

GHMC under building permit number: 18504/HO/WZ /Cir-11/2012, with construction scheduled to commence before 26-12-2013 and completion set for 26-12-2017. The project was scheduled to be completed by December 2017, but it is still not complete. Only 3 blocks (A, J, and K) out of 11 blocks have been issued partial OCs on 27th Feb 2017 (Proceeding Number: 3628/17/01/2012/OC), and 2 blocks (H and J) have been issued partial OCs on 17th April 2021 (Proceeding number: 1/C20/05563/2021). The remaining 6 blocks are still awaiting their OCs. This inordinate delay has caused significant financial hardship to the residents i.e., the Complainant Association herein, who have had to pay EMIS on their homes even though they are not able to live in them. He added that even after 10 years, the project still does not have an operational Sewage Treatment Plant, Rain Water Harvesting systems, Sufficient borewells for consumption of the inmates, piped gas as promised, poor quality finishing, etc.

B. Relief Sought:

4. Accordingly, they prayed for the following reliefs:
 - a. *Direct Jain Housing Construction Limited to register the project Jains Carlton Creek as a RERA project, in strict compliance with the provisions of the Telangana State RERA Act.*
 - b. *Conduct a comprehensive investigation into the substandard quality of construction. including the extensive cracks in the pillars, the use of ineffective remedial measures, and the wide range of structural defects. Ensure that appropriate rectification measures are taken.*
 - c. *Complete the pending project activities like STP, Rain water harvesting, piped gas line to all flats, usable amenities as promised in amenities block. Enforce strict penalties and sanctions on JHCL for their failure to comply with relevant regulations. Initiate an inquiry into the builder's unfair trade and malpractice, specifically their unauthorized leasing of land to the electricity board without the consent of the residents and the association.*
 - d. *Facilitate the immediate issuance of Occupancy Certificates for blocks (B, C, D, E, F & G) and the amenities block, ensuring that all safety and quality standards are met.*
 - e. *Undertake stringent monitoring and oversight measures to guarantee the completion of the project within the shortest possible timeframe, safeguarding the interests and well-being of the residents.*

f. Implement necessary measures to ensure adequate compensation and redress for the residents, who have endured considerable mental anguish, inconvenience, and financial losses due to the builder's gross negligence and non-compliance.

B. Reply on behalf of the Respondent:

5. Accordingly, vide Notice dated 12.09.2023, served upon the Respondent, this Authority directed the Respondent to submit a reply in terms of Rule 34 (1) & (2) of the Rules, 2017 along with such other information with regard to the Project. Accordingly, vide Reply dated 06.10.2023, the Respondent Builder submitted that in the year 2011, in prospect of developing a high class multi-storied residential complex at Gachibowli, Lanco Hills, Hyderabad, the Respondent Builder/Developer entered into a Joint Development Agreement with land owner viz. M/s.Narne Homes Pvt Ltd, who obtained Building Permit for said residential development from Greater Hyderabad Municipal Corporation vide BP.No.18504/HO/WZ/Cir-11/2012, dt.27.12.2012 for 1664 dwelling units and the same was developed in 11 Blocks in an extent of 13.53 Acres. Project was developed in phased manner and the Phase I of the Project viz.A, K, J, I & H Block was completed in one stretch and put into customer usage/occupation from the year 2014 and obtained Partial Occupancy Certificate ("OC") for the same.

6. With respect to registration of the Project, it was submitted that as the Building Permit for the Project was obtained in the year 2012, therefore, as per the Telangana Real Estate (Regulation and Development) Rules 2017, our Project has been exempted from the Registration under RERA, Act 2016. As regards construction quality, the Respondent vehemently denied the allegations and put Owners Association into strict liability for the same. Herein, the construction of the Phase-I of the Project viz.Block A, K, J, H & I was completed in the year 2014 and it was under occupation by the residents for more than 7 years and the Owners Association is taking care of the periodical maintenance of the Project viz.Phase-I.

7. He added that for the first time in the year 2022, the Owners Association flagged the issue of locating few cracks in the expansion joint of the podium area of the structure of Block I & J of the Project. Though, the Respondent is out of Defect Liability Period, at request made by the Owner Association i.e., the Complainant Association on good will and gesture and in motto to serve better to the customers,

the Respondent stepped into addressing the structural issues identified by the Owner Association at the Respondent's own cost.

8. While being so, the Owners Association wrote a letter to GHMC alleging the structural issues; in turn JNTU was engaged to inspect the Project premises. Thereafter, JNTU was inspected the reparation works carried out at the Project site and recommended to address few snag points in the podium area, which was duly addressed and executed by the Respondent, to the satisfaction of the JNTU and the same was intimated to the Owners Association. He added that at present there is no structural issues as alleged by the Owners Association. Further, considering the welfare of the customers if any structural works to be addressed in the Project in nearby future, the Respondent is willing to undertake the same.

9. The Respondent submitted that, considering the welfare of the customers, over and above the agreed contract and agreement executed between the Customers/Owners Association; Respondent have provided various facilities/amenities to the residents for their exclusive usage. The following amenities specifications/amenities were provided apart from the agreed:

- Additional play area with Cricket Practice Court,
- Solar Fencing throughout the Project premises,
- Additional landscape area with artificial lawn and pots, •VDF Grano Flooring at Basement and Driveway area.
- Additional electrical lamp post and overhead tank, Providing kerb stone in the common area, etc.

10. Respondent added that they had sent more than Ten Crores to provide additional facilities/amenities in the Project premises for the welfare and usage of the Customers/Owners Association. By virtue of the Reply, Respondent submitted that though the Respondent has been flexible and accommodating the genuine request put forth by the Owners Association, in the past in several occasions the Owners Associations have intentionally spoiled their sales and marketing activities by affixing banners/placing placards against the Respondent in the Project premises to look after their unlawful demands. Therefore, the Respondent prayed to drop the complaint lodged against them.

11. Subsequently, hearing was conducted on 17.10.2023, wherein the Respondent appeared and reiterated the contents of his reply thereby focusing on the point that the GHMC Permission was granted in the year 2012 and therefore the Project does not fall under the jurisdiction of this Authority. Complainant, upon notice did not appear.

E. Observations and Directions of the Authority:

12. Section 3(2) of the Act provides that no registration of the real estate project shall be required where the promoter has received completion certificate for a real estate project prior to commencement of this Act, however, admittedly, only partial Occupancy Certificates have been obtained for certain blocks in the entire Project by the Respondent Builder. This entails that registration under the provisions of this Act are applicable and the blocks/phases for which Occupancy Certificate is not obtained, need to be registered under Section 3 & 4 of the Act, 2016.

13. It is a well-established law that Act prevails over Rules. Therefore, even though the Rule 1(2) provides that the Rules are applicable only on those projects which have obtained building permissions on or after 01.01.2017, as the Act provides that the registration is applicable on projects for which Completion Certificate/Occupancy Certificate has not been issued, (particularly those projects compelled to obtain a Completion Certificate as per Government Order G.O.M.s No.86 dated 03.03.2006) and therefore, it was imperative upon the Respondent Builder to have registered the blocks for which Completion Certificate has not been obtained.

14. In lieu thereof, following directions are passed:

- a. As the Respondent Builder is willing to undertake to meet the structural deficiencies as raised on part of the Complainant Association, the Respondent Builder is hereby directed to address the Association's requests within 30 days from the issuance of this Order, and
- b. Respondent Builder is directed to register the blocks for which Occupancy Certificates have not been issued before this Authority within 30 days from the date of this Order.

15. The matter is disposed of on the above terms. Parties are hereby informed that non-compliance with the Orders of the Authority shall attract Section 63 of the Act, 2016.

16. If aggrieved by this Order, the parties may approach the TS Real Estate Appellate Tribunal (vide G.O.Ms.No.8, Dt.11-01-2018, the Telangana State Value Added Tax Appellate Tribunal has been designated as TS Real Estate Appellate Tribunal to manage the affairs under the Act till the regular Tribunal is established) within 60 days from the date of receipt of this Order.

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

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

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