

BEFORE TELANGANA REAL ESTATE REGULATORY AUTHORITY

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

Complaint No. 128 of 2024

01st May, 2025

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

Koduri Swapna Bharathi

(Flat no.203, Sri Sai Residency, Mallikarjunagar North, Chintalkunta, RR District, Telangana - 500068)

...Complainant

Versus

1. M/s. Shanthi Constructions

(Rep by its Managing Partner, Kadari Naveen Rao, Flat no. 206, Block E- Shanthi Gardens, Raghvendra Nagar, Nacharam, Hyd- 500 076))

2. Shanthi Trikota Residency Residents Welfare Association

(Rep by President, C Sudhakar Reddy,H.no. 01-1-257/9/4/414, op. PGR Apartments, Prashantnagar Colony, HNK - 506004)

3. The Commissioner G.W.M.C

(G.W.M.C Head office, beside M.G.M Hospital Warangal – Telangana - 506002)

...Respondents

The present matter filed by the Complainant herein came up for hearing on 11.12.2024 before this Authority in presence of Complainant present in person and Respondent 1 through Counsel, Sri G.Arun, Praveen Kumar Khatri, K.Santosh Kumar, Respondent 2 through Counsel RamJoshi, Shashikanth Tiwari and Komal Diwedi whereas Respondent 3 remained absent and set exparte; upon pursuing the material on record and on hearing arguments of the both sides and having stood over for consideration till this day, the following order is passed:

ORDER

2. The Complainant has filed complaint on hand 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. Briefs facts of the case:

3. The complainant has purchased Flat No. 520 in the project "Shanthi Trikuta Residency", bearing RERA registration number P00300000672, situated at Prashanthnagar Colony, Hanamkonda, from Respondent No. 1 (Builder), through a registered Sale Deed bearing No. 12837 of 2022, executed at the Warangal Sub-Registrar Office. It is submitted that on the date of execution of the said Sale Deed, several construction activities such as the installation of lifts, completion of painting works, and provision of municipal water tap connection were pending. Further, the Builder had neither initiated nor completed construction of certain amenities, such as a multipurpose hall, gym, and car wash bay, which were assured in the brochure/prospectus circulated to prospective allottees. Notably, even in the recitals of the Sale Deed, the apartment was described as "under construction".

4. Despite the evident incompleteness of construction works, the Municipal authorities specifically Respondent No. 3 issued an Occupancy Certificate dated 28.03.2022 vide No. 002466/OC/DTCP/3006/0097/2022, purportedly certifying that the Builder had completed the construction in accordance with the sanctioned building plan dated 27.06.2018. The complainant alleges that this Occupancy Certificate was issued based on a fabricated and incorrect Site Inspection Report dated 12.03.2022, and that the municipal officials colluded with the Builder. Moreover, the Builder deliberately suppressed the existence of the said Occupancy Certificate while executing the Sale Deed on 12.05.2022. The complainant further states that despite having collected an additional sum of Rs. 21,95,000/- over and above the sale consideration of Rs. 40,77,000/-, the Builder failed to provide the promised amenities and instead constructed substandard concrete wall partitions. Due to such grievance, the complainant was constrained to file CC No. 515 of 2022 before the District Consumer Disputes Redressal Commission, Rangareddy District, seeking refund of the additional amount collected.

5. It is further stated that in an attempt to hurriedly demonstrate delivery of amenities following the filing of the above consumer complaint, the Builder illegally constructed a children's play area adjacent to two high-voltage electricity distribution transformers, in clear deviation from the sanctioned layout plan dated 27. 06.2018, sanctioned under File No. 3006/7106/W51/2017. Additionally, the Builder undertook unauthorized construction of concrete wall partitions within the driveways and areas earmarked for car parking in the stilt portion of the building, thereby obstructing access and altering designated utility spaces. In response, the complainant submitted a representation dated 10.10.2022 to Respondent No. 3 seeking action against these unauthorized constructions. However, the said authority failed to

take any action, prompting the complainant to approach the Hon'ble High Court for the State of Telangana by filing W.P. No. 40197 of 2022. The Hon'ble High Court, vide Order dated 02.11.2022, directed Respondent No. 3 to consider the complainant's representation and pass appropriate orders within six weeks after issuing notice to the Builder.

6. Pursuant to the said direction, Respondent No. 3 issued a show-cause notice dated 30.11.2022 vide Roc.No.E-246713/GWMC/TP/Cir-II/2022 to the Builder. However, in response to this notice, the Builder, acting in collusion with 9 other flat owners who were allegedly handpicked and aligned with him, caused the formation of a society styled as "Shanthi Trikuta Residents Welfare Association" bearing Registration No. 628 of 2022 under the Telangana Societies Registration Act, 2001, on 09.12.2022. It is alleged that this association was formed with the intent of defending the illegal constructions and encroachments, despite not having the requisite majority representation, as only 9 out of 100 flat owners were members. On the very date of its registration, and without having received any independent show-cause notice, the said society submitted a cyclostyled reply dated 09.12.2022 to Respondent No. 3, alongside the Builder's reply.

7. The complainant has contended that the formation of the said association is illegal and irregular, not only because it lacks equitable representation but also for the reason that it was not formed in accordance with Rule 7 of the Telangana Apartments (Promotion of Construction and Ownership) Rules, 1987, which mandates registration under either the Telangana Cooperative Societies Act, 1964 or the Telangana Mutually Aided Cooperative Societies Act, 1995. The formation of the society under the Telangana Societies Registration Act, 2001 is alleged to be a deliberate move to evade compliance with statutory provisions governing apartment ownership and administration, including those under Rules 6, 8, and 9 to 15 of the said 1987 Rules.

8. It is alleged that despite the Hon'ble High Court's direction, Respondent No. 3 failed to take any meaningful action against the unauthorized constructions, compelling the complainant to initiate Contempt Case No. 410 of 2023. Following receipt of contempt notice, Respondent No. 3 finally passed an order dated 20.02.2023 bearing ROC No. E-246713/GWMC/TP/Cir11/2022-23, whereby the reply dated 09.12.2022 filed by the association was rejected, and the Builder was directed to remove the unauthorized constructions within fifteen (15) days.

9. Challenging the said demolition order, Respondents No. 1 and 2 jointly filed W.P. No. 5131 of 2023 before the Hon'ble High Court. Initially, vide order dated 22.02.2023, a status quo was granted without assigning any reasons. Later, the said Writ Petition was disposed of by the Hon'ble High Court on 19.12.2023, relegating the petitioners to pursue the statutory remedy of appeal under Section 252 of the Telangana Municipalities Act, 2019, without going into the merits of the case.

10. Subsequently, Respondents No. 1 and 2 preferred an appeal before the Regional Director-cum-Appellate Commissioner, challenging the demolition order dated 20.02.2023. The complainant herein was arrayed as one of the respondents in that appeal and filed a detailed reply dated 29.02.2024, wherein it was specifically contended that the construction of a hall or similar structure in the stilt parking area, under the guise of providing amenities, was wholly illegal and contrary to Section 6 of the Telangana Apartments (Promotion of Construction and Ownership) Act, 1987, which prohibits any additions or alterations to the building affecting more than one apartment without prior written consent of all allottees. Reliance was also placed on the judgments of *C.S.R. Estates Flat Owners Welfare Association v. HUDA* (1998(6) ALD 547; 1998(6) ALT 540) and *C. Shekar Reddy v. C.S.R. Estates Flat Owners Welfare Association* (AIR 2003 AP 491), which lay down the illegality of making unauthorized changes to the common areas without due procedure and consent.

11. It was further contended that in terms of Section 14 of the Real Estate (Regulation and Development) Act, 2016, the promoter is legally obligated to adhere to the sanctioned plans, and cannot effect any modification thereto without the prior consent of allottees. The revised plan submitted by the association comprising only 9 members allegedly acting under the influence of the promoter without the consent of the remaining flat owners, was therefore void and non est in the eyes of law.

12. Despite these detailed submissions, the Regional Director-cum-Appellate Commissioner passed a non-speaking order dated 10.04.2024, merely remanding the matter to the Commissioner of GWMC for reconsideration, without assigning any reasons or prescribing any timeline, thereby failing to discharge the duty of a quasi-judicial authority. The complainant has expressed his intention to challenge the said non-speaking order through appropriate legal remedies and shall make additional submissions during the course of final hearing.

13. It is finally submitted that as of 24.05.2024, several construction works remain incomplete. Only three out of the four lifts have been installed, and installation of the fourth lift on the northern side remains pending. Additionally, entrance/landing doors to both lifts at the cellar level have not been provided. These deficiencies, along with the non-adherence to statutory norms governing apartment ownership and common area management, have caused immense hardship and inconvenience to the complainant and other affected flat owners.

B. Reliefs Sought:

14. In view of the aforementioned facts and circumstances, the complainant has approached this Authority seeking the following reliefs:

(a) To direct Respondent No. 1 to strictly adhere to the Sanctioned Plan dated June 27, 2018, in File No. 3006/7106/W51/2017 and to remove the concrete wall partitions erected by the said Respondent in the area earmarked for car parking in the stilt portion of the apartment. Further, to direct Respondent No. 1 to remove the children's play area located adjacent to the two high-voltage electricity distribution transformers at the apartment premises.

(b) to direct Respondent No. 1 to complete all pending works i.e. installation of Municipal Tap Water connection, installation of lift/elevator, installation of lift landing doors in the cellar, for providing lift access to the cellar at the Apartment in accordance with the Sanctioned Plan Dt. June 27, 2018 in File No. 3006/7106/W51/2017 and also direct Respondent No.1 to rectify the defective workmanship by re-flooring the Stilt, driveways with proper load bearing stones and construct underground drainage grids & lanes in the cellar of the apartment to prevent water logging.

(c) To declare that the actions of Respondent No. 2 in submitting a revised building/layout plan to Respondent No. 3 are *ultra vires* and contrary to the principles of equity, Section 6 of the Telangana Apartments (Promotion of Construction and Ownership) Act, 1987, and the law laid down in *C.S.R. Estates Flat Owners Welfare Association vs. Hyderabad Urban Development Authority & Ors.* reported in 1998(6) ALD 547, 1998(6) ALT 540, and *C. Shekar Reddy vs. C.S.R. Estates Flat Owners Welfare Association & Ors.* reported in AIR 2003 AP 491, 2003(3) ALD 553, 2003(3) ALT 413.

(d) To declare the actions of Respondent No. 1 and Respondent No. 2 in registering only 9 flat owners, out of 100, as an association under the Telangana Societies Registration Act, 2001, as illegal and contrary to the principles of equity and Rule 7 of the Telangana Apartments (Promotion of Construction and Ownership) Rules, 1987. Further, to direct the said Respondents to re-register the Flat Owners' Association/Society in compliance with Rule 7 of the aforementioned Rules.

(e) To award the costs of this Complaint

(f) To pass such further or other orders as this Hon'ble Authority may deem fit and proper in the circumstances of the case.

C. Counter on behalf of Respondent 1:

15. At the outset, it is submitted that the Complainant is guilty of suppression and misrepresentation of material facts. It is submitted that Respondent No. 1 has constructed a residential complex comprising five floors with two levels of parking, accommodating a total of 100 flats. This Respondent has also obtained an Occupancy Certificate from the concerned authority. All the flats that fall under this Respondent's share have been sold to various individuals, who are either in personal occupation of their respective flats or have let them out to tenants. A list of the occupants of all the flats provided by this Respondent is filed herewith.

16. It is submitted that an Owners' Welfare Association has been formed under the name and style of Respondent No. 2. To the knowledge of this Respondent, the Complainant has not become a member of Respondent No. 2. It is denied that there are only 15 members in the Respondent No. 2 society.

17. It is submitted that the Complainant purchased a semi-finished Flat No. 520 on the fifth floor of Shanthi Trikuta Residency, having a built-up area of 1440 square feet (including common area), together with an undivided share of land measuring 61.7 square yards out of a total land area of 5,763 square yards in Survey Nos. 723 and 723/C situated at Waddepally Revenue Village, Hanamkonda Mandal, Warangal City and District. After completing the said flat in all respects, this Respondent handed over possession to the Complainant. The Complainant has also been allotted a parking space in the stilt area, which is serviced by a lift. After taking possession, the Complainant made extensive alterations and modifications to the

flat without the consent of either this Respondent or Respondent No. 2. These changes and alterations are illegal. To the knowledge of this Respondent, the Complainant rarely occupies the flat.

18. It is submitted that the Complainant, from the very beginning, has been harassing and creating issues for this Respondent and other occupants of the complex without any valid reason. The Complainant has issued several letters and filed complaints making unjust claims and demands, as is evident from the present complaint itself.

19. It is submitted that the Complainant has filed Consumer Case No. 515 of 2022 before the District Consumer Commission, Ranga Reddy, against this Respondent. This Respondent has already filed a reply, and the matter is currently posted for written submissions. Copies of the said complaint and the reply are filed herewith and marked as Document Nos. 2 and 3. In the said complaint, false allegations have been made, particularly the claim of illegal construction. The claims made in Para 4(iii) and 4(iv) of the present complaint are fabricated and intended to harass and coerce this Respondent into meeting the Complainant's illegal and unjust demands. The Complainant is attempting to achieve unjust enrichment. The reply filed in C.C. No. 515 of 2022 should be read as part of this reply and is not repeated herein. All allegations contrary to the contents of said reply are denied.

20. It is submitted that the Complainant issued a letter dated 24-05-2024 making false allegations. The Complainant has filed a copy of this letter but has not produced the reply sent by this Respondent dated 24-06-2024. A copy of the said reply, along with the postal receipt, is filed herewith and marked as Document Nos. 4 and 5. Although this Respondent has not received the postal acknowledgment to date, it is clear that the Complainant has deliberately suppressed this reply to suit her narrative. Despite receiving the reply, the Complainant proceeded to file the present complaint, which is based on false claims.

21. It is further submitted that the Complainant has not maintained cordial relations with the other occupants of the complex. None of the other residents have raised any complaints of deficiency in service against this Respondent. The construction has been carried out with due care and caution. No occupant is facing the issues alleged by the Complainant. The Occupancy Certificate has been issued in accordance with law, and there is no illegality as alleged in Para 4(ii) of the complaint.

22. It is submitted that all basic amenities and facilities in the complex have been provided by this Respondent. Any minor pending work has also been completed. The claims made in Para 4(i) of the Complaint are false. The Complainant is bound by the terms of the sale agreement.

23. It is submitted that the Complainant's rights have not been infringed in any manner within the complex. The Complainant purchased the flat after being fully satisfied with the title, interests, and amenities offered. There is no inconvenience or difficulty being faced by the Complainant in occupying, using, or enjoying the flat. All facilities and amenities related to the flat are being used without hindrance. On the contrary, the Complainant has made internal modifications in violation of the sanctioned plan and without prior permission. The Complainant has not approached this Tribunal with clean hands. This Hon'ble Tribunal may be pleased to appoint a commissioner to inspect the flat and note its physical features, which will reveal the Complainant's illegal actions.

24. The contents of Paras 4(v), 4(vi), and 4(viii) of the Complaint are misconceived. It is denied that any illegal wall has been constructed as alleged. Since no unauthorized construction has been made, the question of any action by Respondent No. 3 does not arise. The Complainant is fabricating issues. No other flat owner has raised the concerns cited by the Complainant. The claims in Para 4(vi) are also baseless. The Complainant has apparently misled Respondent No. 3 and secured a notice through misrepresentation. Allegations of collusion between Respondent Nos. 1 and 3 are denied. The complaints filed by the Complainant are false and malicious.

25. The contents of Para 4(vii) are false and fabricated. It is denied that the Welfare Association comprises only nine members. To the best knowledge of this Respondent, most flat owners are members of the Association and are paying monthly maintenance. The Complainant has neither joined the Association nor paid any maintenance. Without verifying facts, she is making false statements. There is no truth in the claims made in this paragraph.

26. In reply to Paras 4(ix) to 4(xi) of the Complaint, it is submitted that any legal proceedings and contrary averments are denied. The matters are sub judice and of record. Despite pending proceedings before the Authority, the Complainant has filed the present complaint, which is not maintainable. Parallel proceedings are impermissible. This

demonstrates the Complainant's intent to misuse legal proceedings without a valid cause of action.

27. The contents of Paras 4(xii) and 4(xiv) are misconceived. There is no work pending. Flat owners are obligated to contribute towards expenses for water connections as per the sale terms. Since some have failed to contribute, the matter remains unresolved. The Complainant is aware of these facts yet has not contributed her share and is now making false claims. Allegations of defective workmanship are baseless, imaginary, and speculative. The flat was purchased after due verification, and the present claims are fabricated.

28. The contents of Para 4(xiii) are misconceived. The affairs of Respondent No. 2 are internal matters. This Respondent has already handed over maintenance to Respondent No. 2 and has no authority to interfere in its affairs. To the knowledge of this Respondent, the Complainant is not a member of the Association. If the Complainant has any grievance, she is at liberty to pursue appropriate remedies against the Association. In any event, this Tribunal lacks jurisdiction over disputes related to Respondent No. 2's internal affairs.

29. The contents of Paras 4(xvi) and 4(xvii) are false and misconceived. The Complainant's letter dated 24-05-2024 was duly replied to via registered post on 24-06-2024. The reply, along with postal receipt, has already been filed as Document Nos. 4 and 5. To the best knowledge of this Respondent, the Complainant has received the reply but deliberately failed to file it. She falsely claims that no reply was given, which is untrue. The complaint filed before Respondent No. 3 is also baseless and motivated. The claims made are reckless and wholly incorrect.

30. It is submitted that the present complaint has been filed with malice, with the intent to harass and coerce this Respondent into acceding to the illegal demands of the Complainant. The Complainant has not approached this Tribunal with clean hands. Moreover, she is not a permanent resident of the flat. The Complainant has continuously harassed this Respondent through false complaints and litigation.

31. The contents of Paragraphs 5 to 8 of the Complaint are false and fabricated. There is no cause of action for the present proceedings. The cause of action has been manufactured solely for the purposes of this case. The Complainant is not entitled to any reliefs prayed for. The prayers are misconceived. The Complainant is guilty of suppression and misrepresentation of material facts. She falsely stated that no legal proceeding is pending, despite ongoing litigation

before the GWMC. This Tribunal has no jurisdiction to entertain the complaint, especially in light of the sub judice status of the matter, as per the directions of the Hon'ble High Court at Hyderabad for the State of Telangana. For all the aforementioned reasons, the complaint is liable to be dismissed with exemplary costs.

D. Counter on behalf of Respondent 2:

32. The complaint, as framed and filed against this Respondent, is neither maintainable in law nor based on the facts of the case. The complainant cannot seek any relief against this Respondent under the provisions of the Real Estate (Regulation and Development) Act, 2016. It is submitted that Section 31 of the said Act allows an aggrieved person to file a complaint for any violation or contravention of the provisions of the Act or the rules and regulations made thereunder against a promoter, allottee, or real estate agent. This Respondent, being a Residents Welfare Association registered under the Telangana Societies Registration Act, 2001, does not fall within the definition of a promoter, allottee, or real estate agent. The complainant is put to strict proof of the allegations made in the complaint. This Respondent need not respond to the allegations made against Respondent No.1. All claims, contentions, and allegations not specifically admitted herein are hereby denied.

33. In reply to the contents of para 4 (i to iv) of the complaint, it is admitted that the complainant has purchased Flat No. 520 in Shanthi Trikuta Residency at Prashanth Nagar Colony, Hanamkonda from Respondent No.1. However, the complainant has made various unwarranted and unsubstantiated allegations against Respondent No.1 regarding incomplete construction, which are denied. The complainant has further alleged collusion between municipal officials and Respondent No.1, which is entirely false and denied. The claim that the construction of amenities remains incomplete is also denied. The high-voltage electricity distribution transformers were installed by the competent authorities at suitable locations, and Respondent No.1 cannot be held responsible. The allegations are made with ulterior motives and lack merit.

34. In response to para 4 (v to vii) of the complaint, the allegation that Respondent No.1 erected illegal wall partitions on the driveways and car parking area in the stilt floor is denied. It is also incorrect to claim that nine flat owners selectively formed an irregular owners' association. The said nine flat owners are bona fide purchasers who formed an association under Registration No. 628/22, registered under the Telangana Societies Registration Act,

2001, for the proper maintenance of common amenities. Subsequently, all flat owners were invited to join the association and contribute to the monthly maintenance charges. As of now, 89 flat owners have become members and are contributing regularly. The list of association members is filed and marked as **Document No.1**. The complainant, despite several requests, has neither joined the association nor paid the monthly maintenance charges since inception. Her allegations are false, baseless, and made to cover up her own lapses.

35. In reply to para 4 (viii to xi) of the complaint, the allegations of collusion between Respondent Nos.1 and 3 are denied. The complainant has distorted facts to suit her case. She appears to be a chronic litigant, evident from her multiple proceedings before various forums. The claim of unauthorized encroachments in the parking area is also false. Out of nearly 100 flat owners, the complainant is the only one raising such grievances. This clearly indicates her intention to harass and create discord. Respondent No.1 has addressed legitimate issues as and when they arose. The allegations against this Respondent are baseless and intended to mislead.

36. In reply to para 4 (xii to xiv), the allegations regarding incomplete works are denied. Respondent No.1 has completed the works, including installation of lifts, subject to delays attributable to the lift company. The alleged defects, such as loose stone blocks, have been rectified. All other flat owners are satisfied and have raised no complaints. The complainant alone is making false and unsubstantiated allegations.

37. In reply to para 4 (xv), the allegation that this Respondent is an irregular society formed at the behest of Respondent No.1 is baseless. Respondent No.1 managed the maintenance of the apartment complex until March 2024, after which this Respondent took over. Since then, regular meetings have been conducted, and 89 flat owners are active members contributing monthly maintenance charges. The complainant has neither attended any meeting nor paid any maintenance charges, despite repeated requests. As an owner, she is bound to contribute to maintenance. This Respondent reserves the right to initiate proceedings for recovery of the said dues. Furthermore, this Hon'ble Authority is not the appropriate forum to adjudicate allegations such as irregular society registration or record maintenance. The complainant has modified her flat without prior approval and is not a regular occupant. She has also misbehaved with security personnel, using inappropriate language and threatening them. A written complaint dated 09-09-2024 was filed with the SHO, and a letter dated 11-11-2024 was addressed to the Commissioner of Police seeking necessary action. Additionally, a letter dated 09-12-2022 was

sent to the Commissioner, GWMC regarding her continuous interference. These documents are filed and marked as **Doc. Nos. 2 & 3.**

38. In reply to para 4 (xvi & xvii), all allegations are primarily directed against Respondent Nos.1 and 3, and this Respondent need not answer them. Nevertheless, it is submitted that the allegations are made with malafide intent to harass and compel the Respondents to submit to illegal demands.

39. In reply to paras 5 to 8 of the complaint, it is reiterated that the complainant is not entitled to any relief whatsoever. The complaint against this Respondent is not maintainable under the Act. Filing of such a false and frivolous complaint has caused unnecessary hardship and mental agony to this Respondent. This Respondent prays that exemplary costs be imposed on the complainant for misuse of legal process.

40. It is therefore prayed to dismiss the complaint and award suitable compensation in favour of the respondent and against the complainant and to pass such order as this Authority deems fit and proper in the interest of justice.

E. Rejoinder:

41. The Complainant respectfully submits that the present Complaint has been filed under Section 31(1) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "the Act") against the non-compliance by Respondent No. 1 with the statutory obligations under Sections 11(4)(e), 11(4)(f), and 14 of the said Act.

42. The Complainant submits that while Respondent No. 1 served a copy of the Counter/Affidavit along with annexures via Registered Post Acknowledgment Due (RPAD) on November 12, 2024, Respondent No. 2 served only a scanned copy of the Counter by electronic means and failed to serve Document Nos. 1 to 3. The contents of the Counters filed by Respondent Nos. 1 and 2 are vague, evasive, and devoid of merit. The documents annexed to the original complaint are self-explanatory and substantiate the claims made by the Complainant.

43. The Complainant denies all statements, averments, and contentions made in the Counters filed by Respondent Nos. 1 and 2 unless specifically traversed or admitted herein.

44. The Complainant submits that Respondent No. 1 has deliberately suppressed the fact that although an Occupancy Certificate (OC) was obtained at the time of executing the Sale Deed dated 12.05.2022, the same was issued despite the building being incomplete. Page 11 of the said Sale Deed even records that the building is “under construction”. As on date, crucial works such as installation of lift landing doors and lift access to the cellar remain incomplete. Nonetheless, Respondent No. 3, in collusion with Respondents No. 1 and 2, issued the OC without proper verification. As per the Sanctioned Plan dated 27.06.2018, lift access is mandated to the cellar, which has not been provided. The failure of Respondent No. 3 to record these deviations in the Site Visit Report dated 12.03.2022 reveals his complicity. Photographs evidencing the incomplete works were filed along with the original complaint.

45. The Respondent is statutorily obligated to facilitate the formation of a Co-operative Society under Section 11(4)(e) of the Act, read with Rule 7 of the Telangana Apartments (Promotion of Construction and Ownership) Rules, 1987. Rule 7(d) stipulates that the procedure under the Andhra Pradesh Co-operative Societies Rules, 1964 must be followed for registration of an association. Clause 9 at Page 8 of the Sale Deed (Document No. 13118/2022 dated 12.05.2022) confirms that both parties agreed to submit the apartment to Chapter III of the Telangana Apartments Act, 1987. Despite this, Respondent No. 1 orchestrated the registration of a namesake society comprising only 9 flat owners (arrayed as Respondent No. 2) to shield the unauthorized constructions. This is a clear breach of Section 11(4)(e) of the Act.

46. The Complainant did not carry out any structural alterations. Minor interior modifications, including replacement of doors, were executed by employees of Respondent No. 1 at the request of the Complainant and for which separate consideration was paid. These changes are interior in nature, compoundable, and do not affect the structural integrity of the building. The Complainant has not yet started residing in the apartment as interior and modular works are still ongoing.

47. The Complainant filed a representation dated 10.10.2022 before Respondent No. 3, highlighting unauthorized wall partitions erected in the stilt area designated for car parking violating the Sanctioned Plan dated 27.06.2018 (File No. 3006/7106/W51/2017). Another representation dated 12.06.2023 was filed regarding the illegal construction of a children's play area abutting high voltage transformers. No remedial action has been initiated by Respondent No. 3, indicating collusion with Respondent No. 1. All other contentions in this para are denied.

48. The Complainant has filed Consumer Complaint No. 515 of 2022 before the Hon'ble Consumer Commission seeking refund of Rs. 21,95,000/- in addition to the sale consideration of Rs. 40,77,000/-. The cause of action arose in August 2022 due to non-delivery of promised amenities. The relief in CC No. 515 of 2022 is purely monetary, whereas the reliefs in the present complaint are different in nature and scope. The absence of an Agreement for Sale was intentional on the part of Respondent No. 1. The Hon'ble Supreme Court in *Imperia Structures Ltd. v. Anil Patni* [2020] 12 S.C.R. 373 at Para 28 has clearly held that RERA and Consumer fora remedies are concurrent, and the doctrine of election does not apply. Hence, the proceedings are not barred.

49. The present complaint was filed on June 27, 2024. No reply from Respondent No. 1 was received on June 27 or June 28, 2024. Though Respondent No. 1 has filed a postal receipt and reply as Document Nos. 4 and 5, there is no acknowledgment nor any postal tracking report to prove delivery. This casts serious doubt on whether the reply was ever served. All other contentions in this para are denied.

50. Respondent No. 1's assertion that no unauthorized works or deviations exist is incorrect. As stated earlier, lift landing doors in the cellar remain uninstalled, and the OC was issued without proper site inspection. Unauthorized construction in the stilt parking area and erection of a play area near high-voltage transformers are in blatant deviation of the sanctioned plan. These are non-compoundable violations. The reliefs sought herein are distinct and not sub judice elsewhere. Section 10 of the CPC is inapplicable to this Authority as it is not a civil court. The decision of the Hon'ble Supreme Court in *National Institute of Mental Health & Neuro Sciences v. C. Parameshwara*, AIR 2004 SCW 6900, squarely applies. Thus, the allegation of parallel proceedings is misconceived.

51. The complaint is maintainable against Respondent No. 2. The nine members of the so-called society are all allottees within the meaning of Section 2(d) of the Act, and therefore fall within the scope of explanation to Section 31(1). If a bona fide association of allottees can file a complaint under Section 31(1), a complaint can also be filed against a mala fide association that acts contrary to the interests of the allottees and at the behest of the promoter.

52. Respondent No. 2 never demanded maintenance from the Complainant nor invited the Complainant to join the society. The society consists of only 9 flat owners and was registered on 09.12.2022 solely to safeguard the illegal constructions of Respondent No. 1. The decision of the Hon'ble Andhra Pradesh High Court in *Nugget Estates Pvt. Ltd. v. Govt. of Andhra*

Pradesh & Ors., 2013 (5) ALT 685 is relevant. Respondent No. 1 remains obligated under Section 11(4)(e) of the Act to facilitate lawful association formation in accordance with Rule 7 of the Apartment Rules. No valid voting or bye-law formulation took place. The Complainant is under no obligation to pay maintenance to or join such an irregularly formed association.

F. Observations of the Authority:

53. The Authority has perused the records available on file and duly considered the oral and written submissions made by both parties. It is also noted that Respondent No. 1 had filed an Interlocutory Application dated 19.11.2024, seeking the appointment of an Advocate Commissioner to record the physical features of the site. However, considering that the matter was already at an advanced stage of hearing at the time, the Authority, upon due consideration, found no merit in entertaining such an application at that juncture. The said Interlocutory Application was, accordingly, not entertained and stood disposed of on the same date.

54. The core concerns raised by the Complainant relate to: (i) alleged deviations from the sanctioned plan by the Promoter, (ii) the safety and legality of certain constructions and installations, and (iii) the formation and functioning of the Residents' Association. The Authority now proceeds to consider each of the reliefs sought.

55. The Complainant has sought a direction from this Authority to Respondent No. 1 to adhere strictly to the approved sanctioned plan and to remove the concrete wall partitions allegedly erected in the stilt area earmarked for car parking. Furthermore, the Complainant has requested the removal of a children's play area situated in close proximity to two high-voltage electricity distribution transformers, citing safety concerns.

56. Upon a careful perusal of the records and the submissions made, it is observed that the Complainant has previously approached the competent authority in relation to the grievances raised in the present matter. As per the material placed on record, it is evident that the local body has, vide proceedings ROC.No. E-246713/GWMC/TP/Cir-II/2022-23 dated 20.02.2023, issued directions to Respondent No. 1 to ensure compliance with the sanctioned building plan. It has also been categorically noted therein that the construction of walls within the designated parking area is in violation of the sanctioned plan and therefore unauthorized. This Authority, upon independent examination, concurs with the findings of the local body and is of the considered view that the erection of unauthorized walls within the parking area in the stilt floor

constitutes a clear breach of the sanctioned layout and is per se illegal. Any deviation from the approved plan without requisite permissions undermines the planning framework and adversely affects the rights of allottees and other stakeholders.

57. It is further brought to the notice of this Authority that the matter is presently *sub judice* before the appropriate forum, as Respondent No. 2 has approached the competent authority with a revised plan under G.O.Ms.No.168 dated 07.04.2012. The said matter was referred to the appellate forum, which has since remanded it to the Greater Warangal Municipal Corporation (GWMC) for appropriate action, vide Proceedings Roc No. 36/2024/A3 dated 10.04.2024, and the same is presently pending. However, this Authority, while duly acknowledging the pendency of the said proceedings, is of the considered view that the illegality in question warrants rectification as per the G.O.Ms.No.168 clause 13(c)(i), misuse of area specified for parking of vehicles shall be demolished. Hence, Respondent 1 is directed to remove the illegal construction of wall in the stilt floor parking.

58. This direction is issued without prejudice to the final adjudication by the competent forum, and is necessitated in the interest of maintaining adherence to the sanctioned building plan and to ensure that no irreversible prejudice is caused to the allottees or to the planned development of the project..

59. The Complainant has also raised a grievance regarding the presence of two High Voltage Electricity Distribution Transformers located in proximity to the designated children's play area. In this regard, it is observed that matters concerning the placement and safety of electrical infrastructure fall within the domain of the Telangana State Southern Power Distribution Company Limited (TGSPDCL), being the competent authority.

60. The Complainant has further sought directions for the completion of various pending works by the Promoter. Upon perusal of the brochure issued by the Promoter, it is noted that the provision of water supply through either HMWSSB/borewell was assured therein. In view of this representation, this Authority is of the considered opinion that Respondent No. 1 is under a statutory obligation, as envisaged under Section 11(3)(a) of the Real Estate (Regulation and Development) Act, 2016, to make such facilities available to the allottees that were displayed to the allottees before the purchase. Accordingly, Respondent No. 1 is liable to ensure the provision of a functional water connection, including but not limited to urban water supply Authority to the concerned project.

61. Further, as per the sanctioned plan of the project, it is observed that provision for four lifts has been approved. Therefore, Respondent No. 1 is duty-bound to provide and operationalize all four lifts in strict conformity with the sanctioned plan. Non-compliance with the sanctioned plan constitutes a violation of Section 14 of the RE(R&D) Act, which mandates the Promoter to carry out development strictly in accordance with the approved layout and building plans. Respondent No. 1 is, therefore, directed to adhere strictly to the sanctioned plan and ensure that the promised amenities and facilities are duly provided.

62. As regards the remaining infrastructural grievances, it is incumbent upon the Promoter to ensure the delivery of all common amenities and services as promised in the sanctioned plan and agreement for sale, as mandated under Section 11(3) of the Real Estate (Regulation and Development) Act, 2016. However, in the absence of sufficient evidence indicating non-compliance or defective workmanship as even Respondent 2 (Association of Allottees) claim there is no pending work, and all the amenities as assured are provided, this Authority is constrained from passing any conclusive directions.

63. The Complainant has also challenged the action of Respondent No. 2 in submitting a revised sanctioned plan to Respondent No. 3 (presumably the local planning authority) and has sought a declaration that such action is *ultra vires* the provisions of Section 6 of the Telangana Apartments (Promotion of Construction and Ownership) Act, 1987.

64. In this regard, the Authority notes that the primary objective of the Real Estate (Regulation and Development) Act, 2016 is to regulate and promote the real estate sector and ensure transparent and efficient transactions in sale of apartments, plots, and buildings, thereby safeguarding the interest of all stakeholders. However, the RE(R&D) Act does not confer upon this Authority the jurisdiction to adjudicate disputes relating to planning permissions or revisions thereof, particularly when such applications are made by Registered society other than the Promoter.

65. Under Section 11(4)(e) of the RE(R&D) Act, the Promoter is obligated to facilitate the formation of the association of allottees. Beyond this limited scope, the said Act does not envisage intervention by the Authority in the internal functioning or administrative decisions of the association or its individual members. Moreover, the submission of revised building plans to the planning authority is within the regulatory domain of the said authority (Respondent No.

3), and the legality or otherwise of such a submission by Respondent 2 must be examined by that competent authority.

66. The Complainant has further alleged that the formation of the Residents' Association by registering it with only 9 flat owners, as against a total of 100, is arbitrary, illegal, and against the principles of equity and the Telangana Apartments (Promotion of Construction and Ownership) Rules, 1987.

67. In response, the Respondents have submitted that the 9 individuals were bona fide owners at the time of registration and that currently, 89 flat owners are members of the said association and are contributing towards the common maintenance fund. These claims are substantiated by records placed on file that 89 members are a part of the Association.

68. It is pertinent to note that this Authority lacks jurisdiction to adjudicate disputes pertaining to the validity of registration or internal functioning of an association that has been registered under applicable cooperative or society's legislation. Any grievance regarding the formation, membership, or election process of such an association must be raised before the appropriate Registrar of Societies or the concerned appropriate forum.

G. Directions of the Authority:

69. Based on the facts submitted, evidence on record, and the findings given thereon by us as discussed herein above, the Respondent is hereby directed as follow:

- a. Respondent No. 1 to forthwith remove the unauthorized wall constructed in the parking area in the stilt floor within 30 days from the date of receipt of this Order.
- b. Respondent No. 1 is directed to immediately take steps to ensure the provision of a functional and water supply connection to the project, through urban water supply Authority.
- c. Respondent No. 1 is further directed to provide and operationalize all four lifts in the project as per the sanctioned building plan within 60 days from the date of the receipt of this Order.

70. The Respondent no. 1 is hereby informed that failure to comply with the directions issued herein shall attract further penal consequences under Section 63 of the RE(R&D) Act.

71. 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. Laxminaryana Jannu
Hon'ble Member
TG RERA**

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

