

BEFORE TELANGANA REAL ESTATE REGULATORY AUTHORITY

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

14th Day of July 2025

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

COMPLAINT NO.51 OF 2024

Sri Srinivasulu Bode

(Flat No.304, Block 3, DivyaShreeshakthi Apartments,
Mayuri Nagar, Miyapur, Hyderabad- 500049)

...Complainant

Versus

M/s Ashritha Group

Represented through its Authorised Representative

(Plot No.8, Road No. 73, Navanirman Nagar, Jubilee Hills, Hyd-500033)

...Respondent

COMPLAINT NO.52 OF 2024

Smt. C. Malleswari Nandireddy

(Flat No.304, Block 3, DivyaShreeshakthi Apartments,
Mayuri Nagar, Miyapur, Hyderabad- 500049)

...Complainant

Versus

M/s Ashritha Group

Represented through its Authorised Representative

(Plot No.8, Road No. 73, Navanirman Nagar, Jubilee Hills, Hyd-500033)

...Respondent

The present matters filed by the Complainants herein came up for hearing before this Authority in the presence of Complainants in person, and learned Counsel for Respondent. Sri M. Bala Subramanyam and Sri Sandeep Pilli and upon hearing submissions made by both parties, and the matter reserved over for consideration till this date, this Authority passes present Complaints **ORDER:**

2. The present Complaints have been filed by the Complainants under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") seeking appropriate reliefs against the Respondent.

A. Brief Facts of the Case, as Stated by the Complainant

3. The Complainants submitted that they had entered into an agreement of sale dated 27.09.2021 with Sri V. Madhusudhana and others (Landowner/Vendor) for the purchase of an apartment (Flat No. 907, C-Block and Flat No. 910, C-Block) in a residential project titled "Jewels County," which was approved by HMDA and registered with TG RERA bearing Regn. No.P01100002614 dated 23.02.2021. The Complainants asserted that the Respondent failed to honour the agreement of sale by retracting earlier payment receipts and issuing new ones, thereby creating confusion and failing to adhere to the agreed terms.

4. The Complainants further submitted that they had served two notices, both through registered post and email, requesting the Respondent to fulfil their contractual obligations. However, the Respondent, in response, issued a reply legal notice rejecting the Complainants' claims, threatening to cancel the agreement of sale, and advising the Complainants to approach the Builder for issue resolution.

5. The Complainants stated that they addressed a rejoinder within seven days, requesting the Respondent to allow direct communication. That despite repeated efforts, which included several visits to the Respondent's office and multiple phone calls, the Respondent did not respond, and Complainants' attempts to resolve the matter remained unanswered.

6. It was also asserted by the Complainants that the Respondent exerted pressure on them to default on payment terms, thereby enabling the Respondent to unilaterally initiate cancellation of the agreement of sale. The Complainants submitted that after exhausting all reasonable avenues for resolution, they approached the Authority seeking relief to direct the Respondent to comply with the terms of the agreement, process the bank loans, and ensure adherence to the agreed conditions of sale.

B. Reply on behalf of the Respondent to the main complaint:

7. The Respondent, vide a detailed reply, submitted that Respondent entered into an Agreement of Sale with the Complainants on mutually agreed terms and conditions. It was further submitted that it is the complainant first, who breached the payment terms and conditions of the agreement and been threatening the Respondent of approaching the Court to gain wrongfully. That the Respondent was always ready and been willing to honor the terms and conditions in the Agreement. Whereas it is the Complainants who are demanding to vary from the terms and conditions of the Agreement, and on refusal of the same, the Complainants had approached this Authority.

8. The Respondent further submitted that it had obtained requisite permissions for the construction of a Residential building/Apartments from HMDA vide permission No. 030870/SKP/RS/U6/HMDA/22112019 Dt:08/01/dated 2021,& RERA Registration No. P01100002614. That initially, the Complainants orally agreed to purchase a Flat Nos.C-907 & C-910, admeasuring 1322 Sq.ft. (Flat No.C-907) and 1302 Sq.ft. (Flat No.C-910), a 2BHK in the Project named as “JEWELS COUNTY” for out rite price mutually agreed, with a payment condition that such sale consideration shall be paid in full i.e., without instalment, and made believe the Respondent that they shall abide to the payment terms paying an advance of Rs. 10,00,000/- (Rupees Ten lakhs Only) for each flat promising to pay the balance amount in next 15 days.

9. The Complainant, upon the Respondent’s refusal to execute a regular Agreement of Sale on par with other customers, induced the Respondent to believe in his good faith under a "Gentleman’s Agreement." Relying on this assurance, the Respondent proceeded with the Agreement, albeit with terms deviating from the original oral agreement.

10. It was submitted that however, the Complainants defaulted the same without notice and refused to accept to enter into a fresh Agreement of Sale with Payment terms in instalments similar to the other customers. That when Respondent called for meetings several times to conclude the discussions providing ample opportunities to close the sale with payment terms orally agreed, the Complainants did not respond.

11. It was submitted that the Complainants also utterly failed to honour the payment terms and conditions of the Agreement of sale entered in September 2021 and alleged that the Respondent is demanding additional amount, which is false, frivolous, concocted story. That, the Complainants further, ignored the project update mails and had approached this Authority making false allegations. That, the Complainants also had utterly failed to honour the terms and conditions therein agreed in the terms and conditions of the Agreement of sale, in spite of several mails updating the progress of the project from time to time, and demanding the amount.

12. The Respondent submitted that the Clause 1.2 of the Agreement of Sale Pg.5 states as below:

“...1.2 If the Purchaser fails to pay the amounts mentioned in the above clause then automatically this agreement stands cancelled without any intimation and 15% of the sale amount of the Schedule Property shall be forfeited and adjusted towards damages.....”

13. The Respondent submitted that reading the above clause, it is very clear that on default of payment instalment by the purchaser/Complainants, the agreement of sale stands cancelled. However, the Respondent had given enough opportunities to the Complainants to pay the amounts and as there was no response from the Complainants, based on the above clause and default of the Complainant, the Respondent had advised Complainant over telephone to collect the refund immediately and they shall not be responsible for any interest of amount from such date. It was submitted that, however, the Complainants restrained themselves to approach the Respondent. That therefore, Complainants have no right to claim for registration of the said allotted flat to him and claim any damages from the Respondent for their own voluntary fault. Also it was submitted that, such wrongful conduct of the Complainants is voluntary, therefore, they cannot demand the Respondent to honour the terms and Conditions of the Agreement of Sale.

C. Rejoinder on behalf of the Complainant:

14. The Complainants, in response to the Counter filed by the Respondent, submitted that it is admitted that, the Complainants and Respondent entered agreement of sale dated 27-09-2021 for purchase of Flat Nos.C-907 & C-910 on 9th Floor of 'C' Block in the multi-storied residential apartment known as "JEWELS COUNTY". The Complainants submitted that as per clause 1 of agreement of sale, the Complainants, respectively, paid an amount of Rs.10,00,000/- (Rupees Ten Lakhs Only) by way of cheques in the year 2019 & 2021 which is admitted by the Respondent.

15. It was further submitted that as per clause 1.1 of agreement of sale dated 27.09.2021, it was mutually agreed that, the remaining balance sale consideration of Rs.19,68,740/- was to be paid in the following manner

- a. After completion of 2nd cellar slab will be 12% of total sale value
- b. After completion of 1st Floor will be 10% of total sale value.
- c. After completion of 3rd Floor will be 10% of total sale value.
- d. After completion of 6th Floor will be 10% of total sale value
- e. After completion of 10th Floor will be 10% of total sale value.
- f. After Brick work will be 10% of total sale value
- g. Balance amount will be paid at the time of registration.

16. That as per clause 1.3 of the agreement of sale, the Respondent shall issue two notices to the purchaser demanding the payment and upon the failure of the purchaser to comply with

the notices, the land owner/developer shall be at liberty to proceed as per the terms of clause 1.2 of the agreement.

17. The Complainants submitted that it is false to state that, the Complainants entered oral agreement and agreed to pay out right price and requesting them to provide agreement of sale for bank loan and Respondent signed the varied terms and conditions of oral agreement and later refused to enter into fresh agreement of sale is false and the Respondent pleading against their own documents. They submitted that the Complainants paid amount at the time of entering agreement in the year 2021. That, Complainant in Complaint No.52/2024 entered into an agreement with the Respondent in the year 2019 for purchase of villa and due to failure of the construction of the said villa, a fresh agreement was entered into which is an afterthought of the Respondent for enhancing price of the flat which is the main crux for the dispute.

18. The Complainants submitted that it is incorrect to state that the Complainants failed to honour the agreement of sale. The Respondent created an app under the name and style of "ASHRITHA" and furnished the project update on monthly basis which reflects the *mala-fides* of the Respondent. That, on 19.01.2022, the Respondent sent a mail disclosing that the project approved by HMDA and RERA and 14 months completed and they completed the columns and footings at basement level. The Complainants received mail on 17.12.2022 in which the Respondent disclosed that they completed C-Block Grade Slab construction work and requested customers to contact CRM department. On 05.02.2023, the Respondent sent one mail with regard to information providing bank loan to the customers and necessary documents and advised to meet CRM.

19. It was submitted that, in pursuance of E-mail dated 05.02.2023, the Complainants met the CRM and the CRM informed that, the Respondent is not honouring the existing agreement of sale. The Complainants addressed letter dated 10.02.2023 to the Respondent and the same was sent to the Respondent through registered post and E-mail. The letter date 10.02.2023 was returned as unclaimed and E-mail was received. It was further submitted that, the Respondent sent mail on 16.03.2023 and informed that, C-Block footings and Grade slab and the 1st cellar (B-3 slab) have been completed and now 2nd and 3rd cellar slabs are being under progress simultaneously and further informed that customers are always referring to their earlier agreement and post covid prices are soared hike. It was further submitted that, the Complainants issued reply mail on 23.03.2023 by attaching the 2nd letter dated 01.03.2023 and informed that, the Complainant is ready for bank loan processing and significant delay on the part of the Respondent.

20. It was submitted that as per the agreement of sale dated 27.09.2021, the Complainants are liable to pay 10% after completion of 2nd cellar slab and as per the email dated 16.03.2023 they clearly admitted 1st cellar is completed. However, the Respondent issued reply legal notice dated 23.03.2023 and making allegation of balance payment and terminated the agreement of the Complainants. It was further submitted that, the Complainants issued rejoinder legal notice date 05.04.2023 in which the Complainants informed that the payment to be paid after completion of 2nd cellar.

21. The Complainants submitted that it is false that Respondent gave any opportunity to the Complainants to pay the amounts and telephonically informed to collect the refund. The Complainants, therefore, prayed to direct the Respondent to follow the terms and conditions of agreement of sale dated 27.09.2021 and register the document in favour of the Complainant by collecting amounts as per the agreement of sale.

D. IAs filed by Complainants

22. The Complainant filed I.A. No.39/2024 in Complaint No.51/2024 and I.A. No.40/2024 in Complaint No.52/2024, submitting that the Complainants agreed to purchase Flat No.C-907 (east facing) and Flat No.C-910 (west facing) in the residential apartment "JEWEL COUNTY" on 9th floor, admeasuring 1322 Sq.ft. (Flat No.C-907) and 1302 Sq.ft. (Flat No.C-910) along with un-divided share of land admeasuring 32.31 Sq.yards (Flat No.C-907) and 31.82 Sq.yards (Flat No.C-910) out of the total land in Sy.No.229/A1/1, 229/AA, 229/A, 243/A, 236, 229/A2, 243/AA2, 243/A & 243/AA & 229/AA along with all amenities & one car parking and bike parking. Accordingly, the Complainants paid Rs.10,00,000/- (Rupees Ten Lakhs only) towards Flat No.C-907 and Rs.10,00,000/- (Rupees Ten Lakhs only) towards Flat No.C-910 to the Respondent as advance sale consideration. Subsequently, the Respondent entered into Agreement of Sale with the Complainants on 27.09.2021. However, the Complainants submitted that the Respondent is demanding higher price for the purchase of the said flats due to increase of land rates in utter disregard and violation to the provisions of the RE(R&D) Act, 2016.

23. It was submitted that in view of the conduct of the Respondent, there is every possibility of selling the above-mentioned Flats to third parties without disclosing the agreement of sale entered with the Complainants, to their detriment and loss. Therefore, it was prayed to direct the Respondent not to create third party rights on Flat Nos.C-907 & C-910 in the Project "JEWEL COUNTY" till the final disposal of the present complaints.

E. Reply to the IAs by the Respondent

24. Vide Reply to the I.A. No.39/2024 in Complaint No.51/2024 and I.A. No.40/2024 in Complaint No.52/2024, the Respondent submitted that Respondent is abiding to the terms and conditions of the Agreement of Sale entered between Complainants and Respondent. The Respondent further submitted that allegations made against the Respondent are false and frivolous and are made to gain wrongfully to coverup their default in paying the amounts as per the Agreement of Sale causing damage and monetary loss to the Respondent.

25. It was submitted that the Respondent never demanded higher sale consideration than specified in the Agreement of sale but informed to the Complainants that the Agreement of Sale had been cancelled on default of payment in time in accordance with the terms of the Agreement of sale and also advised the Complainants to collect the refund amount they are entitled to.

26. It was submitted that as per the Agreement of sale dated 27.09.2021, it is the Complainants who breached the terms and conditions and thereby, as per the clause 1.2, the Agreement of Sale dated 27.09.2021 stands cancelled, and the allotted flat falls back to the Respondent with all rights to sell, alienate, lease or whatsoever as that of having full title and ownership in all aspects.

27. Further it was submitted, that, as per the Clause 1.2 of the Agreement of Sale, the said Agreement is cancelled by virtue of non-payment of the instalments as agreed in the above clauses, and with such cancellation, which is very much in knowledge and knowing the repercussion of such breach of the agreement had acted deliberately in refusing to pay the instalment, and thereby, the Respondent having all rights vested on such cancellation, had already entered into an Agreement of Sale of the flats with third party.

28. It was submitted that it is settled principle of law that when there is no evidence to show the *prima facie* case of their legal rights and also the alleged cause of action for their filing of instant I.A. and complaint, the question of considering the I.A does not arise. It is the applicant's bounden duty to show *prima facie* case to obtain any interim relief. Therefore, the Respondent prayed that the Complainants are not entitled for any relief in the above I.A., which is filed without validity and to dismiss the same. He also submitted that non-granting of any relief to the Complainants would not cause any loss or damage at any point of time as the Respondent was always ready to refund the amount to the Complainants well before the complaint was lodged.

F. Points for consideration:

29. After due deliberation to the facts and circumstances of the complaints and the supporting documents thereof, the following questions arise for consideration by this Authority:

- I. Whether the Respondent or the Complainants failed to adhere to the terms of the Agreements of Sale?
- II. Whether the Complainants are entitled to the relief sought? If yes, to what extent?

G. Observations of the Authority:

30. The Authority has carefully examined the submissions, documents, and arguments presented by both the Complainants and the Respondent. Upon thorough consideration, certain crucial aspects have emerged that warrant deliberation.

Point I

31. It stands admitted that the Complainants entered into Agreements of Sale dated 27.09.2021 with the Respondent in respect of Flat Nos. C-907 and C-910 in the residential project titled Jewels County, duly registered under RERA vide Registration No. P01100002614. The agreed sale consideration for each unit was Rs. 29,68,740/- (Rupees Twenty-Nine Lakhs Sixty-Eight Thousand Seven Hundred and Forty Only), inclusive of clubhouse charges, and an advance of Rs.10,00,000/- (Rupees Ten Lakhs Only) was paid by each Complainant at the time of execution of the Agreements.

32. The Complainants have alleged that the Respondent obstructed the discharge of their contractual obligations by refusing to accept further instalments routed through bank loan disbursements. It is the Complainants case that despite repeated requests through e-mails dated 10.02.2023, 01.03.2023, and 23.03.2023 they urged the Respondent to accept the payments as per the schedule linked to construction milestones, duly set out in the Agreement of Sale. Notably, the Complainants sought adherence to the payment trigger point of 12% payable after completion of the 2nd cellar slab, as per the agreed milestone.

33. In corroboration of their stand, the Complainants produced an e-mail dated 16.03.2023 issued by the Respondent, wherein it was clearly acknowledged that while the 1st cellar slab (B-3) had been completed, the 2nd and 3rd cellar slabs were still under progress. Thus, the very trigger for the next payment had not arisen, rendering the Respondent's refusal to accept bank loan disbursements untenable and contrary to the agreed schedule.

34. The Respondent, in their defence, relied on Clause 1.2 of the Agreements of Sale, which provides:

“1.2 If the purchaser fails to pay the amounts mentioned in the above clause, then automatically this agreement stands cancelled without any intimation and 15% of the sale amount of schedule property shall be forfeited and adjusted towards damages. Balance amount shall be transferred to the Purchaser’s Account within 90 days from the date of default. The Purchaser ceases to have any rights of whatsoever nature over the flat, the moment the refund amount credited to his account, in such an event the flat shall be allotted to any other prospective purchaser.”

35. However, Clause 1.3 of the same agreement lays down an essential precondition for invoking Clause 1.2, stating:

“1.3 If the purchaser fails to make the payment as agreed in clause 1.1 Sub-clause (a) to (g), the Land Owner/Developer shall issue two notices to the Purchaser demanding the payment and upon the failure of the purchaser to comply with the notices, the Land Owner/Developer shall be at liberty to proceed as per the terms of clause 1.2 of this agreement.”

The Authority observes that the issuance of two written notices is a mandatory procedural safeguard envisaged by Clause 1.3, and non-compliance with the same disentitles the Respondent from invoking the cancellation clause under Clause 1.2.

36. The Respondent has argued that the Complainants sought to renegotiate the payment terms by requesting to make staggered payments post an e-mail dated 05.02.2023 issued to all customers. However, this argument lacks evidentiary substantiation. No documentation or written communication has been placed on record to demonstrate a binding novation of contract or mutual modification of payment terms. Oral assertions in this regard remain uncorroborated.

37. On the contrary, the documentary evidence placed by the Complainants, including photographs and e-mail exchanges, clearly establishes that the construction milestone completion of the 2nd cellar slab was not achieved, and therefore, the Complainants were under no obligation to release the subsequent instalment at the time the Respondent demanded. The Respondent has not disputed the status of construction nor filed contrary evidence. Thus, no breach can be attributed to the Complainants.

38. On the issue of cancellation, the Authority finds that no notices were issued to the Complainants as mandated under Clause 1.3. The unilateral cancellation of the Agreements, absent such notices, is patently in violation of the contract. Moreover, it is contrary to Section 11(5) of the RE(R&D) Act, 2016, which mandates that:

“The promoter may cancel the allotment only in terms of the agreement for sale: Provided that the allottee may approach the Authority for relief, if he is aggrieved by such cancellation and such cancellation is not in accordance with the terms of the agreement for sale, unilateral and without any sufficient cause.” This provision affirms the primacy of contractual terms in cancellation, and any deviation therefrom renders the act of cancellation null and void in law.

39. The Respondent’s defence, based on an alleged oral agreement wherein the Complainants purportedly agreed to pay the entire sale consideration in one instalment, is both speculative and legally unsustainable. No written record, e-mail, or signed memorandum substantiating such a deviation from the executed Agreement has been produced. Furthermore, the Respondent’s simultaneous reliance on contractual clauses (Clause 1.2 and 1.3) to justify cancellation further militates against their own claim of an oral supersession of the agreement. This self-contradiction is indicative of an afterthought.

40. The Respondent cannot, on one hand, rely on the formal Agreement to effect cancellation, while, on the other hand, seek to invalidate the payment schedule laid out in the very same document. Such selective adherence to contractual provisions is impermissible. This clearly indicates that there was no such binding oral understanding between the parties, and the Respondent’s actions are unilateral, arbitrary, and in breach of both the Agreement and statutory mandate.

41. Accordingly, this Authority holds that the Respondent has wrongfully and unilaterally cancelled the Agreements of Sale dated 27.09.2021, without issuance of mandatory notices under Clause 1.3 and in contravention of Section 11(5) of the RE(R&D) Act, 2016. The stand taken by the Respondent is found to be inconsistent, unsubstantiated, and contrary to both fact and law.

42. Point I is accordingly answered in the affirmative. The Authority holds that the Respondent is in breach of the contractual and statutory obligations and has illegally cancelled the Agreements of Sale dated 27.09.2021 without following the due procedure, thereby rendering the cancellation null and void in law.

Point II

43. The Complainants have contended that the Respondent deliberately impeded their ability to fulfil their contractual obligations by refusing to accept payments through bank loan disbursements, despite the express stipulation under the Agreements of Sale dated 27.09.2021 that payments were to be made in accordance with the construction-linked payment schedule.

Instead of honouring the agreed terms, the Respondent has sought to invoke Clause 1.2 of the Agreement to justify unilateral cancellation on the ground of alleged non-payment.

44. However, as already concluded under Point I, the Respondent's invocation of Clause 1.2 is rendered legally untenable, owing to non-compliance with Clause 1.3 which unequivocally mandates the issuance of two prior notices to the purchaser before any cancellation action. The Authority has already held that the Respondent's action, being in breach of this prescribed procedure, constitutes a violation of the contractual terms and is contrary to the mandate under Section 11(5) of the RE(R&D) Act, 2016.

45. This Authority finds it necessary to reiterate the settled position in law that mere assertions in pleadings or affidavits do not constitute proof. The burden of proof lies squarely upon the party alleging the existence of third-party rights or transactions. Assertions unsupported by cogent documentary or admissible evidence are legally insufficient to defeat subsisting contractual rights. The Respondent, being the party asserting such transactions, must discharge this burden.

46. However, the Respondent has failed to place on record any documentary evidence such as registered sale deeds, agreements for sale, or any contemporaneous correspondence demonstrating bona fide third-party transactions. In the absence of such evidence, this Authority is constrained to hold that the rights of the Complainants under the Agreements of Sale dated 27.09.2021 continue to subsist and remain legally enforceable. The Respondent's self-serving assertions cannot displace the vested legal entitlements of the Complainants.

47. Moreover, even assuming arguendo that the Respondent had purportedly created third-party rights, such transactions would be void ab initio, having been executed in violation of the Agreement and without lawfully terminating the Complainants' contracts. The Respondent's conduct, in this context, amounts to unjust enrichment and constitutes a further breach of Section 11(5) of the RE(R&D) Act, 2016.

48. In light of the foregoing findings, this Authority is of the considered view that the Complainants are legally entitled to seek enforcement of the Agreements of Sale dated 27.09.2021.

49. Accordingly, Point II is answered in the affirmative. The Authority holds that the Complainants are entitled to specific performance of the Agreements of Sale dated 27.09.2021. The unilateral cancellation effected by the Respondent and any purported alienation of the subject flats in contravention of the said Agreements is unsustainable in law.

H. Directions of the Authority:

50. In exercise of the powers conferred under Sections 37 and 38 of the RE(R&D) Act, 2016, and in view of the findings and conclusions recorded hereinabove, the Authority hereby issues the following directions:

- a. The Respondent is directed to register the subject flats in favour of the Complainants, subject to receipt of amounts due from the Complainants in accordance with the milestone-based payment schedule stipulated in the Agreements of Sale dated 27.09.2021.
- b. The Respondent is held liable for violation of Section 11(5) of the RE(R&D) Act, 2016, and is accordingly directed to pay a penalty of ₹3,00,000/- (Rupees Three Lakhs only) under Section 61 of the Act, 2016. The said amount shall be remitted within a period of 30 (thirty) days from the date of this order to the TGRERA FUND through a Demand Draft or online payment to A/c No. 50100595798191, HDFC Bank, IFSC Code: HDFC0007036;

51. The parties are hereby informed that non-compliance with the above directions shall attract further action and penalty under Section 63 of the RE(R&D) Act, 2016.

52. In view of the foregoing findings and directions, the complaints are partly allowed and stand disposed of accordingly. All pending interlocutory applications, if any, also stand disposed of.

53. 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**