

**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. 66 of 2025**

Between:

Aravind Brahmadevara, Flat No.303  
Aryamitra Florina Apartment,  
Kokapet Cross Roads, Narsingi,  
Hyderabad- 500075.

...Appellant/Complainant

AND

1. Telangana Real Estate Regulatory Authority  
DTCP Building, Ground Floor, 640, AC Guards,  
Masab Tank, Hyderabad.

...Respondent

2. M/s Arya Mitra Projects, represented by its  
Managing Partner P.Venkata Sreenivasulu,  
Dev & Dev Layout, Plot Nos.17&18, Beside  
Allu Studios, Office at Power Welfare Society,  
Kokapet, Narsingi, Hyderabad – 500075.

...Respondent/Promoter

Appellant : Party-in-person

Counsel for Respondent No.2 : Mr.Chandrashekar

Date of Decision : 10.06.2026

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

This appeal is preferred by the appellant/complainant against the Order, dated 09.10.2025, passed by the 1<sup>st</sup> respondent/Telangana State Real Estate Regulatory Authority (hereinafter referred to as 'the Regulatory Authority'), in Suo Motu Case No. D6/361/2025, whereby the Regulatory Authority closed the said Case.

2. The learned Regulatory Authority has initiated the present case *suo-motu*, in exercise of powers conferred under Section 35(1) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the Act') based on the information furnished by one Aravind Brahmadevara (appellant herein) through an *e-mail*, dated 11.02.2025, including statement of Encumbrances on property, that the 2<sup>nd</sup> respondent/promoter was engaged in advertising, marketing and selling of flats in the project "Aryamitra Florina' without registering the said project, under the provisions of the Act, which is located in Sy.Nos.131, 164, 165 & 168, Plot Nos.1, 22 & 23 at Kokapet, Narsingi, Ranga Reddy District. On a consideration of the *prima facie* material, the Regulatory Authority issued a Show Cause notice, dated 08.04.2025, calling upon the

2<sup>nd</sup> respondent/promoter to explain as to why action should not be initiated against it for violation of Sections 3 (1) and 4 (1) of the Act, as per the provisions of the Act, Rules and Regulations made thereunder.

3. Respondent No.2/promoter filed a counter, *inter alia*, contending that the building permission was sanctioned by the HMDA on 18.04.2016, constructed 35 units in the building and sold away all the flats prior to 01.05. 2017 and also submitted Occupancy Certificate issued by the Gram Panchayat, Narsingi, Rajendranagar Mandal, Ranga Reddy District, dated 30.12.2017, to the Authority. It is further contended that the project was constructed on the land of 2,013.92 sq.mtrs., which involved 35 residential flats in a single block, including a cellar, ground floor and five floors and that the complainant himself purchased a flat in 2016. It is further contended that the project is not an ongoing project and all flats were already sold and no new advertisements or sales have taken place and that the entries in the encumbrance certificate pertain to third-party transactions or mortgage deeds from the concerned Authority, which are not sale transactions.

4. After hearing the learned Counsel for the 2<sup>nd</sup> respondent/promoter and perusing the entire material available on record, the learned Regulatory Authority, vide impugned order, dated 09.10.2025, closed the

case with a warning to the 2<sup>nd</sup> respondent/promoter that all projects without Occupancy Certificates as on 01.05.2017 are mandatorily required to be registered, in the light of the amendment and clarifications as pointed out in the order, and failure to comply with the same in future will attract strict action under the provisions of the Act.

5. Aggrieved by the aforesaid order of the learned Regulatory Authority, dated 09.10.2025, the appellant/complainant filed the present appeal.

6. We have heard the appellant/complainant, who appeared in person, and also learned Counsel for the 2<sup>nd</sup> respondent/promoter and have gone through the entire material placed on record along with written synopsis submitted by the learned Counsel for the 2<sup>nd</sup> respondent.

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

*“Whether the impugned order, dated 09.10.2025, passed by the learned Regulatory Authority is sustainable in law?”*

**POINT::**

8. The contention of the appellant/complainant is that the 2<sup>nd</sup> respondent/promoter was advertising, marketing and selling the flats in the project ‘Aryamitra Florina’ without registering the said project under

the provisions of the Act, however, the learned Regulatory Authority failed to impose penalty on the 2<sup>nd</sup> respondent/promoter for contravention of provisions of Sections 3 and 4 of the Act.

9. The contention of the learned Counsel for the 2<sup>nd</sup> respondent/promoter is that the 2<sup>nd</sup> respondent was under no obligation to register its project with the RERA as they had obtained approval for the project on 18.04.2016, prior to the commencement of the Act, but, however, the Occupancy Certificate was obtained by it only on 30.12.2017 and the allottees have been in peaceful possession of the flats and hence the project does not fall within the ambit of 'ongoing project'. His further contention is that the interpretation of 'ongoing project' was clarified only by Circular No.607/2025/TG-RERA, dated 04.03.2025, and Amendment to Rule 2(1)(j) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (for short 'the Rules') vide G.O.Ms.No.60, dated 04.03.2025, which cannot be applied retrospectively.

10. On a careful perusal of the provisions of the Act and Rules, it is evident that Rule 2(1)(j), 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.

11. Keeping in view the aforesaid judgment of the Hon'ble Supreme Court, G.O.Ms.No.60, dated 04.03.2025, was 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

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

been issued as on date of coming into force as per sub section (1) of Section 3 of the Act.”

12. 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.

13. The failure of the 2<sup>nd</sup> respondent herein 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, observed that although the project would require registration, under the present clarified legal position, the 2<sup>nd</sup> respondent/promoter cannot be held liable for non-registration of the project at the relevant point of time and as such no penalty has been imposed against the 2<sup>nd</sup> respondent under Sections 59 and 60 of the Act.

14. Rule 2(1)(j) of the Rules stipulates an ‘ongoing project’ as one where building permission was received after the enactment of the Act. The contention of the learned Counsel for the 2<sup>nd</sup> respondent is that permission for construction had been granted before the enactment of the

Act and as such registration of the project was not mandatory. It is true that there was no contemporaneous circular or binding clarification explicitly mandating registration for such projects.

15. A perusal of the record would disclose that the appellant/complainant sent an *e-mail*, dated 11.02.2025, to the Regulatory Authority alleging that the project 'Aryamitra Florina' was not registered under the Act and certain flats were sold after 01.05.2017 and that the project was an 'ongoing project', which requires registration and as such he requested the Authority to take action against the 2<sup>nd</sup> respondent/promoter. It is evident that the learned Regulatory Authority, by its Circular No.607/2025/TG-RERA, dated 04.03.2025, and Amendment to Rule 2(1)(j) of the Rules, vide G.O.Ms.No.60, dated 04.03.2025, had clarified that the projects that have not obtained Occupancy Certificate as on 01.05.2017, shall be classified as 'ongoing projects'. It is also evident that as on the date of the complaint of the appellant/complainant through e-mail i.e., 11.02.2025, the cause of action did not arise even to initiate any action against the 2<sup>nd</sup> respondent/promoter for non-registration of the project 'Aryamitra Florina' and as such the alleged complaint itself is not maintainable. Further, respondent No.2/promoter has obtained approval for the project

on 18.04.2016, prior to the commencement of the Act and completed the project in the year 2017, however, the Occupancy Certificate was obtained by it only on 30.12.2017 i.e., after 01.05.2017, the date on which the Act came into force. It is also the case of the 2<sup>nd</sup> respondent that all the flats were sold by them in the year 2017 itself.

16. Keeping in view the aforesaid facts and circumstances, the learned Regulatory Authority has rightly observed that although the project would require registration under the present clarified legal position, the 2<sup>nd</sup> respondent cannot be held liable for non-registration of the project at the relevant point of time and as such no penalty has been imposed against the 2<sup>nd</sup> respondent/promoter.

17. For the aforementioned reasons, we are of the considered view that the impugned order, dated 09.10.2025, passed by the learned Regulatory Authority is legally valid and does not warrant any interference by this Tribunal.

18. In the result, the appeal is dismissed and the impugned Order, dated 09.10.2025, passed by the 1<sup>st</sup> respondent/Telangana State Real Estate Regulatory Authority, in Suo Motu Case No. D6/361/2025, is hereby confirmed. 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.

Sd/-

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

Sd/-

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

10.06.2026  
GSN

