

**BEFORE TELANGANA STATE REAL ESTATE REGULATORY AUTHORITY  
[Under the Real Estate (Regulation and Development) Act, 2016]**

**COMPLAINT NO.274 OF 2023**

**1<sup>th</sup> Day of December 2023**

**Corum: Dr. N. Satyanarayana, IAS <sup>(Retd.)</sup>, Hon'ble Chairperson  
Sri Laxmi Narayana Jannu, Hon'ble Member  
Sri K. Srinivasa Rao, Hon'ble Member**

**Sri Farhad Gew Irani  
Sri Rustom Gew Irani**

...Complainant

Versus

**M/s Sri Sai Kakatiya Developers rep by Managing Partner Sri  
Kommuri Pratap Reddy**

...Respondent

The present matter filed by the Complainant herein came up for hearing on 03.10.2023, 31.10.2023 and on 21.11.2023 before this Authority in the presence of Complainants present in person, Adv V Srinivas on behalf of the Respondent and upon hearing the arguments of the party, this Authority passes the following **ORDER:**

2. The present Complaint has been filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RERD Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") seeking directions from this Authority to take action against the Respondent.

**A. Facts of the Complaint:**

3. The complainants, FarhadGew Irani, ShapurGew Irani (currently indisposed), and Rustom Gew Irani, jointly own the subject property. Acting on behalf of their sick brother ShapurGew Irani, the complainants allege that they are the joint landowners.

4. The respondent, M/s Sri Sai Kakatiya Developers, represented by Managing Partner Sri Kommuri Pratap Reddy, entered into a Development Agreement Doct. No.22222 with the complainants on 06-10-2018, for the construction of a Cellar+5 floors commercial complex building. The agreed-upon timeline for completion was 2 years with an extended grace period of 4 months and an additional 6 months due to the Covid-19 pandemic, as mandated by the central government. However, as of 23-02-2023, the respondent failed to secure permission for Cellar+5 floors, obtaining approval only for Cellar+4 floors.

5. Allegations include the failure to complete construction within the stipulated time, non-compliance with Retrofitting works recommended by NIT Warangal, and failure to deposit 70% of the amount realized by the promoter in a separate account, as required by Section (4), sub-clause (D) of clause (1) of sub-section (2).

6. The complainant asserts that the existing structures of Cellar+G+2 floors in A-Block, B-Block & C-Block have not undergone complete Retrofitting works per the NIT Warangal directive.

**B. Relief(s) Sought:**

7. The complainant requests the following reliefs:

a. The respondent is directed to strictly adhere to the Development Agreement and deliver the fully finished constructed area of 1,28,800 sft, inclusive of common areas and parking, immediately.

b. In case permission for Cellar+5 floors is not obtained, the respondent shall hand over the entitlement of 1,28,800 sft in a 4-floor area (G+3 floors).

c. The complainant seeks compensation of Rs.40/- per sft per month towards rent for the aforementioned area from the date of the complaint.

**C. Interim Order:**

8. The complainant seeks the following interim orders:

a. Immediate cessation of the respondent's sale of units in the commercial complex under construction.

b. Payment of Rs.40/- per sft per month as rental compensation for the complainant's entitlement area from the date of the complaint until further orders.

**D. REPLY FILED BY THE RESPONDENT**

9. The Respondent submits that the petitioners entered into a Development Agreement dated 25.02.2002 with the Respondent herein for the development of the property bearing Municipal old Nos. 1/64 to 1/174-3 corresponding to New No.s 1-3-172 to 185 with an apparent land area of 9600 Sq. yards, comprising a compact block situated at Main Road, Kazipet, Hanumakonda Mandal, Warangal city, for the construction of a commercial building comprising shops and office spaces.

10. The Respondent avers that pursuant to the said Development Agreement dated 25.02.2002, building permission was obtained from Warangal Municipal Corporation vide permit no.27 in File no. ROP No.Z1/4540/2002 dated 19.04.2002, allowing the construction of a building comprising a cellar, ground floor, first floor, and second floor. The Respondent commenced construction of the cellar for parking and the ground floor comprising shops in 11. Block A, B, and C, as well as a part of D. The construction in blocks E, F, and G was about to commence.

12. It is emphasized that the Petitioners and Respondents agreed to share the built-up area in the ratio of 45:55% on the ground floor and 40:60% on the first and second floors, respectively. The Complainants and Respondents jointly sold 76 out of 85 shops in Block A, B, and C, with the sale proceeds duly received by both parties. Notably, the Petitioners received a sale price exceeding their entitlement of 45% in the sale proceeds of 76 shops.

13. Before the development of the subject land, an old building with shops existed, which were let out by the Petitioners to tenants. The Petitioners undertook to ensure the vacation of such shops by the tenants, but failed to do so. Legal proceedings were initiated against the Petitioners, resulting in the need to obtain orders for a change of land use. The Respondents, at the request of the Petitioners, applied for and obtained necessary orders for the conversion of land use for commercial purposes.

14. Subsequently, after various delays, the Petitioners executed and registered a Development Agreement cum Irrevocable General Power of Attorney on 06.10.2018, acknowledging the sale of 76 shops and agreeing to obtain revised permission for the construction of two upper floors in Block A, B, and C. The Respondents assert that due to litigation initiated by Mr. Sadanandam and others, construction was halted for a period. The Respondents engaged NIT Warangal to assess the stability of the building, and after receiving stability certificates, submitted plans for approval.

15. The Respondents refute the Petitioners' claim of delay in construction, highlighting that possession of Block D was not delivered by the Petitioners, hindering progress. The Petitioners' failure to vacate tenants in possession further delayed the construction.

16. In light of the above, the Respondents argue that the nature of the complaint is beyond the summary jurisdiction of the RERA Act, and as landowners, the Petitioners cannot invoke the jurisdiction of this Authority for reliefs falling outside its purview. The Respondents further assert their substantial investment in the project and request the dismissal of the petition with exemplary costs. Additionally, the Respondents seek an order directing the Petitioners to take steps for the eviction of tenants in Block D and deliver possession to them in the interest of justice.

**E. Hearing conducted:**

17. On 03.10.2023, a hearing was scheduled; however, no representative from either party appeared, despite the notice issued on 27.09.2023. The matter was adjourned to 31.10.2023. Subsequently, on 31.10.2023, representatives from both parties were present. During the proceedings, the Complainant reiterated the contentions raised in the original complaint. In response, the Respondent submitted a Vakalatnama and requested additional time to file a reply. Consequently, the hearing was adjourned to 21.11.2023.

18. On 21.11.2023, there was no representation on behalf of the complainant. However, the Respondent submitted its averments, refuting

the allegations made by the complainant. The Respondent asserted that the nature of the complaint involves complex issues beyond the jurisdiction of the Real Estate Regulatory Authority (RERA) and questioned the jurisdiction of this Authority in matters involving landowners. Additionally, it was argued that as per Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016, the petitioners should be considered as Promoters. Therefore, it was contended that they cannot file a complaint under RERA, and this Authority lacks jurisdiction over the present matter.

**F. Observations made by the Authority:**

19. The authority observed the following finding, is as follow:

**1. Whether the Complainant can be considered an aggrieved person under Section 31 of the Real Estate (Regulation and Development) Act of 2016 ?**

20. The Authority observes that the complainants are the landowners of the relevant project. According to the Development Agreement dated 06.11.2018 executed between the complainants and Respondents, clause 11 of the said agreement explicitly states that sales were jointly conducted by both parties in blocks A, B, and C. The registrations were made jointly by the landowners, and the sale proceeds were shared based on mutual consent. Consequently, from the complaint and the objections filed by the Respondent, it is evident that the complainant is neither a purchaser nor an allottee under the provisions of the Real Estate (Regulation and Development) Act. As per the said agreement, it clearly designates both parties as promoters, and when the landowner is also one of the causes to construct the project, he shall also be treated as a promoter as per Section 2(zk) of the RE(R&D) Act of 2016.

21. In this context, the Complainant has failed to furnish the Authority with any supporting evidence or an authorization letter establishing their qualification as an aggrieved person and not as a promoter in accordance with the definition outlined in Section 31 of the RERD Act. Section 31 is reproduced herein for reference:

**(1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter, allottee, or real estate agent, as the case may be.**

**Explanation. —For the purpose of this sub-section, "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.**

22. In light of the aforementioned perspective, the Authority concludes that the present complaint is not maintainable, and accordingly, it is dismissed.

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

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

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