

**TELANGANA REAL ESTATE APPELLATE TRIBUNAL: HYDERABAD**  
Krishna Block, First Floor, Dr. MCR HRDI Campus, Road No.25, MP & MLA's  
colony, Jubilee Hills, Hyderabad-500 033.

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

**T.A.No. 67 of 2025**

**Between:**

I.C.Ashok Kumar, S/o I.Rowland, D.No.3-17-3, 4-1637,  
Villa Nos.3 & 4, Maharaja Forts, Parvathapur village,  
Medipally Mandal, Medchal-Malkajgiri, Hyderabad.

...Appellant/Complainant

AND

1.M/s Ambitionz N Homez, a registered Partnership  
Firm (Reg.No.2187 of 2007) represented by its Managing Partner  
Sharad Kumar Misra, S/o J.P.Misra,  
aged 52 years, R/o 12-10-52, 1 S,  
Seethaphal Mandi, Secunderabad.

2.Sharad Kumar Misra, S/o J.P.Misra, Aged 52 years,  
Managing Director & GPA holder, R/o 12-10-52, 1 S,  
Seethaphal Mandi, Secunderabad.

3.Kanaka Durga, D/o late K.S.Prakash Rao, 52 years, GPA holder,  
R/o 6-5-422, Self-Finance colony,  
Phase-V, Vanasthalipuram, R.R.District.

4.S.Srinivas Reddy, S/o S.Janardhan Reddy, 46 years,  
Managing Director of SLNS constructions, R/o 3-113,  
Bheemreddynagar, Boduppall, Medchal-  
Malkajgiri District, Hyderabad.

5.M.Srihari Prasad, S/o Suryanarayana Sarma,  
Aged 51 years, Managing Director of  
SLNS constructions, R/o 9-21/3/7/9,  
Ashok Nagar, Boduppall, Medchal-Malkajgiri

...Respondents/Promoters

Counsel for Appellant  
Respondents 1 & 2

: Mr.Jacob Mudi  
: Mr.Sharad Kumar Mishra

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

This appeal is directed against the Order, dated 12.11.2025, passed by the Telangana State Real Estate Regulatory Authority (hereinafter referred to as 'the Regulatory Authority'), in Complaint No. 174 of 2025, whereby the Regulatory Authority disposed of the complaint filed by the appellant/complainant with the following directions:

The respondents are hereby directed to take all necessary steps to rectify the impediments, including recovery of the encroached portion of the approach road if required, and to obtain an Occupancy Certificate for the project from the competent authority at the earliest. Within thirty (30) days from the date of receipt of the Occupancy Certificate, the respondents shall secure release of the mortgaged plots from HMDA and thereupon execute and register the Sale Deed in favour of the Complainant in respect of Plot Nos. 3 and 4, admeasuring 334 sq. yds., along with the constructed duplex house D.No.3-17-3, 4-1637, in Survey No. 17/A/6 & 21, in the project Maharaja Forts situated at Parvatapur Village, Ghatkesar Revenue Mandal, Ranga Reddy District, subject to the Complainant simultaneously tendering the balance sale consideration of ₹14,94,000/-. Failing to comply with the above said

direction by respondents shall attract penalty in accordance with Section 63 of the Real Estate (Regulation & Development) Act, 2016 (for short 'the Act').

2. The case of the appellant/complainant, in brief, as per the complaint, is that the dispute involved in the present complaint pertains to a Group Housing Scheme and development of land in the name and style of "M/s. Ambitionz N Homez" situated at Parvathapur, Medipally Mandal, Medchal-Malkajgiri District, in Sy.No.17/A/16 and Sy.No.21, admeasuring Ac.5.23 guntas. It is stated that respondents 1 and 2/ promoters, M/s. Ambitionz N Homez, entered into a Memorandum of Understanding (MoU) with respondents 4 and 5/ developers, Sri Lakshmi Narasimha Swamy Constructions, vide Regd. No. 343/2013, dated 07-02-2013, for construction and development of the residential project. It is stated that respondents Nos. 2, 4 and 5 entered into an Agreement for Sale-cum-Construction of a duplex house with the complainant in respect of Plot Nos. 61D and 61C (part), admeasuring 210 sq. yds., for a total consideration of Rs. 48,00,000/- on 18-04-2013. The complainant, upon finding that the said plots were corner plots adjacent to Musi Nala, requested the respondents to change the allotment, for which the respondents agreed and allotted Plot No.3 (part) and Plot No.4, which were mortgaged plots, stating that there were no other plots available. It

is further stated that respondents Nos. 2, 4 and 5 by showing Condition No.5 of the HMDA technical approval letter and their requisition letter to HMDA seeking one year's extension to complete the project, assured the complainant that the project would be completed within one year, after which they would execute and register the sale deed in respect of Plot Nos.3 and 4 in favour of the complainant, for which the complainant agreed. Accordingly, respondents Nos. 2 and 3 executed an agreement for Sale in favour of the complainant for Plot Nos. 3 (part) and 4, admeasuring 249 sq. yds. along with a proposed built-up area of duplex house of 2,900 sq. ft., for a total consideration of Rs. 53,94,000/- on 05-03-2014. It is also stated that respondents Nos. 2 and 3 executed another agreement of Sale in favour of the complainant for purchase of 85 sq. yds. in Plot No.3 (balance part) for a total consideration of Rs. 25,00,000/-, dated 30-09-2021, in the context of submitting the final layout to HMDA for release of mortgage plots. It is further stated that the respondents have received Rs. 64,00,000/- out of the total sale consideration of Rs. 78,94,000/- towards Plot Nos.3 and 4, admeasuring 334 sq. yds., along with the built-up area of duplex house of 2900 Sq.Fts in Survey Nos. 17/A/6 & 21 situated in Maharaja Forts, Parvathapur Village, Medipally Mandal, Medchal-Malkajgiri District. The balance amount of Rs.14,94,000/- has to be paid

at the time of registration. It is further stated that respondent Nos. 2, 4, and 5, had promised to complete the total residential group housing project within 3 years as per Condition No. 8 of the HMDA approval, and submit a requisition letter for releasing the mortgaged plots and register the sale deed for the said plots in favour of the complainant in 2015. As the project was not completed on time, extensions were sought twice between 2014 and 2016, with payment of 20% revalidation charges of Rs. 8,82,530/- on 20-02-2015. It is further stated that the respondents handed over possession of Plot Nos.3 and 4 without completing the project and without executing the sale deed in favour of the complainant. It is further stated that, on 20-02-2020, the complainant received a property tax assessment notice from the Municipal Commissioner, Peerzadiguda, and upon informing the respondents and receiving no response for six months, undertook self-assessment and started paying property tax and electricity bills in the name of respondent No.1 from 2017. It is further stated that the respondents failed to complete the housing project within three years i.e., on or before 12-01-2014 as per condition No. 8 of HMDA technical approval, dated 13-01-2011, or even within the extended time till 12-01-2016, and have not paid the revalidation charges to HMDA. Despite repeated approaches by the

complainant offering to pay the balance amount of Rs.14,94,000/- and execute the registration, the respondents failed to register the sale deed, citing non-obtaining of Occupancy Certificate and non-release of mortgage by HMDA, even after eleven years beyond the time limit given by HMDA. It is stated that the respondents have failed to obtain Occupancy Certificate from HMDA for the entire project; failed to release the mortgage and register the sale deed of Plot Nos.3 and 4 in favour of the complainant; and failed to complete the 40 feet approach road as per Condition No.17 of HMDA technical approval. The development works of children's play area and park, clubhouse and gym area, amphitheatre, and walking tracks with percolation tiles, as promised in the brochure, remain pending. It is stated that the complainant suffered a heart stroke in 2021 due to stress from non-registration of the plots, incurring medical expenses of Rs. 5,00,000/-. It is further stated that other residents ill-treated the complainant, calling him a private party staying illegally due to non-registration, and did not permit him to contest elections for the "Maharaja Forts Villa Owners Mutually Aided Co-operative Society". It is further stated that the complainant continues to pay property tax and electricity bills in the name of respondents since 2017, causing mental agony. A resident was also complained to the Municipal Commissioner,

Peerzadiguda, that the mortgage plots were constructed illegally, leading to a notice to respondent No.2 on 13-07-2023, for which a reply was given on 15-07-2023. Therefore, the complainant prayed for the following reliefs:

- (i) Initiate appropriate action against respondents for fraud and breach of contract, by awarding compensation.
- (ii) Direct the respondents for registration of Plot Nos.3 and 4, admeasuring 334 sq. yds., which was a constructed duplex house D.No.3-17-3, 4-1637, in Sy.No.17/A/6 & 21.
- (iii) To compensate the complainant for financial loss, mental anguish, and health deterioration caused by the action of the respondents.
- (iv) To secure the complainant's rightful ownership and alleviate his prolonged suffering.
- (v) To instruct the promoters to obtain RERA registration.

3. Respondents filed a Counter, *inter alia*, contending that the present complaint is not maintainable either in law or on facts. It is contended that the land in Sy.No.17/A/6, admeasuring Ac.5.00 gts, and in Sy.No.21, admeasuring Ac.0.23 gts, in all measuring Ac.5.23 gts., situated at Parvathapur Village, was originally owned by one Bridghubhan Singh. The said owner executed an Agreement of Sale cum-General Power of Attorney with possession in favour of M/s. Ambitionz N Homez and six

partners, bearing Document No.2648/2008, dated 30-05-2008. Subsequently, a deed of reconstitution was executed between the partners on 20-05-2008. It is further contended that the respondents approached the HMDA seeking permission for construction of villas in the said property and that the HMDA sanctioned the layout vide proceedings No.LP.No.04/LO/ZOI/GTKR/HMDA/2010, dated 13-01-2011, and the layout was prepared as per HMDA's terms and conditions. It is further contended that at the time of entering into the agreement, the respondents informed the complainant that Plot Nos.1 to 4 were mortgaged with HMDA and that, upon release of the mortgage, a registered sale deed would be executed in favour of the complainant. The complainant agreed for the same and paid advance sale consideration and an agreement of sale was executed on 05-03-2014 in favour of the complainant. It is further submitted that in the year 2008, the villagers had occupied part of the vendor's land for use as a graveyard, leading to a suit for perpetual injunction for noninterference with the possession vide O.S. No. 860 of 2008 filed before the Hon'ble III Additional Junior Civil Judge, Ranga Reddy District, at L.B. Nagar, which was decreed in favour of the vendor. In the meantime, the respondents purchased the property in 2011, obtained HMDA permission, commenced construction of villas in 2011

and completed the same by 2015. It is stated that, as the RERA Act came into force only on 01-05-2016, the project was not registered under RERA. The respondents have submitted that they have made the layout as per the norms of HMDA, but the villagers encroached upon 10 feet of the approach road and constructed compound wall, reducing its width from 40 feet to 30 feet and as such the HMDA has not released the mortgaged plots, including Plot Nos.1 to 4, in the above layout. It is stated that the respondents are making efforts to recover the encroached portion, and upon recovery and release of the mortgage, they will execute a registered sale deed in favour of the complainant. It is further stated that the site was named as "Maharaja Forts" and that the complainant had been elected as President of the "Maharaja Forts Welfare Association", and is therefore fully aware of the encroachment of the 10 feet road by the villagers. It is further contended that the RERA Act, which came into force on 01.05.2016, is not applicable as the layout was made in 2011, and hence the Regulatory Authority lacks jurisdiction. It is stated that, as the plots were mortgaged to HMDA, they were sold to the prospective purchasers at a lower rate than the prevailing market price. The fact of mortgage was never suppressed and was duly recorded in the agreement of sale executed in favour of the complainant. Therefore, the respondents

prayed that the complaint filed by the complainant is liable to be dismissed with costs.

4. After hearing the learned Counsel for the complainant as well as the respondents and perusing the entire material available on record, the learned Regulatory Authority, vide impugned order, dated 12.11.2025, disposed of the complaint filed by the appellant/complainant as stated supra.

5. Aggrieved by the aforesaid order of the learned Regulatory Authority, dated 12.11.2025, the appellant/complainant filed the present appeal.

6. Learned Counsel appearing for the appellant/complainant submitted that the learned Regulatory Authority has correctly identified the liability of the builder at paragraph No.41 of the impugned order, but failed to enforce it in paragraph No.47 and that a direction to the respondents to complete the works at the earliest is vague and unenforceable and as such the absence of a deadline renders the impugned order redundant. He has further submitted that the respondents marketed 99 plots against an approval of 69 plots and sold the plots in a Buffer Zone and as such they are held liable for fraudulent misrepresentation under Section 12 of the Act. Further, the learned

Regulatory Authority failed to award compensation commensurate with the medical expenses of Rs.5,00,677/- and mental agony. He has further submitted that the learned Regulatory Authority at one stretch held that the project continues to be an 'ongoing project' within the meaning of the Act and another stretch, it held that all villas in the project have already been sold to the respective purchasers and as such directing registration of the project at this stage would serve no meaningful purpose since there are no unsold units to be marked or conveyed, without considering the sale deed dated 16.03.2017 filed by the appellant, which is subsequent to the enactment of the Act and as such it is a clear violation of Section 3 of the Act. Learned Counsel for the appellant further submitted that the respondents, without registration of the real estate agents, sold the villas to the purchasers even after enactment of the Act, which is a violation of Sections 9 and 10 of the Act. He further submitted that since the year 2017, the appellant has been paying the property tax, electricity bills in the name of respondent No.1 due to non-registration of the Villa in the name of the appellant. Therefore, he seeks modification of the impugned order dated 12.11.2025, passed by the learned Regulatory Authority to the extent of directions in paragraph No.47 of the order.

7. On the other hand, learned Counsel for the respondents submitted that the respondents purchased the property in the year 2011, obtained permission from HMDA, made a layout and started construction of Villas in the year 2011 and completed by 2015 and as such they have not registered the project under the Act. He has further submitted that the layout was made as per the norms of HMDA, but the villagers had encroached their 10 feet road and constructed a compound wall and as such the approach road became from 40' feet to 30' feet and that the HMDA officials have not released the mortgaged plot Nos.1 to 4. He has further submitted that the Act came into force on 01.05.2016, but the said layout was made in the year 2011 and hence the Regulatory Authority has no jurisdiction to entertain the complaint. He has further submitted that since the plots being mortgaged to HMDA, the respondents sold the subject plots at very lesser price on the prevailing market rate to the prospective purchasers and they never suppressed the fact of mortgaging the plots with HMDA to the appellant and that the same was mentioned in the agreement of sale. Therefore, it is prayed that the appeal filed by the complainant is liable to be dismissed.

8. We have heard the learned Counsel appearing on either side and have gone through the entire material placed on record along with written arguments submitted by them.

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

*“Whether the impugned order, dated 12.11.2025, passed by the learned Regulatory Authority is sustainable in law?”*

**POINT::**

10. Admittedly, the appellant/complainant had booked a semi-finished Duplex House in Plot Nos.3 & 4 admeasuring 249 square yards along with a proposed built-up area of 2900 sft. in Sy.No.17/A/6, situated at Maharaja Forts, Parvatapur village, Ghatkesar revenue Mandal, Ranga Reddy District, for a total sale consideration of Rs.53,94,000/- and that respondents 2 and 3 executed an agreement of sale in favour of the appellant on 05.03.2014. It is also an admitted fact that respondents 2 and 3 had also executed another agreement of sale in favour of the appellant, on 30.09.2021, for purchase of 85 square yards in Plot No.3 (balance part) for a total consideration of Rs.25,00,000/- in the said survey number.

11. The contention of the learned Counsel for the appellant/complainant is that the respondents have failed to comply with the mandatory registration provisions under Sections 3 and 4 of the Act.

12. The contention of the learned Counsel for the respondents is that the respondents were under no obligation to register its project with the RERA as they had obtained HMDA permission and started construction of the Villas in the year 2011 and the same were completed by 2015, which is prior to the commencement of the Act.

13. The aforesaid contention is fundamentally misconceived. Admittedly, the project had no Occupancy Certificate/Completion Certificate as on 01.05.2016 and, therefore, it is an 'ongoing project' within the meaning of Rule 2(1)(j) of the Rules and also in view of G.O.M.S.No.60, dated 04.03.2025, issued by the Government of Telangana, which amended Rule 2(1)(j) to align with the Central enactment.

14. Rule(1)(j) of the Rules, as originally notified under G.O.Ms.No.202 dated 31.07.2017, defined 'ongoing projects' to exclude projects that had received building permission prior to 01.01.2017. However, such exclusion was in direct conflict with the parent statute and the legislative intent underlying Section 3 of the Act, and, therefore, cannot prevail over the substantive provision of the statute. It is a settled position of law that subordinate legislation cannot override the parent statute. Further, *Hon'ble Supreme Court in Newtech Promoters and Developers Pvt. Ltd.*

*Vs. State of U.P. and others*<sup>1</sup>, held that “the Act has retroactive application and covers all projects that were ongoing on the date of its commencement and which had not received a completion certificate”. Further, the Hon’ble Supreme Court has unequivocally held that the determinative test for RERA applicability is the absence of a completion certificate/occupancy certificate and that technical pleas based on prior approvals or subordinate rules cannot be used to defeat the remedial object of the Act.

15. 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 under:

“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 the Act.”

16. The aforesaid clarification conclusively removes any ambiguity and reinforces the position that the applicability of the Act hinges not on the date of building permission but on the existence (or absence) of an occupancy or completion certificate.

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<sup>1</sup> (2021) ibclaw,in 188 SC

17. Thus, the failure of the respondents to register the project constitutes a clear violation of Section 3 of the Act, which prohibits the promoter from advertising, marketing, selling or offering for sale any apartment, plot or building in a real estate project not registered under the Act. However, the learned Regulatory Authority, while observing that the project continues to be an 'ongoing project' and no Occupancy Certificate has been obtained till date, erred in holding that since all Villas in the project had already been sold to the prospective purchasers, directing registration of the project would serve no meaningful purpose. Therefore, we are of the considered view that this finding of the learned Regulatory Authority is not only perverse, but also illegal. It is incumbent upon the Regulatory Authority to proceed against the respondents for not registering the project with the Regulatory Authority taking into consideration the fact that the Occupancy Certificate has not been obtained by the respondents till today.

18. Further, the learned Counsel for the respondents contended that the respondents had already fulfilled the primary obligation by handing over physical possession of the Villa to the appellant and the only impediment for non-registration of the Villa is non-release of the mortgaged plots by

the HMDA due to the illegal encroachment of a 10 feet approach road by local villagers, which reduced the road width from 40 feet to 30 feet.

19. Mere act of handing over physical possession does not equate to lawful possession under the Act. Section 11(4)(b) of the Act explicitly mandates that the promoter must obtain an Occupancy Certificate before offering possession to the allottees. The absence of this critical document renders the possession is not as per the provisions of the Act and demonstrates a clear violation of the Act. Therefore, the learned Regulatory Authority has rightly directed the respondents to take all necessary steps to rectify the impediments including recovery of the encroached portion of the approach road and to obtain an Occupancy Certificate for the project and within 30 days from the date of receiving the Occupancy Certificate, the respondents shall secure release of the mortgaged plots from HMDA and thereupon execute a registered sale deed in favour of the appellant/complainant in respect of the plots in question.

20. On a cumulative consideration of the entire material available on record, we are inclined to modify the impugned order, dated 12.11.2025, passed by the learned Regulatory Authority.

21. In the upshot, the appeal is partly allowed and the impugned order, dated 12.11.2025, passed by the learned Regulatory Authority in Complaint No.174 of 2025 is hereby modified as under:

(a) The learned Regulatory Authority is directed to proceed against the respondents for not registering the project with the Regulatory Authority taking into consideration the fact that the Occupancy Certificate has not been obtained by the respondents till today and impose a penalty on the respondents for violation of provisions of Sections 3 and 4 of the Act, after affording an opportunity of hearing to both the parties, within a period of 30 days from the date of receipt of a copy of this order.

(b) The respondents are also directed to obtain Occupancy Certificate for the project from the competent authority and secure release of the mortgaged plot Nos.3 and 4 from HMDA within a period of 60 days from the date of receipt of a copy of this order, and thereupon execute a registered sale deed in favour of the appellant/complainant in respect of Plot Nos. 3 and 4, admeasuring 334 sq. yds., along with the constructed duplex house D.No.3-17-3, 4-1637, in Survey No. 17/A/6 & 21, in the project 'Maharaja

Forts' situated at Parvatapur Village, Ghatkesar Revenue Mandal, Ranga Reddy District, after receipt of balance sale consideration of ₹14,94,000/- from him.

(c) Failing to comply with the aforesaid directions, appropriate penalty shall be initiated against the respondents as per the provisions of the Act.

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 learned Regulatory Authority as per section 44 (4) of the Act. The Secretary, Telangana State Real Estate Regulatory Authority is hereby directed to place the matter before the learned Regulatory Authority soon after receipt of a copy of the order for taking necessary action as per Rules.

Sd/-

**A. SANTHOSH REDDY, J**  
**(CHAIRPERSON)**

Sd/-

**P. PRADEEP KUMAR REDDY**  
**(JUDICIAL MEMBER)**