

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

COMPLAINT NO.167 OF 2023

Day of February, 2024

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

Sri Ala Venkataswamy ...Complainant

Versus

M/s Greenmark Developers  
Represented by its Managing Director ...Respondent

The present matter filed by the Complainant herein came up for hearing on 03.10.2023, 07.11.2023, 19.12.2023 and 09.01.2024 before this Authority in the presence of the Counsel for Complainant, Sri Ravi Chandra S. P. Ghanta and the Counsel for Respondent, Sri K. Shiva Kumar and upon hearing the arguments of both the parties, this Authority passes the following **ORDER:**

2. The present Complaint has been filed by the Complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 read with Rule (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") requesting appropriate action against the Respondent Builder.

**A. Brief facts on behalf of the Complainant:**

3. The Complainant submitted that he is a senior citizen. During March, 2020 he, as a co-applicant with his son, Sri Ala Ravi Babu booked a flat in Block A, with

Apartment No.9, 9<sup>th</sup> floor, in Mayfair Aparments situated in Survey No.376, Gachibowli, Tellapur, Ramachandrapuram, Medak District – 502032 for a total sale consideration of Rs.1,04,41,735/- (Rupees One Crore Four Lakhs Forty-One Thousand Seven Hundred and Thirty-Five Only). The said Project is registered with TS RERA Registration No.P01100000193.

4. He submitted that he paid a token amount of Rs.3,00,000/- (Rupees Three Lakhs Only) for booking/allotment of the said flat to the Respondent Builder who duly acknowledged the receipt of the money by issuing booking allotment form annexed with the present Complaint. On account of COVID-19, the Complainant's son, who resided in the US, lost his job and subsequently, on 08.05.2020, the Complainant sought for cancellation of the allotment as the Complainant could not meet with the Respondent Builder's payment schedule provided to him on 13.03.2020. The Respondent Builder stated that the booking amount will be forfeited against cancellation as per the terms of the booking and the same be opened for the sale without any further notice.

5. Therefore, the Complainant approached this Authority, praying for refund of the booking amount i.e., Rs.3,00,000/- (Rupees Three Lakhs Only).

**B. Reply on behalf of the Respondent:**

6. *Per contra*, the Respondent, vide its Reply dated 12.06.2023 submitted that the Complainant, having full knowledge and awareness of the Project, upon knowing the terms and conditions including the payment schedule towards purchase of the said flat, booked Flat No. A-809, MAYFAIR APARTMENTS, situated in Sy. No. 376, Gachibowli, Tellapur, Ramachandrapurm Mandal, Sanga Reddy

District by paying Rs.3,00,000/- through bank cheque and upon clearance of the same, the Respondent has issued receipt on 13.03.2020 vide receipt no. 1124.

7. On 08.05.2020 through email, the Complainant requested for cancellation of booking of the aforesaid flat and requested to refund the token amount of Rs. 3,00,000/- (Rupees Three Lakhs Only) due to COVID-19 pandemic and his son's job loss. On 15.05.2020, head CRM of the Respondent Company, vide email, stated to re-think about the cancellation of the said flat as the same was offered to you with less price comparing in the same location and the increase in the construction cost and the construction was going on. He further informed the Complainant that, in case of cancellation the token/ booking amount will be forfeited without any further notice.

8. On 16.09.2020, vide email, the Complainant, himself admitted that, and stated as "there is no agreement between us and in the absence of the agreement we will not come under RERA provisions". He further submitted that it is settled law that, the advance/booking/token amount will not be refunded and accordingly prayed to dismiss the complaint.

**C. Observations of the Authority:**

9. Clause 7.5 of Annexure to Rule 38 of the Rules clearly provides that *"...where the allottee proposes to cancel/withdraw from the project without any fault of the promoter, the promoter herein is entitled to forfeit the booking amount paid for the allotment. The balance amount of money paid by the allottee shall be returned by the promoter to the allottee within three months of such cancellation or at the time that the Promoter is able to resell the said Apartment/Plot to another purchaser, whichever is later"*. As the Respondent had also duly informed the Complainant

about such forfeiture, the same cannot be refunded in light of the above provision.  
In lieu thereof, the complaint stands disposed of.

10. 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**

