

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

COMPLAINT NO.749 OF 2022

15th October, 2024

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

Sri Tejas Chandrasen Arte

...Complainant

Versus

M/s Bhriugu Infra rep by M.Venkat Rao

...Respondent

The present matter filed by the Complainant herein came up for final hearing on 25.06.2024 before this Authority in the presence of Complainant present in person and Respondent absent, hearing the arguments of the parties during the hearings conducted, this Authority passes the following

ORDER:

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

A. Brief facts on behalf of the complainant:

3. The Complainant was approached by an agent, Mr. Aviansh, representing the Respondent company, to invest in their villa plot project titled "Bird of Paradise" at Survey No. 115/P situated at Peddathupra, Thrmmapur village, Shamshabad Mandal, Rangareddy District, Telangana, in August 2021.

4. The Complainant was induced by the Respondent's pre-launch offer to purchase Villa Plot No. 45, admeasuring 240 sq. yards, at INR 16,000 per

sq. yard. The Complainant was required to pay 50% of the amount upfront, i.e., Rs. 20,00,000/-, to enter into the Agreement.

5. The Complainant paid Rs. 20,00,000/- to the Respondent for the said villa plot. However, despite the passage of one and a half years, the Respondent has not registered the plot in the Complainant's name. Additionally, the Respondent has become unreachable, further exacerbating the situation.

6. Although the Respondent provided an approval letter from HMDA and assured the Complainant that the registration would occur within a few months, the Respondent has since absconded, leaving the matter unresolved.

B. Relief Sought:

7. The Complainant seeks the registration of the villa plot or, in the alternative, a refund of the entire amount paid, along with applicable interest.

C. Interim Relief:

8. The Complainant prays for an interim order restraining the Respondent from proceeding with the project approvals until the resolution of this dispute.

D. Respondent's Submission:

9. The Respondent, in its reply, admitted that they are engaged in the real estate business and are a registered agent under the provisions of the RE(R&D) Act, 2016, bearing Registration No. A02500000908.

10. The Respondent has submitted that they are willing to either register the villa plot in the name of the Complainant or refund the amount paid, and discussions have been initiated with the Complainant in this regard.

11. The Respondent requested the Authority for some additional time to resolve the matter amicably.

E. Observations and Directions of the Authority:

12. The Complainant appeared before the Authority and submitted that they entered into a registered Agreement of Sale dated 02.10.2021 with the Respondent for Villa Plot No. 45. The Complainant paid Rs. 20,00,000/- towards the said plot, and the Respondent assured them that the

registration would be completed in due course. However, despite repeated assurances, the Respondent has failed to fulfill their obligations under the Agreement.

13. The Respondent appeared before the Authority on 10.01.2024 and admitted that Rs. 20,00,000/- was collected from the Complainant. However, the Respondent claimed that due to legal disputes between the landowner and the developer, the villa plot could not be registered. The Respondent assured that the amount would be refunded by the end of March 2024.

14. On subsequent hearings, including the one held on 25.06.2024, the Respondent failed to appear. The Complainant submitted that no refund had been made to date, despite repeated assurances from the Respondent. The Complainant has now requested the Authority to direct the Respondent to refund the amount with interest, as the Respondent is unable to register the property due to ongoing disputes.

15. Upon consideration of the submissions made by both parties, the Authority observes that the Respondent, being a registered real estate agent, collected Rs. 20,00,000/- from the Complainant. The Respondent has not denied this payment and has admitted that the villa plot could not be registered due to disputes with the landowner.

16. The Authority further notes that the Respondent, despite having sought multiple extensions of time to refund the amount, has failed to do so, nor have they appeared before the Authority in the subsequent hearings. This indicates a lack of intent on the part of the Respondent to comply with their obligations.

17. Given that the Respondent collected the amount in 2021 and has retained the Complainant's money for over three years without fulfilling their obligations, the Authority finds the Respondent liable for a refund, along with interest.

18. The Respondent's failure to refund the amount or communicate transparently with the Complainant has led to undue hardship for the Complainant, who was kept under the impression that the project would be registered.

19. In light of the above facts, the Authority holds that the Respondent is liable to refund the amount of Rs. 20,00,000/- to the Complainant. Furthermore, the Respondent is also liable to pay interest to the Complainant at the rate of 2% above the highest marginal cost lending rate of the State Bank of India, which as of 15.08.2024 stands at 8.85%, making the total interest rate 10.85% per annum.

20. The interest shall be calculated from the date of receipt of each payment until the date of repayment.

21. During the hearing, the Respondent submitted before this Authority that the project in question, "Bird of Paradise," is not registered under RERA. The Authority notes that the Respondent, being fully cognizant of the project's unregistered status, has violated the provisions of Section 10 of the Real Estate (Regulation and Development) Act, 2016. Section 10(a) of the Real Estate (Regulation and Development) Act, 2016, is reproduced below:

"10. Every real estate agent registered under Section 9 shall—

(a) Not facilitate the sale or purchase of any plot, apartment, or building, as the case may be, in a real estate project or part thereof, being sold by the promoter in any planning area, which is not registered with the Authority."

22. A plain reading of the aforementioned provision clearly demonstrates that the Respondent has contravened this section by facilitating the sale and marketing of plots in a real estate project that is not registered with the Authority.

23. In light of the above, the Respondent is hereby directed to immediately cease all marketing and sales activities related to units/plots of real estate projects that are not registered under this Authority. Any continued violation of this directive shall attract penalties in accordance with Section 62 of the Real Estate (Regulation and Development) Act, 2016.

24. The Authority under section 37 of the RE(R&D) directs the Respondent to refund the amount of Rs. 20,00,000/- (Rupees Twenty Lakhs only) along with interest at the rate of 10.85% per annum within 45 days from the date of this order.

25. The Authority, exercising its power under Section 62 of the RE(R&D) Act, imposes a penalty of Rs.39,600/- (Thirty Nine thousand six hundred rupees only) for contravening Section 10 of the RE(R&D) Act of 2016. Additionally, the Respondent is directed to strictly comply with the Real Estate (Regulation and Development) Act, 2016, and refrain from engaging in any marketing or selling activities related to unregistered projects.

26. Failure to comply with this Order shall attract the provisions of Section 63 of the RE(R&D) Act, 2016.

27. In conclusion, the complaint stands disposed of. The parties shall bear their own costs.

28. If aggrieved by this Order, the parties may file an appeal before the Telangana Real Estate Appellate Tribunal as per the provisions of Section 44 of the RE(R&D) Act, 2016.

		
Sd/-	Sd/-	Sd/-
Sri. K. Srinivas Rao, Hon'ble Member TG RERA	Sri. Laxmi NaryanaJannu, Hon'ble Member TG RERA	Dr. N. Satyanarayana,IAS (Retd.), Hon'ble Chairperson TG RERA