has found any violation and heard the appellant in such case, instead of imposing penalty and raising the same to Rs.27,50,000/- by way of modified impugned order, dated 11.09.2024, is unjust, illegal onerous and is liable to be set aside. He further submitted that the learned Regulatory Authority ought to have directed the respondent/complainant to pay the amounts due to the appellants as per Section 19 of the Act.

24. A bare analysis of the revised sanctioned plan, dated 25.05.2023, makes it clear that the 1<sup>st</sup> appellant/promoter has built another floor in the club house floor without taking consent from the two-third allottees as required under Section 14(2) of the Act. Further, Section 11(4)(f) read with Section 17 of the Act provides that it is the responsibility of the appellant No.1 to handover the undivided proportionate title in the common areas including the club house with additional floor so constructed to the association of allottees. Keeping in view the act of violations committed by appellant No.1/promoter, the learned Regulatory Authority has rightly imposed a penalty of Rs.27,50,000/- on the 1<sup>st</sup> appellant for contraventions of Sections 11 and 14 of the Act.

25. On a cumulative consideration of the entire material available on record, we are of the considered opinion that the impugned order, dated 05.09.2024, as modified by order, dated 11.09.2024, passed by the learned Regulatory Authority are legally sound and based on comprehensive appreciation of facts and law and the same does not warrant any interference by this Tribunal.

26. In the result, the appeal is dismissed and the impugned order, dated 05.09.2024, as modified by order, dated 11.09.2024, passed by the learned Regulatory Authority in Complaint No.664 of 2023 is hereby upheld. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

Registry is hereby directed to transmit a copy of this order to the parties and the Regulatory Authority as per section 44 (4) of the Act.

Sd/\_\_\_\_\_  
A. SANTHOSH REDDY, J  
(CHAIRPERSON)

Sd/-\_\_\_\_\_  
P. PRADEEP KUMAR REDDY  
(JUDICIAL MEMBER)

Sd/-\_\_\_\_\_  
VEMULA SREEKAR  
(ADMINISTRATIVE MEMBER)

09.09.2026  
GSN

