

BEFORE TELANGANA REAL ESTATE REGULATORY AUTHORITY

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

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

Dated: 01st March 2025

Complaint No.22 of 2024

Manoj Kumar Brahmanpally

...Complainant

And

1. UppalaHarsvardhani

2. M/s SK Constructions rep by BR Mohan Reddy

...Respondent(s)

This present complaint, came up on 06.09.2024 before us for hearing in the presence of Complainant appeared in person and for Respondent Sri BR. Mohan Reddy and upon hearing the arguments on both sides and the matter reserved over for the consideration till this date, this Authority passes the following.

ORDER

2. The complaint has been filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RE(R&D) Act"), read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules"), alleging commission of violation and contravening of the provisions of the said Act and Rules and sought for the appropriate reliefs against the Respondent.

A. The Brief facts of the case as per allegations/averments contained in the complaint are as follow:

3. That the complainant purchased a semi-finished Flat No. 402 from the Landlord/ Respondent 1 at Padmasreekar Icon, Survey Number 263, Gajularamaram-1, Qutbullapur, Medchal-Malkajgiri, 500055, which came to it's share.

4. That the complainant and other flat owners have been facing persistent issues. Despite numerous assurances and promises made by the builder, Mr. B.R. Mohan Reddy, Managing

Director of SK Constructions & Developers, several essential facilities and amenities that were obligated have not been provided.

5. That the Respondent along with landowner had made false statements through advertisement banners, claiming that amenities such as Play Area, Gym, and Multi-Purpose Hall would be provided. However, to his and remaining owners dismay, none of these facilities have been made available, despite repeated requests and reminders to the respondent and landlord.

6. That the absence of these basic amenities not only violates the terms promised by SK Constructions & Developers but also significantly impacts the quality of life of the residents. It is unfair and unacceptable that we, as flat owners, are being deprived of the amenities that were promised to us at the time of purchase by the Respondent and landlord.

7. That the complainant, along with other flat owners, attempted to address these concerns directly with the Respondent and the landlord, but their grievances have been met with indifference and disregard.

8. That the Respondent and landlord had collected Rs. 3 lakhs and above from himself and the remaining flat owners respectively solely for providing amenities. That they also clearly mentioned that Manjeera water connection would also be provided to the building by the time of possession. That during the time of purchase, the builder and landlord conveyed that each flat owner must contribute a minimum of Rs. 5,000–10,000 for providing manjeera water. However, the builder and landlord are now completely denying their obligations and have informed all owners that they are not going to provide Manjeera water connection to the building.

9. That the complainant, along with other flat owners, approached HMWSSB, Gajularamaram, to obtain an estimate for a new manjeera connection. On that the officers of the said authority have stated that the water connection should be provided by the builder himself. This was conveyed to the Respondent and the landlord. But they are still giving reluctant answers on the Manjeera water connection

10. That many flat owners are suffering from sanitary issues, including water leakages from the walls. Additionally, paint layers have been damaged due to poor-quality painting. Despite multiple requests from flat owners, the Respondent has refused to rectify these issues.

11. That many flat owners have already occupied their flats, and the Occupancy Certificate (OC) was granted to them on 6th May 2023. However, the basic amenities are still not provided.

B. Relief sought:

- a. To direct the Respondent to fulfil its obligations regarding providing of amenities and rectification of the defects.
- b. Granting such other relief or reliefs as this Hon'ble Authority may deem fit and proper in the interest of justice.

C. Reply on behalf of the Respondent:

12. The Respondent in its reply contended that the Complainant has filed the complaint with false allegations.

13. But however, the respondent has admitted that the Complainant had approached the landowner for purchasing of a flat. That at that time they had hand provided all relevant title documents and plans, that after reviewing them, the Complainant, after having been satisfied with the title, plans, and its experience, decided to proceed with the purchase that after mutual negotiations, Flat No. 402 was allotted to the Complainant from its share in lieu of development rights granted to it by the landlords under agreed terms and conditions as per the specifications and brochure. That the Complainant had willingly purchased the flat from it.

14. That it had clearly specified the amenities and features that would be provided to flat buyers that no additional assurances or promises were made beyond those specified in the agreement and brochure. Furthermore, all agreed-upon specifications, as per the Agreement of Sale and the brochure, have been duly provided, and no pending works remained. That the Complainant has purchased the flat from Respondent No.1 with full awareness of these terms.

15. That at no point of time it had promised or given assurance to the complaint with regard to play area, gym, or multipurpose hall/office room. When the Complainant and other flat buyers requested to provide these additional facilities, they were informed that the sanctioned plan did not include such amenities. That Providing them would constitute a violation of the sanctioned plan. However, due to persistent requests from flat owners,

including the Complainant, a common understanding was reached on 09.10.2022, wherein it was agreed that a gym room, function hall, and children's play area would be provided at the risk and cost of the flat owners that to after obtaining of a "No Objection" Certificate (NOC)/Occupancy Certificate. The Complainant and remaining owners accepted these terms. Subsequently, in February 2024, the Complainant and other flat owners have provided necessary requirements and estimates, after which it had promptly completed the requested amenities, including a gym room with equipment, a function hall, a children's play area with equipment, and an office room with 35 chairs.

16. That while so the Complainant is now falsely alleging that it had failed to complete or provide the agreed-upon basic amenities. In reality, it has fulfilled all contractual obligations. Additionally, the agreement concerning the gym, children's play area, and function hall was technically invalid as these facilities were not part of the original sanctioned plan. They were provided solely due to the persistent requests of the flat owners, at their own risk.

17. That the claim that it has failed to provide amenities is baseless. That all grievances and requests from the Complainant and other flat owners have been addressed, and no works are pending.

18. Regarding the provision of Manjeera water, the amount collected for amenities did not include expenses for obtaining Manjeera water connection. But however, it had committed to provide necessary provisions for such a connection. It was clearly communicated to all flat owners that they would have to contribute proportionately once the concerned authorities provided an estimate. This was reiterated during the meeting on 09.10.2022, where all flat owners, including the Complainant, agreed to contribute as per the authorities' estimates after obtaining the NOC. That now it has obtained the NOC from GHMC and has requested flat owners to make their contributions to secure the water connection. That for the unsold flats, it(Respondent) has agreed to bear the proportionate cost.

19. That it is surprising that the Complainant now claims that, based on the suggestion of an HMWSSB officer, the builder is responsible for providing the Manjeera water connection. Any such provision must be in accordance with the agreement, specifications, and brochure but not based on an external party's suggestion. Even in the 09.10.2022 meeting, flat owners agreed to contribute proportionately for the connection.

20. Occupancy has already been granted to all the flat owners, from 01.04.2022 to 31.10.2022, It (Respondent) bore the maintenance charges without collecting them from the flat owners. Thereafter, individual flat owners, along with It (Respondent) for unsold flats, have been paying maintenance charges.

21. That the Complainant has submitted outdated photographs in an attempt to mislead the Hon'ble Authority to and garner sympathy. That there is no deviation in the compound wall's construction, as evident from the occupancy certificate issued by GHMC. Had there been any deviation, GHMC would not have issued the Occupancy Certificate. The unfinished plastering seen in the submitted photographs pertains to the exterior of the compound wall, which has since been completed. The Respondent has submitted Photograph No.1 as evidence.

22. The rainwater harvesting pit area has been completed and is covered with a grill as a safety measure. Photograph No.2 supports this claim. The children's play area was documented during construction, and photographs were taken. The facility is now fully completed, as evidenced by Photograph No.3. The gym room, play area, and function hall/office room have all been provided, as shown in Photographs No.4, 5, and 6. Minor air cracks developed due to the neighboring land being excavated, which caused the issue. However, the cracks have been rectified, as shown in Photographs No.7 and 8. Regarding the paintwork, discoloration occurred due to residents' weekly floor cleaning, leading to water absorption. This issue has also been addressed with repainting. There are no damages or leakages in the internal walls. The Complainant has not specified which flat allegedly has such issues, and no pending works remain.

23. That it (Respondent) requests this Hon'ble Authority to appoint a Commissioner to inspect the premises and provide a report, as the Complainant has submitted misleading, outdated photographs for all these reasons the respondent has and so also prayed to dismiss the Complaint with exemplary costs.

24. while so during the course of hearing of the case on hand, this authority, by orders dated 25.06.2024 has ordered the technical team of the authority , TG RERA consisting of the technical team and Tahsildar to inspect the project "Padmasreekar Icon," located at Survey No. 263, Gajularamaram-1, Quthballapur, MedchalMalkajgiri District, bearing TG RERA Registration No. P02200002692, and to submit its report of inspection immediately.

Accordingly, the technical team comprising of a Technical Engineer and a Tahsildar, accompanied by the complainant in this case and complainants in the remaining similar cases and as also the respondent, inspected the above said project, that it is to say a residential apartment complex consisting of 1 cellar, stilt, and 5 upper floors, spanning a total of 35 flats across 1651.71 sq. m.

25. Accordingly the technical team inspected the project and submitted its inspection report, with its observations which are as follows: -

- i. Manjeera water connection, essential for residential use, has not been provided for the apartment
- ii. Respondent has provided a gym with the necessary equipment, an unfurnished multipurpose hall in the cellar, and a play area on the ground floor.
- iii. That with regard to quality and pending issues it has observed that: -
 - a) The terrace waterproofing plaster has deteriorated in certain locations, attributable to substandard quality of the material and workmanship, which needed to be rectified under qualified technical supervision by the builder.
 - b) No security peepholes have been installed on the main doors of the flats.
 - c) Despite the builder provided water outlet provisions and riser band in the floor to restrict the flow of rain water in main corridor coming from corridor openings, particularly during the monsoon. Hence the residents have requested that window shutters be installed to mitigate this issue.
 - d) Signs of dampness and peeling of putty paint were noted in the toilet walls in flat no. 506 and so also in flat Nos. 301, 302, 304, 402, 205, 105, 203, and 303. Necessary grouting work is advised in these areas to prevent further deterioration.
 - e) Cracks in the wall adjacent to the main doors of the apartments and the compound walls were observed. Although some inner cracks in the compound wall have been repaired, further measures are required to ensure structural integrity.
 - f) The builder of rectification of plumbing works in the kitchen in Flat No. 402, the patchwork with tiles remains incomplete, necessitating attention to restore uniformity.

- g) The inspection also highlighted drainage issues on the cellar ramp. Due to the absence of a proper drain, rainwater accumulates on the cellar floor, creating a potential hazard. It was recommended that a cross drain with appropriate grating be constructed to channel rainwater to a designated collection point, from where it can be pumped out efficiently.

26. Upon careful examination of the above detailed inspection findings, this Authority directed the respondent builder to undertake immediate rectification of the aforementioned deficiencies, particularly regarding the structural and quality defects observed in the project. The respondent builder was also instructed to complete pending works in coordination with the residential association, ensuring that all outstanding issues were resolved to the satisfaction of the residents.

27. Taking in to consideration the allegations made by the complaint in the present case and so also in the remaining similar complaints and the submission made by the respondent in the counter, rejoinder filed by the Complainant, the inspection report and as also the arguments advanced on behalf of both sides the points that arise for consideration are as follows.

- 1. Whether the complainant is entitled to the reliefs sought?**
- 2. Whether the Respondent has violated the provisions of the RE(R&D) Act? If so, to what extent?**

Point 1:

28. The main contentions raised by the Complainant and remaining complainants are that amenities and facilities promised at the time of purchase, including, inter alia, a play area, gym, multi-purpose hall, and Manjeera water connection, have not been provided by the Respondent even after collecting the additional sum of 3,00,000/-, accompanied by an extra contribution ranging from ₹5,000 to ₹10,000 for the Manjeera water connection from him and remaining flat owners. Despite the issuance of the Occupancy Certificate on 6 May 2023, these amenities remain incomplete.

29. On the other hand, as can be gathered from the reply, the contentions of the respondents that the complainant after going through the specifications and Boucher and having been satisfied with the workmanship of the Respondent has purchased above said flat. That at no point of time it has given any further assurances nor made any promises to the

complainant herein and the remaining flat owners that itself along with landlord would provide a play area, gym and, multipurpose hall, office room except the agreed specifications and the specifications mentioned in the Boucher. That they have provided all the specifications as per the agreement of sale and brochure and that there were no pending works. That while so the complainant and the remaining flat owners requested them to provide the above said additional provisions such as a gym room, play area and multipurpose hall/office room. That on that they drew the attention of the complainant and other remaining flat owners to the specifications and the Boucher specifications and informed them that providing of the said additional provisions would be against the sanctioned plan, since there was no provision for providing such amenities. That on persistent request made by the complainant and remaining flat owners, a common understanding was arrived at on 09-10-2022 for provision of the said additional amenities but however, at the risk of the flat owners and that too after obtaining of NOC that on that the complainant and remaining flat owners agreed for the same. Thereafter the complainant and other remaining flat owners gave the estimates in respect of the additional amenities to them. Only in the month of Feb 2024 that immediately thereafter they have provided the above said additional amenities by completing all works. While so the complainant and remaining flat owners have filed the rejoinder wherein they have disputed the pleas put forth by it(respondents) in the counter. Then the technical team of this authority was directed to inspect the site and submit inspection report. Accordingly the technical team inspected the site and submitted the report along with their observations as detailed herein above in para no. 25.

30. Keeping in view the afore detailed rival claims and contentions it is observed by the authority that though the advertising material of the builder/landowner contained reference of amenities such as a children's play park, multipurpose hall, gym, and solar fencing but there was no reference about this amenities in the Agreement of Sale, Sale Deeds, or the sanctioned plan obtained by the Respondent/builder for the concerned project. When that is so the Authority is of the view that the complainant cannot be granted relief for such amenities, as the sanctioned plan demonstrates no such provision for the gym, play area or multipurpose hall. The complainant and the remaining owners themselves acknowledged that these amenities were constructed following the issuance of the occupancy certificate dated 06.03.2023. While so the sale deed dated 12.09.2021 submitted by the complainants, indicates that the possession was handed over to the complainant in the year 2021 and so also as can be seen from the discussion made in forgoing para it will be clear that the complainant

and renaming flat owners were aware of the deviations from the sanctioned plan. When that is so this Authority is precluded from granting relief as prayed for to the complainant that extends beyond what is stipulated in the sanctioned plan, which was not permitted or referenced in the sale deed or agreement.

31. With regard to the Manjeera water connection, the complainant has reiterated that the Respondent had collected an amount of ₹3,00,000 from each individual flat owner towards amenities and had collected further amount ranging from Rs. 5000 – 10000 /- for providing Manjeera water connection. However, upon perusal of the evidence available on record, it is evident that no such assurances or financial obligations pertaining to amenities and Manjeera water connection are reflected in the Agreement of Sale, Sale Deed, or even in the promotional banners. Nevertheless, during the course of the proceedings, Respondent unequivocally assured the complainant and this Authority that the Manjeera water connection would be provided. In light of this assurance, this Authority is of the considered view that the Respondent would adhere to this commitment made during the course of the proceedings and ensure that the provision of the Manjeera water connection shall be provided as urged by the Complainants and remaining flat owners.

32. Now coming to the rectification of specific structural defects within the project, in the light of the provision of Section 14(3) of the RE(R&D) Act, it shall be the duty of the respondent as promoter to rectify such defects.

33. It can be noticed from the inspection report submitted by the technical team of this authority that several defects in the project necessitate rectification by the Respondent/builder/promoter, which are detailed and mentioned in para no 25 here in above.

34. Therefore, in view of the facts and circumstances of the case as discussed in the herein above, the authority is of the considered view that the complainant and remaining flat owners are entitled for getting the above pointed out structural defects rectified by the respondent. The point no.1 is answered accordingly.

Point 2:

35. As is evident from the material available on record this authority, finds and observes that the Respondent has deviated from the sanctioned plan obtained from the competent

authority (vide no. 1/C26/16930/2019 dated 23rd November 2019) by constructing amenities such as gym, play area and multipurpose hall. Further, as is evident from the available material on record before this authority, the Respondent had advertised about the above detailed facilities in signage that did not conform to the sanctioned plan. In this context on a reading of the section 14(1) of the RE(R&D) Act it will be clear that the said provision imposes an obligation upon the promoter to develop and complete the project in strict accordance with the sanctioned plan, layout plans, and specifications approved by the competent authorities. But however in the case on hand it is evident that the Respondent had failed to adhere to these provisions and there by violated the provisions of Section 14 of the RE(R&D) Act, which was confirmed by this Authority. It is pertinent to note that this Authority has already imposed a penalty on the Respondent for an identical violation under the same project. In view of the clear contravention of Section 14(1) of the Real Estate (Regulation and Development) Act, 2016, this authority in the exercise of its powers under Section 61 of the said Act, has already levied a penalty of Rs. 4,50,645/- (Rupees Four lakh fifty thousand six hundred and forty-five only) on the Respondent in Case No. 21 of 2024 on the file of this authority. Therefore the authority is of considered view that no more further penalty needed to be imposed on the Respondent in the present case on hand.

36. While so however as admitted by the Respondent 1 there are still unsold flats in the concerned project. In the said circumstances, the Respondent 1 has to be restrained from advertising any amenities or facilities that do not adhere to the sanctioned plan obtained from the competent authority. The point under the discussion is answered accordingly.

G. Directions of the Authority:

37. Accordingly in the result, the authority hereby issues this order and, following directives under Section 37 r/w Section 34(f) of the RE(R&D) Act to the respondent herein so as to ensure compliance with the obligations imposed upon it within 60 days from the date of this order:

- i. Rectify all identified defects as mentioned in para 34 of this Order.
- ii. Provide the Manjeera water connection to all apartments in the project as initially promised and for which payments have already been collected from the flat owners.

iii. The respondent is further directed to submit a detailed compliance report to this Authority within the stipulated thirty (30) days, outlining the actions taken to adhere to this order.

iv. Respondent is further restrained not to advertise any such amenities or facilities that do not adhere to the sanction plan obtained from the competent authority and directed to adhere to the sanctioned plan.

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

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

**Sd-
Sri. K. Srinivas Rao,
Hon'ble Member
TG RERA**

**Sd-
Sri. Laxmi NaryanaJannu,
Hon'ble Member
TG RERA**

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

