

BEFORE TELANGANA REAL ESTATE REGULATORY AUTHORITY

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

Complaint No.259 of 2024

12th November 2025

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

Vijayendra Kumar Gade

*(Flat No. 410, Block-D, The Nest Apartment,
Near Marrichettu Circle, Manikonda – 500089)*

...Complainant

Versus

Aliens Developers Pvt Ltd.

*Rep by Mr. Hari Challa & Mr. Venkat Prasanna Challa
(Plot No. 57, Vittal Rao Nagar, Madhapur,
Hyderabad, Telangana – 500018)*

...Respondent

The present matter filed by the Complainant herein came up for hearing before this Authority in the presence of the learned counsel for Complainant Sri Sharad Singh Thakur, Neeraj Thakur, and the learned counsel for Respondent Sri 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 present Complaint **ORDER:**

2. The present Complaint has been filed by the Complainants under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the 7 of 26 “Act”) read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the “Rules”) seeking appropriate relief(s) against the Respondents.

A. Brief facts of the case:

3. The Complainant submitted that he had booked a 3BHK flat, bearing No. 522 in Tower No. 22 at Station No. 4, admeasuring 1792 sq. ft., in the Respondent project for a total consideration of Rs. 1,01,57,760/-. In furtherance of the said booking, the Complainant paid an advance amount of Rs. 26,66,411/- to the Respondent developer.

4. The Complainant stated that he made the payment, equivalent to 25% of the total consideration, in response to the Respondent's payment request letters dated 13.11.2020 and 17.04.2021, respectively.

Details of Payments Made by the Complainant to the Respondent

Sl. No	Date of transaction	Mode of payment	Reference No.	Amount
1.	18-10-2020	Ria (order no.)	US754576615	Rs. 2,19,376/-
2.	19-10-2020	Online	147119528	Rs. 30,624/-
3.	30-10-2020	Online	172486343	Rs. 2,50,000/-
4.	29-11-2020	Online	245355784	Rs. 5,00,000/-
5.	05-12-2020	Online	379325578	Rs. 5,00,000/-
6.	06-12-2020	Online	146468825	Rs. 5,00,000/-
7.	11-12-2020	Online	311972819	Rs. 5,39,440/-
8.	17-04-2021	Online	222547431	Rs. 1,26,971/-

Total Amount Paid by the Complainant to Respondent: Rs. 26,66,411/-

5. The Complainant submits that when he visited the site, the basic structural work for the project had not commenced, and the Respondent failed to respond to any queries. While the matter stood thus, the Respondent issued a cancellation deed unilaterally, without issuing any prior notice or assigning any reasons for such cancellation, with a schedule to return the money. Although the said deed contained a schedule for the refund of the amounts paid, the Respondent failed to honour that schedule, and the Respondent has not refunded any amount to the Complainant to date, even after follow-ups. These actions of the Respondent caused losses to the Complainant.

Payment Schedule for Refund Specified in the Cancellation Deed, dated: 17.04.2022, is as follows

SL. No.	Payment of the Month	Installment Amount
1.	June-2022	Rs. 1,77,761/-
2.	July-2022	Rs. 1,77,761/-
3.	August-2022	Rs. 1,77,761/-

4.	September- 2022	Rs. 1,77,761/-
5.	October-2022	Rs. 1,77,761/-
6.	November-2022	Rs. 1,77,761/-
7.	December-2022	Rs. 1,77,761/-
8.	January-2023	Rs. 1,77,761/-
9.	February-2023	Rs. 1,77,761/-
10.	March-2023	Rs. 1,77,761/-
11.	April-2023	Rs. 1,77,761/-
12.	May -2023	Rs. 1,77,761/-
13.	June-2023	Rs. 1,77,761/-
14.	July -2023	Rs. 1,77,761/-
15.	August-2023	Rs. 1,77,761/-
	Total Amount	Rs. 26,66,411/-

6. The Complainant submits that despite issuing of legal notice, the Respondent have failed to repay the refund amount.

B. Reliefs prayed for:

7. Aggrieved by the actions of the Respondent, the Complainant sought for the following relief(s):

- i. To refund the principal amount of Rs. Rs. 26,66,411/- to the Respondent.
- ii. To direct the Respondent to pay interest @ 24% interest for the period of 24 months from the cancellation deed, i.e., equal to Rs. 14,93,190/-

C. Counter on behalf of the Respondents:

8. The Respondent, Aliens Developers Pvt Ltd, in his counter submits that the complaint is devoid of any legal basis, as the Complainant has not cited any specific provision or rule of the RE(R&D) Act, 2016 that has allegedly been violated. Due to this deficiency, the complaint fails to disclose a prima facie case and is liable to be dismissed at the threshold without a detailed hearing.

9. The Respondent further submits that the Complainant has forfeited their status as an “allottee” under Section 2(d) of the RE(R&D) Act by voluntarily and unilaterally cancelling

the allotment of Flat and therefore, the Complainant no longer qualifies as an “allottee,” and the RERA Authority lacks jurisdiction to adjudicate the present complaint. The RE(R&D) Act does not entitle such individuals to claim refunds post self-initiated cancellation.

10. The Respondent submits that the Complainant has suppressed the material facts of the case. That the instant complaint is devoid of any cause of action against the Respondent and hence is liable to be dismissed. That the present case falls under the domain of civil courts.

11. The Respondent submits that the Complainant visited the flat. That after verifying the details of the project, proceeded with the booking of the apartment on 18.10.2018 by paying Rs. 2,19,376/-. That the Complaint filed by the Complainant is premature in nature as the Respondent has a valid RERA Registration till 14.12.2026. However, the Complainant has cancelled the flat without assigning any reasons and, in order to extort money from the Respondent, has filed this false and baseless complaint before this authority, to cause loss to the Respondent and to the prospective buyers.

12. The Respondent submits that the Complainant himself initiated the cancellation talks, and based on the Complainant's suggestion, only the Respondent has issued the cancellation deed on 17.04.2022 as requested by the Complainant.

13. The Respondent further submits that in confirmation with the Complainants cancellation request the Respondent and Complainant mutually agreed for entering into cancellation deed dated 17.04.2022. That the Respondent agreed to refund total amount without deducting of 10% of the total sale consideration. That they have already paid 7,00,000/- to the Complainant towards the refund and furthermore in adherence to the agreed terms to settle the matter amicably the final payment, will also be provided to the Complainant through a demand draft.

14. The Respondent Relied on *Maula Bux Vs. Union of India*, (1970) 1 SCR 928 and *Sirdar K.B. Ram Chandra Raj Urs Vs. Sarah C. Urs*, (2015) 4 SCC 136, the Hon'ble Supreme Court has held that:

that forfeiture of the amount in case of breach of contract must be reasonable and if forfeiture is in the nature of penalty, then provisions of Section-74 of Contract Act, 1872 are attracted and the party so forfeiting must prove actual damage. After cancellation of allotment, the flat remains with the developer as

such there is hardly any actual damage. This Commission in CC/438/2019 Ramesh Malhotra Vs. EMAAR MGF Land Ltd. (decided on 29.06.2020), CC/3328/2017 Mrs. Prerana Banerjee Vs. Puri Construction Ltd. (decided on 07.02.2022) and CC/730/2017 Mr. Saurav Sanyal Vs. M/s. IREO Grace Pvt. Ltd. (decided on 13.04.2022) held that 10% of basic sale price is reasonable amount to be forfeited as "earnest money".

15. In conclusion, the Respondent prayed this Hon'ble Authority to dismiss the complaint.

Points for consideration

16. Based on the facts and circumstances of this case, the following points came up for consideration before us:

- I. Whether the present complaint is maintainable before this Authority?
- II. Whether the Complainant is entitled to the Reliefs sought? If so to what Extent?

E. Observation of the Authority:

17. Upon perusing the written submissions and documents produced by both parties, this Authority makes the following observations.

Point-I

18. The main contention of the Respondent is that the Complainant ceased to be an allottee upon cancelling the booking voluntarily, and that no specific violation of the RE (R&D) Act, 2016, exists necessary to establish the legal tenability of the complaint, and it is further argued that the dispute, arising from a cancellation deed, is contractual in nature and should be adjudicated by a civil court rather than this Authority and in order to determine the maintainability of the complaint, the status of the complainant as allottee needs to be considered first.

19. This Authority has previously dealt with a similar issue involving the same Respondent in Kolla Lakshmi Kumari vs. M/s Aliens Developers Private Limited (Complaint No. 304 of 2024), wherein the Respondent had advanced an identical argument contending that upon execution of a cancellation deed, the complainant ceased to be an *allottee* and thus could not seek relief under the Act. The Authority, while rejecting the said contention, observed as follows:

“14...The cancellation of allotment becomes final only when the entire refund amount is remitted back to the Complainant as agreed. It is observed that the said cancellation process only commenced when the parties executed the cancellation deed but remains incomplete due to the non-payment of the refund amount as per the agreed payment schedule. Since the cancellation has not attained its finality, the complainant continues to be recognized as an allottee, rendering the respondent's claim that the complainant has ceased to be an allottee untenable.”

20. In a similar case, the Hon'ble Maharashtra Real Estate Appellate Tribunal in *Chandrika Dinesh Chowatia & Ors. vs. S.R. and Shah Developers* (Appeal No. AT00600000005265, decided on 25.08.2022), wherein the Tribunal held:

“14... In view of the above, we find that the cancellation process appears to have been initiated but has neither been completed nor attained its finality for want of non-fulfilment of the condition mentioned therein and also due to only partial refund. Therefore, contention of the promoter that complainants are no longer allottees is ex-facie not tenable.”

21. As the above judicial pronouncements clearly establish that the process of cancellation attains finality only upon the completion of all conditions stipulated in the cancellation deed, including refund of the entire amount due. However, as of the date of the Complaint on hand, in the present case, the Complainant has not received the agreed refund, and therefore, the cancellation remained incomplete. Consequently, the Complainant continued to retain the status of an allottee under the RE(R&D) Act, 2016.

22. It is well settled that a promoter's obligations do not terminate merely upon execution of a cancellation deed; such obligations continue until all terms and conditions, including full refund of amounts due, are complied with. Failure to discharge these obligations entitles the allottee to seek redress under the provisions of the RE(R&D) Act, 2016, before this Authority.

23. Accordingly, this Authority holds that the Complainant continued to be an allottee within the meaning of Section 2(d) of the RE(R&D) Act, 2016, and the grievance relates to the promoter's failure to fulfil obligations arising from a registered real estate project. Consequently, this Authority is duly empowered under Sections 31 and 34 of the RE(R&D) Act, 2016, to adjudicate the matter. In view of the foregoing discussion and precedents, Point No. I. It is answered in the affirmative, and the present complaint is held to be maintainable before this Authority.

Point II:

24. The complainant in the present matter has sought a refund of Rs. 26,66,411/- along with appropriate interest. As established under Point-I, the complainant continues to hold the status of an allottee and is therefore entitled to seek appropriate relief before this Authority.

25. The authority, from the material available on record, takes note that the parties to the present complaint have entered into a Cancellation Deed stipulating the terms of refund of the amounts paid. The execution of the said Deed reflects a clear agreement between the parties, establishing the rights and obligations of both the Complainant and the Respondent in relation to the cancellation and refund.

26. As per the said Cancellation Deed, the Respondent undertook to refund ₹26,66,411/- in fifteen (15) equal monthly instalments of ₹1,77,761/- each, commencing from June 2022 and ending by August 2023. During the proceedings, it was brought to the notice of this Authority that the Respondent had not adhered to the agreed-upon schedule, hence the present case.

27. In the present case, the Respondent, in his counter, has contended that a sum of Rs. 7,00,000/- has been paid and that the remaining amount would be remitted shortly through a demand draft. However, to substantiate such a claim, the Respondent has not placed on record any piece of documentary evidence, such as a receipt or any other document establishing payment and receipt on record. Furthermore, despite executing the cancellation deed, the Respondent has not produced any evidence of compliance to demonstrate that the refund stipulated in the cancellation deed has been effected in accordance with the agreed terms.

28. The conduct on the part of the Respondent, by unjustifiably withholding the refund amount and causing the Complainant to wait for an indefinite and unreasonable period even after the cancellation of the allotted flat, this not only demonstrates a disregard for the contractual and statutory obligations but also runs contrary to the very spirit and objectives of the Real Estate (Regulation and Development) Act, 2016. The Act was established primarily to guarantee accountability, transparency, and the prompt adjudication of disputes arising from transactions between developers and buyers. By failing to refund the legitimate dues of the Complainant within a reasonable timeframe, the Respondent has undermined the legislative intent of safeguarding the interests of homebuyers within the real estate sector. Such inaction,

therefore, constitutes a serious lapse and reflects a deliberate non-compliance with the mandate of the RE(R&D) Act, 2016.

29. Accordingly, this authority is of considered view that the Complainant is entitled to refund of the amount paid by him to the Respondent, along with interest at the rate prescribed under Rule 15 of the Telangana Real Estate (Regulation and Development) Rules, 2017, i.e., the State Bank of India's Marginal Cost of Lending Rate (MCLR) plus 2% per annum (presently 8.75% + 2%), , to be calculated on each instalment amount of ₹1,77,761/- from its respective due month, commencing from June 2022, till the date of actual realization of the amount by the Complainant.

30. In view of the above findings, this Authority is of the considered that the Complainant is entitled to the relief sought for of refund of the entire sale consideration with interest.

F. Direction of authority

31. 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 No. 1 is hereby directed to refund Rs. 26,66,411/- (Twenty-six lakhs sixty-six thousand four hundred eleven Rupees only) along with interest at the rate of 10.75% per annum (SBI MCLR of 8.75% + 2%), from the date of the Cancellation deed dated 17.04.2022 till the date of actual refund in accordance with Rule 15 of the Telangana RE(R&D) Rules, 2017 within 30 (thirty) days from the of date receipt of this Order.

ii. Respondent is hereby informed that failure to comply with this order shall attract Section 63 of the RE(R&D) Act,2016.

32. The complaint is disposed of with these directions. There shall be no order as to costs.

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