

**BEFORE THE ADJUDICATING OFFICER,
TELANGANA REAL ESTATE REGULATORY AUTHORITY,
HYDERABAD.**

Dated, this the 18th day of OCTOBER, 2024.

Present:- Sri Syed Lateef-ur Rahman,
Adjudicating Officer.

Complaint No.41 of 2021/TG RERA

Between:

Sri Boyenepally Sri Jayavardhan S/o Sri B.Sampath
Kumar, H.No.1-10-145/A, Street No.8, Ashok Nagar,
Hyderabad-500 020.

...Complainant.

and

- 1) Sri P.Raja Rao S/o late P.Nagabhushanam, R/o C-14,
Road No.10, Film Nagar, Jubilee Hills, Hyderabad.
- 2) M/s. Sri Sai Ram Projects Limited, rep., by its
Managing Director Sri Satyanarayana Reddy, having its
Registered Office at 8-3-678, G-1, Pearl Block, Sri Sai Ram
Manor, Sri Nagar Colony Road, Hyderabad - 500 045.
- 3) M/s. Vasavi Realtors LLP, rep., by its Designated
Partner Sri Vijay Kumar Yerram, # 8-2-120/86/9/A/1,
12 and 2/13, First Floor North End, Anilathmaja
Housing Society, Road No.2, Banjara Hills, Hyderabad 500 034.

...Respondents.

This complaint came up for hearing before me on 06.09.2024, 20.09.2024 and 30.09.2024 in the presence of Sri N.Chandrasekhar, Counsel for Complainant and of Sri D.Madhava Rao, Counsel for Respondent Nos.2 and 3 and Respondent No.1 remained ex parte; and upon perusing the material papers on record and upon hearing arguments of both sides and having stood over for consideration till this day, the Tribunal passed the following:

ORDER

This complaint has been filed u/s 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as “the Act”) read with Rule 35 of Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as “the Rules”) to award compensation, viz., to direct Respondent No.3 to allot an extent of 3,57,200 Sq.ft of super built-up area in terms of Deed of

Assignment-cum-Development Agreement-cum-GPA dt.04.07.2019 (document No.10) i.e., as is allotted to co-plot owner @ 44.65 Sq.ft per Sq.Yard or in the alternate to direct Respondent No.3 to pay compensation @ Rs.6,500/- per Sq.ft in respect of 3,57,200 Sq.ft, i.e., $\text{Rs.6,500/-} \times 3,57,200 = \text{Rs.232,18,00,000/-}$ (Rupees Two hundred and Thirty Two Crores and Eighteen Lakh only) as per prevailing rate as on date of payment or whichever is higher to the complainant.

CASE OF THE COMPLAINANT:

2(a). The case of the complainant as revealed from the complaint is that Respondent No.1 and his father late P.Nagabhushanam, during his life time, jointly executed an Agreement of Sale in favour of the complainant on 14.12.2007 agreeing to sell an extent of 8000 Sq.Yards of land out of Sy.Nos.105 to 109 and 111 to 114 of Hafeezpet village, Sherilingampalli Mandal, Ranga Reddy District for a total consideration of Rs.1,65,00,000/- (Rs.One Crore and Sixty Five Lakhs only). The complainant mentions the mode of payment of said amount and states that the said Agreement of Sale is filed on record (Document No.1).

2(b). It is stated that later the complainant gave an extent of 1826 Sq.yards + 1229.50 Sq.Yards i.e., 3055.50 Sq.Yards of land out of said land purchased under Agreement of Sale dt.14.12.2007 to Respondent No.2 under Registered Development Agreement-cum-GPA bearing Document Nos.4940/2008 and 4941/2008 respectively, both dated 20.06.2008 (Document Nos.2 and 3) and Respondent No.2 agreed to deliver in lieu of said land certain constructed area to the complainant. The said Registered Development Agreements dt.20.06.2008 were executed by Respondent No.1, his father, Respondent No.2 and the complainant and there is reference to agreement of sale dt.14.12.2007 in said Development Agreements. It is alleged that Respondent No.2 did not develop the said extent of

land 3055.50 Sq.Yards till 2019, i.e., until final building permit orders are given by GHMC even by 07.02.2020.

2©. In the meanwhile, Respondent No.2 entered into two Supplementary Development Agreements-cum-General Power of Attorneys Registered Document Nos.1270/2013 and 1271/2013 dt.09.01.2013 (Document Nos.4 and 5) in favour of the complainant. Respondent No.2 has also executed 2nd Supplementary Agreements Document Nos.10744/2014 and 10745/2014 on 30.08.2014 (Document Nos.6 and 7) in favour of the complainant, wherein allotments of Flats were made to the complainant even before any construction is made. Respondent No.2 has also issued Allotment Letters (Document Nos.8 and 9) giving particulars of Flats to be allotted to the complainant in respect of 1826 Sq.Yards + 1229.50 Sq.Yards = 3055.50 Sq.Yards of land.

3. It is pleaded that Respondent No.2 entered into several Registered Development Agreements, similarly, with other plot owners on various dates. According to Respondent No.2, he has clubbed all the plots and adjoining pathways and open spaces and sought to develop the entire land, hereinafter called as "Project area", but did not develop at all for more than a decade. The complainant from time to time demanded for allotment of flats, but in vain.

4. Later, the complainant came to know that Respondent No.2 along with Respondent No.3 formed a Limited Liability Partnership (LLP) under the name and style of M/s.Vasavi Realtors LLP, i.e., Respondent No.3, without informing to the complainant. The complainant also learnt that Respondent No.2, who entered into Development Agreements with complainant under Document Nos.2 and 3, has also entered into agreements with all plot owners during the year 2008. Respondent No.2 along with Respondent No.3 entered into a new document afresh under the name and style of "Deed of Assignment-cum-Development Agreement-cum-General

Power of Attorney during the year 2019 enhancing the constructed area to be allotted to the plot owners (other than what was agreed under Development Agreement earlier entered into with respective Landlords.) and similar documents were executed by Respondent Nos.2 and 3 in favour of all land owners, but no such enhanced rate of constructed area was given to the complainant on par with other Land owners by the respondent Nos.2 and 3. The complainant has filed a copy of one such document executed by Respondent Nos.2 and 3 in favour of plot owners as document No.10.

5. It is stated that being aggrieved with the dishonest intention of Respondent No.2 in not delivering the flats as agreed under said document Nos.2 to 9 in favour of complainant, the complainant got issued a legal notice to Respondent No.2 on 01.02.2020 demanding delivery of flats allotted under Document Nos.6 to 9, but no reply was given inspite of its receipt. The complainant has filed a copy of said notice as Document No.11.

6. It is then pleaded that when the complainant specifically asked Respondent No.1 to deliver balance extent of land of 4944.50 Sq.Yards, he has stated that the entire land was taken by Respondent No.2 for development of the Project inclusive of the said land, i.e. 4944.50 Sq.Yards, as all the plots and open places were amalgamated by Respondent No.2 and permission for construction of flats was sought from GHMC in respect of entire land belonging to all landholders by Respondent No.2. Thus, the said extent of 4944.50 Sq.Yards was also taken by Respondent No.2 into the Project area.

7. It is also pleaded that Respondent No.2 to knock away the land belonging to the complainant did not enter into Deed of Assignment-cum-Development Agreement-General Power of Attorney afresh, as it entered with other land owners during the month of June, 2019 in respect of 3055 Sq.Yards of land. Further,

Respondent Nos.2 and 3 have not allotted any flats to the complainant in respect of 4944.50 Sq.Yards of land and did not enter into the Deed of Assignment-cum Development Agreement-cum-General Power of Attorney during the year 2019 inspite of taking the said land into the Project area.

8. The complainant further alleges that according to Respondent No.2, it has joined with Respondent No.3 by virtue of Resolution dt.28.12.2017 passed by the Board of Directors of Respondent No.2 Company. Thus, Respondent No.2 and others constituted into a Limited Liability Partnership (LLP) under the name and style of M/s.Vasavi Realtors LLP and got the same registered with Registrar of Companies vide Deed of Assignment-cum-Development Agreement-cum-General Power of Attorney dt.04.07.2019 between Akella Sri Rama Chandra Murthy and Respondent No.2 and Respondent No.3 at Page 3 (Document No.10). As per this document, it is Respondent No.3 who agreed to construct and deliver the flats to the owners.

9. The complainant further pleads that having vexed with the attitude of the Respondents, he got issued a legal notice to Respondent Nos.1 to 3 on 06.06.2020 and 10.06.2020. Respondent No.1 did not receive the notice. However, Respondent Nos.2 and 3 have received the notice, but did not give any reply. Copy of said notice is filed as Document No.12 and returned envelop by respondent No.1 and documents showing receipt of notice by Respondent Nos.2 and 3 are filed as Document Nos.13 to 15 respectively.

10(a). According to complainant, Real Estate (Regulation and Development) Act came into operation from 01.01.2017. The RERA has given approval for Real Estate Project sought to be developed by Respondent No.3 on 07.02.2020. For assignment of the Project in favour of Respondent No.3 by Respondent No.2,

Respondent No.2 ought to have taken written approval from RERA prior to 28.12.2017 and as such there is violation of provisions of Section 15 (1) of the Act.

10(b). Respondent No.2 approached GHMC for permission of construction of flats in the Project area comprising of two parts, one is Lake City East having an area of 30,268 Sq. Mtrs and another one is Lake City West having an area of 34,598.75 Sq. Mtrs and obtained permission under Permit dt.07.07.2020. The land belonging to the complainant under Document Nos.1 to 3 is part of real estate project. The said Building permits in favour of respondent No.2 are under Document Nos.16 and 17.

10(c). Respondent No.3 did not give particulars of land of the complainant, i.e., 3055.50 Sq.Yards and 4944.50 Sq.Yards of land in RERA application under Document Nos.18 and 19 and thus contravened the provisions of Section 4 (2) (I) (B) of the Act. Respondent No.3 has also deliberately avoided to include Registered Development Agreements in the on-going project entered in between Respondent No.2 and the complainant i.e., Document Nos.2 to 9 in respect of 3055.50 Sq.Yards of land and Agreement of Sale, i.e., Document No.1 in respect of 4944.50 Sq.Yards of land, which is taken into the Project for development activity, to avoid allotment of flats to the complainant with dishonest intention. Thus, Respondent No.3 has committed violations of provisions of Sections 4 (2) (I) (A) and (B) and 4 (2) (I) (F) and (m) of the Act and Rule 3 (1) (e) (f) and (4) of the Rules.

10(d). It is further pleaded that Respondent No.3, who made applications under Document Nos.18 and 19 to the Authority, had deliberately avoided to include Registered Development Agreements dt.20.06.2008 Document Nos.2 and 3 in respect of 3055.50 Sq.Yards of land and Agreement of Sale Document No.1 in respect of 4944.50 Sq.Yards of land, which is taken into Project for development activity, to avoid allotment of flats to the complainant. As such, the complainant is an *aggrieved person* under Sec.31 (1) of the Act coupled with the definition of an

individual u/s 2 (zg) (i) of the Act. Therefore, the complainant is entitled to file present complaint.

10(e). It is also pleaded that Respondent No.3 has violated the provisions of Sec. 7 (1) (d) of the Act, as Respondent No.3 has deliberately avoided to include the particulars of the complainant in respect of said land, i.e., the Development Agreements entered in between Respondent No.2 and the complainant, i.e., Document Nos.2 to 7 in respect of 3055.50 Sq.Yards of land and submit copy of Agreement of Sale Document No.1 in respect of remaining land of 4944 Sq.Yards, which is also taken into real estate project for development activity.

11. It is further stated that Respondent No.3 has allotted an area of 44.65 Sq.ft per one Sq.Yard to the co-land owner under Document No.10 dt.04.07.2019. In the same ratio, the complainant is entitled for his land, i.e., 8000 Sq.Yards X 44.65 Sq.ft = 3,57,200 Sq.ft of Super built up area or in the alternate, the complainant is entitled for compensation @ Rs.6,500/- per Sq.ft prevailing as on the date of payment, i.e., Rs.6,500/- x 3,57,200 = Rs.232,18,00,000/- or at such other rate whichever is higher. Hence, the complaint.

NOTICES TO THE PARTIES:

12. After this case was made over to the under-signed by the Hon'ble Authority, notices were issued to both the parties. The complainant and Respondent Nos.2 and 3 have appeared and learned Counsel appearing on their behalf have filed Vakalats. Notice sent to Respondent No.1 more than once, returned un-served with Postal endorsement as 'No such person at the address'. At last, at request of learned Counsel for the complainant, the case was adjourned for steps and a petition for substituted service on Respondent No.1 was filed and allowed. Accordingly, a publication as ordered in "*Namasthe Telangana*" Telugu Daily of

State Edition was published and filed. Still, Respondent No.1 failed to appear on the date fixed for appearance. As such, Respondent No.1 has been set *ex parte*.

COUNTERS BY THE RESPONDENTS.

13. Respondent Nos.2 and 3 have filed their separate counters.

14. No doubt, Respondent Nos.2 and 3 have filed separate counters. But the pleas advanced by them are almost similar. As such, the contents of counter of Respondent No.2 are referred while referring to the contentions of Respondent Nos.2 and 3.

15. Respondent No.2 while denying the material contentions of complainant contends that the complainant has suppressed the facts concerning to execution of Registered Agreements of Sale-cum-General Power of Attorney bearing Document Nos.3324/2020 and 2992/2020 dt.06.02.2020, wherein the complainant has admitted to execute Registered Cancellation Deeds to cancel the previous transactions under Registered Development Agreement Nos.4940 and 4941/2008, Supplement Agreement Nos.1270/2013 and 1271/2013 and 2nd Supplementary Agreement Nos.10744/2013 and 10745/2013, i.e., Document Nos.2 to 7 filed by the complainant as referred in the complaint. It is stated that the complainant has admitted about the knowledge regarding development being carried by Respondent No.3 after execution of fresh development Agreement by original land owner, i.e., Respondent No.1. The complainant has deliberately suppressed these material facts to mislead and play fraud on the Authority. It is contended that the complaint must fail on this ground.

16. It is further contended that the complainant if at all seeks to redress any grievance against Respondent No.1 (Land owner) or Respondent No.2 (previous Developer), he has to resort to legal remedies before the Arbitral Tribunal. The

complainant is trying to drag Respondent No.3 (Vasavi Realtors LLP), who has no privity of contract or any relation to the complainant and, therefore, there is no reason whatsoever to file this complaint, as there are no violations committed by respondent No.3 under the Act.

17. It is also pleaded that the complainant while asserting his rights as land owner cannot initiate complaint under Section 31 of the Act as it is settled law that land owner cannot be considered as a consumer or buyer.

18(a). According to Respondent No.2, he had originally entered into various Registered Development agreements with several land owners of varied extents and thereby consolidated various land parcels to develop Project land area in Sy.Nos.104 to 109 and 111 to 115 situated at Hafeezpet village, Sherilingampally Mandal, Ranga Reddy District. Among them, Respondent No.2 entered into Registered Development Agreement bearing Document Nos.4840/2008 (for development of land admeasuring 7304 Sq.Yards between Respondent No.2 and land owners) and (complainant-Agreement holder for an area of 1826 Sq.Yards) and 4841/2008 (for development of land admeasuring 4918 Sq.Yards between Respondent No.2 and land owners) and (complainant-Agreement holder for an area of 1229.50 Sq.Yards), both these documents dt.20.06.2008, thereafter Registered Supplementary Agreements bearing No.1270/2013 and 1271/2013, both documents dt.09.01.2013 and 2nd Supplementary Agreements bearing Nos.10744/2014 and 10745/2014 dt.30.08.2014. Under these documents, the original land owners along with complainant for an extent of 3055 Sq.Yards was made a party towards recognizing the rights as an Agreement of Sale holder dt.14.12.2007.

18(b). It is contended that Respondent No.2 entered into Development Agreements with various owners for the entire land in the year 2008. Respondent No.2 thus aggregated large extents of land and wanted to consolidate and make construction of residential apartment. However, the development activity could not be commenced by Respondent No.2 due to unforeseen reasons beyond its control. In the interest of all the stakeholders, it was decided that fresh Development Agreements will be executed in favour of Respondent No.3 (Vasavi Realors LLP). As such, even before the Project was registered as per provisions of Section 5 of the Act, it was decided between the land owners and previous developer, i.e., Respondent No.2 to give fresh development rights in favour of Respondent No.3.

18(c). It is stated that all the land owners holding various extents of land have executed Registered Development Agreements in favour of Respondent No.3 and Respondent No.3 agreed to develop the land. Building Permit application was made on 20.08.2018 vide File No.1/HO/15979/18 and File No.1/HO/15700/18 and permissions were obtained from GHMC through Proc./Building Permit No.1/C20/01691/2020 in File No.1/HO/15979/18 dt.07.02.2020 for area admeasuring 30,268 Sq.Mtrs-Vasavi Lake City East and Building Permit No.1/C20/01690/2020 in File No.1/HO/15700/18 dt.07.02.2020 for area measuring 34,598.75 Sq.Mtrs-Vasavi Lake City West.

18(d). It is then pleaded that after obtaining above permissions from GHMC, Respondent No.3 made application to RERA authority seeking Registration of Project in accordance with Sec.5 of the Act and Rules and RERA Registration Certificate Nos.P02500001819 (Vasavi Lake City West) and P02500001821 (Vasavi Lake City East) dt.20.03.2020 with validity from 20.03.2020 to 07.02.2025 were issued. Thereafter, development work has commenced and is being carried out as per terms and conditions.

19(a). It is also contended that Respondent No.3 is not a party to various earlier transactions relied by the complainant. The complainant has deliberately suppressed two crucial Registered Agreements of Sale-cum-General Power of Attorney bearing document Nos.3324/2020 and 2992/2020 dt.06.02.2020 entered in between original land owner, i.e., Respondent No.1 and the complainant and a reading of contents of these documents would defeat the claim of the complainant.

19(b). The claim of the complainant that he is owner with respect to 8,000 Sq.Yards of land is totally false. Respondent No.1 and the complainant has already executed Registered Development Agreements with respect to said total area and the complainant has received new revised allocation/area for which he was entitled under Agreement of Sale-cum-GPA bearing Document No.3324/2020 and 2992/2020 dt.06.02.2020. Respondent No.2 refers to such relevant contents in said documents. It is stated that Respondent No.2 has already issued legal notice dt.31.07.2020 calling upon the complainant to perform his obligation of executing Registered Cancellation Deeds, but the complainant is evading.

20. It is contended that the claim of complainant on the land admeasuring 4944.50 Sq.Yards is imaginary. There is no such land belonging to the complainant that has been taken into the Project. The complainant has no right, title or interest on any land which is being claimed. The complainant asserts merely on the basis of agreement of sale dt.14.12.2007 to lay claim over 8000 Sq.Yards of land. The complainant without getting his rights determined in competent civil Court cannot seek compensation before this Authority. The bar under Section 79 of the Act does not get attracted in deciding *inter se* civil rights between the parties.

21. While replying to the pleas raised by the complainant regarding violations of the provisions of the Act and Rules, Respondent No.2 contends that the pleas are misplaced and misconceived. It is stated that Respondent No.3 for the first time applied and obtained Registration of Project u/s 5 of the Act on 07.02.2020. All the transactions complained are of the period prior to obtaining Project registration. Respondent No.3 has disclosed all the details of the persons who own the land. The complainant is not a land owner. Respondent No.1 is the original land owner and his details have been disclosed by Respondent No.3. In view of this and in view of admissions made by the complainant in two (2) Registered Agreements of Sale-cum-GPA document No.3324/2020 and 2992/2020 dt.06.02.2020 entered between the complainant and Respondent No.1, the allegations of violations must fail. The complainant categorically admitted his status of being only an Agreement of sale holder vide unregistered agreement of sale dt.14.12.2007 and he has received entire entitlement based on agreement from Respondent No.1 under above Registered Documents and the total area received by the complainant from proposed development from the exclusive share of Respondent No.1 is 27,745 Sq.ft. Therefore, all allegations of violations under Sections 4 and 11 (1) (f) of the Act read with Rule 3 of the Rules are not sustainable.

22. Respondent No.2 also contends that Adjudicating Officer has no jurisdiction to decide present complaint as there are no violations under Sections 12, 14, 18 and 19 of the Act. The complainant has already filed Complaint No.2/2020 before the Authority and the same is pending for consideration. The present complaint is on same set of allegations and as such, not maintainable. Hence, Respondent No.2 prays to dismiss the complaint.

REJOINDER BY THE COMPLAINANT:

23. The complainant has filed a rejoinder to the counter filed by Respondent No.3. The complainant has also filed a memo adopting the rejoinder filed by him to the counter of Respondent No.3 as rejoinder to the counter of Respondent No.2.

24(a). In the rejoinder filed to the counter of Respondent No.3, the complainant contends that neither Respondent No.2 nor Respondent No.3 are concerned with Registered Document Nos.3324/2020 and 2992/2020 dt.06.02.2020, i.e., Agreement of Sale-cum-GPA executed by Respondent No.1 in favour of the complainant and as such they cannot make use of these documents to claim discharge of their liability under Document Nos.2 to 7 filed by the complainant. As a matter of fact, Respondent No.2, who earlier entered into Development Agreement-cum-GPA and other documents, i.e., Document Nos.2 to 7 filed by the complainant, is not a party to the parent document of these two AGPAs, i.e., Development Agreement-cum-Irrevocable General Power of Attorney bearing Document No.990/2020 dt.22.01.2020 and Document No.989/2020 dt.22.01.2020. Thus, both the transactions, i.e., transactions under Documents 2 to 7 filed by the complainant entered in between complainant and Respondent No.2 and transactions entered in between Respondent No.1 and Respondent No.3 vide Document No.990/2020 dt.22.01.2020 and No.989/2020 dt.22.01.2020 are different. The flats fallen to the share of Respondent No.1 under said document Nos.990/2020 and 989/2020 are given to his agent, i.e., the complainant, which is altogether a different transaction, un-connected to Respondent Nos.2 and 3, in the wake of Respondent No.2 and Respondent No.3, in turn discharging their liabilities under Documents 1 to 7 filed by the complainant.

24(b). It is further contended that Document Nos.2992/2020 and 3324/2020 dt.06.02.2020 are only power of attorneys and the complainant is only an Agent and Respondent No.1 is Principal. As per terms of these documents, the complainant has to receive sale consideration in full or part, to collect rents, deposits etc and to look after and take necessary steps and to protect the property from illegal encroachments. No consideration is paid under the said documents and the complainant is answerable to Respondent No.1. Under Document Nos.990/2020 and 989/2020, it is nowhere mentioned that the complainant shall be given certain flats in discharge of Respondent Nos.2's or 3's liability in discharge of liabilities created under Document Nos.2 to 7 filed by the complainant and, therefore, the transaction under the Document Nos.990/2020 and 989/2020 are altogether different and distinct and un-connected to Respondent Nos.2 and 3.

25. In reply to the contention of Respondent Nos.2 and 3 that the Adjudicating Officer has no jurisdiction as provisions of Sections 12, 14, 18 and 19 of the Act do not attract, the complainant contends that Section 79 of the Act bars the jurisdiction of civil court and the provisions of Real Estate (Regulation & Development) Act, 2016 will prevail over other Acts, inasmuch as Real Estate (Regulation & Development) Act is a subsequent legislation and, therefore, the contention of Respondent Nos.2 and 3 is not tenable under law.

26. It is also contended that the Act came into force on 01.01.2017. The Project is an on-going Project. According to the complainant, Respondent No.2 having taken permission from Greater Hyderabad Municipal Corporation under Document dt.18.05.2018 ought to have registered the Project with Real Estate Regulatory Authority within three months from the date of commencement of the Act. It is stated that the complainant is an allottee so far as the extent of 3055.50 Sq.Yards of land is concerned as defined under Section 2(d) of the Act. Respondent No.2 has

entered into Registered Development Agreements and Supplementary Agreements under Document Nos.2 to 7 and allotment letters under Document Nos.8 and 9 filed by the complainant were issued. The said extent of 3055.50 Sq.Yards of land is nothing, but part of Document No.1 land. For balance land of 4944.50 Sq.Yards, the complainant is an aggrieved person as defined under Section 31 of the Act and the word '*person*' occurring therein is explained in Section 2 (zg) (i) of the Act. As such, the contention of Respondent No.2 that the complainant does not qualify as an *aggrieved person* is false.

27. It is also contended that it is utterly false that the complainant has already received the entire area in lieu of Agreement of Sale dt.14.12.2007. The complainant has nothing to do with the Documents executed between Respondent Nos.1 and 3, i.e., Document Nos.990/2020 dt.22.01.2020 and Document No.989/2020 dt.22.01.2020. Respondent No.3 has deliberately avoided to enter into Deed of Assignment-cum-Development Agreement-cum-GPA along with Respondent No.2 in favour of complainant by giving such enhanced area as is given to all other land owners in place of original development agreements/supplementary agreements, i.e., Document Nos.2 to 7 filed by the complainant. Since Respondent No.3 is not a party to Document Nos.2 to 7 filed by the complainant, Respondent No.3 cannot absolve its liability and obligation as contemplated under Section 15 (2) of the Act, as Respondent No.3 itself submitted to the jurisdiction of RERA. At last, the complainant prays to allot the extent of super built-up area as is allotted to co-plot owners or in the alternate, grant compensation as prayed.

Enquiry:-

28. When the case posted for enquiry, both the parties have placed reliance only on documentary evidence produced by them. Exs.A1 to A27 on behalf of

complainant and Exs.B1 to B14 on behalf of Respondent Nos.2 and 3 have been marked with consent.

29. Learned Counsel for the complainant and Respondent Nos.2 and 3 have filed brief written arguments.

30. On the basis of rival contentions of the parties and law on the subject, the Points that arise for consideration in this case are as under:-

i) *Whether the Agreement of Sale dt.14.12.2007 (Ex.A1) enables the complainant to enter into transactions under Documents Exs.A2 to A7, A21 (Ex.B2) and Ex.A22 (Ex.B1)?*

ii) *Whether the complainant is entitled for compensation? and if so, for what amount?*

31(a). **POINT Nos.1 and 2:**

Point Nos.1 and 2 are connected to each other. Any discussion on any point would be relevant for other. As such, it is just and appropriate to decide both the points by a common discussion.

31(b). In the light of Point No.2 as framed, it is incumbent on the part of this Authority to look into Agreement of Sale Ex.A1 and consider it.

31(c). A perusal of Ex.A1 shows that it is an un-registered Agreement of Sale executed on a stamp paper of Rs.100/-. The terms and conditions 1, 3, 4 and 5 of Ex.A1 read as under:

“1. That the sellers of the first and second part shall sell free of all encumbrances, charges and liens whatsoever the schedule property, i.e., the land admeasuring 8000 Sq.Yards..... and the purchaser shall buy the same at the said price and condition.

... ..

3. That the purchaser has this day on execution of this agreement has paid the total consideration amount of Rs.1,65,00,000/- as specified hereunder:

... ..

4. That the sellers of the first and second part shall execute a registered sale deed in respect of the schedule of property in favour of the purchaser or in the name of the nominees of purchaser, as suggested by the purchaser as and when the purchaser demands the sellers of the first and second part.

5. That the purchaser or his nominees shall bear the necessary expenditure, required for execution of a registered sale deed in his/their name/names.”

31(d). There is no dispute that subsequent to execution of agreement of sale Ex.A1, a registered sale deed has not been executed by the vendors in favour of the complainant or his nominee/s as mentioned in Ex.A1. Hon’ble Supreme Court in “Suraj Lamp Industries Pvt. Ltd vs. State of Haryana” held that the sale transactions in the name of General Power of Attorney will have no legal sanctity and immovable property can be sold or transferred only through registered sale deeds. It is also observed in said decision that the transactions of the nature of General Power of Attorney Sales or Sale Agreement/General Power of Attorney/Will transfers do not convey title and do not amount to transfer nor can they be recognized or valid mode of transfer of immovable property. Their Lordships further held that the courts will not treat such transactions as completed or concluded transfers or as conveyances as they neither convey title nor create any interest in any immovable property. Hon’ble Supreme Court further held that such transactions cannot be relied upon or made the basis for mutations in municipal or revenue records. Their Lordships further reiterated that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance.

31(e). The contents of Agreement of Sale Ex.A1 are as noted in Para 31 (c) supra. The settled proposition of law on the subject as laid down by the Hon’ble Supreme Court is as mentioned in Para 31 (d) above. Now the question is whether the Agreement of Sale Ex.A1 enables the complainant to enter into other transactions under said documents Exs.A2 to A7, A21 and A22 and rely. This Authority is

conscious of the fact that to consider the validity of the Agreement of Sale Ex.A1 or otherwise, Civil Court is the appropriate forum. But, it has to be noted at the same time that one of the object of the RERA Act is to protect the interest of the buyers and developers. To decide disputes between the buyers and developers, the Authority and the Adjudicating Officer are the authorities created under the Act. As such, I am of the considered view that the Adjudicating Officer has to consider any document relied by the parties in the light of contentions advanced and law on the issue. Therefore, and in view of the fact that the Agreement of Sale Ex.A1 is an un-registered document and contents thereof are to the above effect and Hon'ble Supreme Court has laid down law as above, it has to be held that the Agreement of Sale Ex.A1 does not enable the complainant to enter into other transactions under Exs.A2 to A7, A21 and A22 without getting a registered conveyance deed executed from the vendors as mentioned in Agreement of Sale Ex.A1.

32(a). In the present case, subsequent to execution of documents, viz., Agreement of sale Ex.A1, Development Agreements-cum-General Power of Attorneys Exs.A2 and A3, Supplementary Development Agreement-cum-General Power of Attorneys Exs.A4 and A5, Second Supplementary Development Agreement-cum-General Power of Attorneys Exs.A6 and A7 and issuance of Allotment Letters Exs.A8 and A9, the complainant and Respondent No.1 entered into Registered Agreement of Sale-cum-General Power of Attorneys Document No.2992/2020 and Document No.3324/2020 both dated 06.02.2020 Ex.A21 and Ex.A22. In these documents Exs.A21 and A22, the complainant and Respondent No.1 at Page (3) of both documents in bottom have mentioned that in pursuant to earlier Development Agreement-cum-General Power of Attorney vide Document No.4940/2008 (Ex.A2) and Supplementary Development Agreements vide Documents No.1271/2013 and 10744/2014 (Exs.A5 and A6) executed for Residential Flats were allotted in favour of the vendee herein, since no development and construction of Apartment Complex

was undertaken by the earlier Developer, viz., M/s.Sri Sairam Projects Ltd., i.e., Respondent No.2 the parties have mutually agreed to cancel earlier Supplementary Agreements pursuant to cancellation of said Development Agreements.

32(b). The present complaint was filed by the complainant on 25.01.2021. The said two documents Agreements of Sale-cum-General Power of Attorneys No.2992/2020 and 3324/2020 Exs.A21 and A22 were executed by the complainant and Respondent No.1 on 06.02.2020. But the complainant has suppressed them while filing this complaint and complaint in Form 'M' vide Complaint No.2/2020 and said documents came to light only when Respondent No.2 filed counter and documents on 17.11.2023. It is settled law that a complaint is liable to be dismissed due to suppression of material facts. The said fact which the complainant suppressed in the considered view of this Authority amounts to suppression of material facts and the said proposition of law squarely applies to the facts of present case.

33 (a). It is also pertinent to mention that Respondent Nos.1 and 3 entered into Registered Development Agreement-cum-Irrevocable GPA bearing Document No.989/2020 and 990/2020 both dated 22.01.2020 (Exs.A23 and A24), under which Respondent No.1 gave the land belonging to him including the land covered under Agreement of Sale Ex.A1 and other land of adjacent land owners obtained for development to Respondent No.3 for development.

33(b). Later, Respondent No.1 and the complainant entered into said Agreement of Sale-cum-GPAs bearing document Nos.2992/2020 and 3324/2020 both dated 06.02.2020 (Ex.A21 and Ex.A22/Exs.B1 and B2), in which Respondent No.1 and the complainant referred to the said Development Agreements between Respondent Nos.1 and 3 and that Respondent No.1 was allotted Residential Flats with specific flat numbers and extent and out of the same, Respondent No.1 agreed to allot Residential Flats as mentioned in schedule property in favour of the complainant,

who has acquired the land covered under documents through an un-registered agreement of sale dt.14.12.2007 Ex.A1 and its consideration was only fulfilled between the parties as per the terms agreed in the said agreement, who has not joined in the Development Agreement executed in favour of Respondent No.3. It is also mentioned in these documents Exs.A21 and A22 that however, Respondent No.1 executed the said Development Agreement in favour of Respondent No.3 and it is agreed among parties, i.e., Respondent No.1 and the complainant that in view of valid agreemental rights held by the complainant, Respondent No.1 agreed and undertook to alienate, convey and transfer the schedule Residential Flats in the development to be made on the said land without receiving any sale consideration in respect of the same. It is mentioned in said documents Exs.A21 and A22 at page No.3 in bottom that in pursuant to earlier Development Agreement-cum-GPA and Supplementary Development Agreements Exs.A2 to A7 executed for Residential Flats were allotted in favour of the complainant, since no development and construction of Apartment Complex was undertaken by the earlier Developer, i.e., Respondent No.2, the parties have mutually agreed to cancel Supplementary Agreements pursuant to cancellation of said Development Agreements.

33(c). There is no dispute that the complainant as General Power of Attorney of Respondent No.1 basing on Exs.A21 and A22 (Exs.B2 and B1) sold unfinished flats to the purchasers under Registered Sale Deeds Exs.B5 to B13 relied by Respondent Nos.2 and 3.

33(d). On a careful consideration of documents Ex.A21 to A24 referred above and assuming for arguments sake that the parties have themselves agreed and entered into said documents Exs.A21 and A22 basing on Agreement of Sale Ex.A1 and Development Agreement-cum-GPA Exs.A2 to A7, it has to be said that the complainant cannot be termed as an *aggrieved person* u/s 31 of the Act read with

Rule 35 of the Rules, inasmuch as the complainant and Respondent No.1 agreed mutually under Exs.A21 and 22 (Exs.B2 and B1) at Page No.3 in bottom to cancel Supplementary Agreements pursuant to cancellation of Development Agreements as referred in Para 33 (b) above.

34(a). Learned Counsel for Respondent Nos.2 and 3 contended that the complainant preferred a complaint in Form 'M' vide Complaint No.2/2020 before filing the present complaint. Learned Counsel submits that Respondent Nos.2 and 3 filed their counters and RERA Authority has dismissed the said complaint No.2/2020 vide order dt.23.11.2023 Ex.B.14 giving detailed reasons and that they could not plead about it in counter, as dismissal of complaint was a subsequent event. Learned Counsel also submits that there are no variations in the averments raised in both the complaints. Further, once the RERA Authority has dismissed the said complaint giving detailed reasons, the Adjudicating Officer is not permitted under law to conduct an enquiry on same allegations and the findings of RERA Authority shall become final and bind the complainant. In support of this contention, learned Counsel placed reliance on the decisions in "**Newtech Promoters & Developers Pvt.Ltd., vs. State of UP (2021 (18) SCC1), "Experion Developers Pvt.Ltd. vs. State of Haryana (2021 (1) RCR (Civil) (D.B)," and "Sana Realtors Pvt.Ltd. vs Union of India (SLP (C) No.13005 (2020)".**

34(b). On the other hand, learned Counsel for the complainant contended that the complainant has filed two complaints simultaneously, one before the RERA Authority and another before the Adjudicating Officer. The order passed by the RERA Authority in Complaint No.2 of 2020 has been challenged in W.P.No.33433/2023 before Hon'ble High Court and the same is still pending. As such, the dismissal of complaint No.2/2020 by the RERA Authority does not render the Adjudicating Officer incapable of granting compensation. Learned Counsel in

support of his contention placed reliance on the decision of Hon'ble Supreme Court in said *Newtech Promoters and Developers Pvt.Ltd* case.

34(c). In “**Newtech Promoters & Developers Pvt.Ltd., vs. State of UP (2021 (18) SCC1)**”, Hon'ble Supreme Court held that under the Act there is no conflict in jurisdiction to be exercised by the RERA Authority and Adjudicating Officer.

In “**Experion Developers Pvt.Ltd. vs. State of Haryana**” (2021 (1) RCR (Civil) (D.B)), Their Lordships while considering the matter observed in para 66 as under:

“If a complainant is seeking only compensation or interest by way of compensation simpliciter with no other relief, then obviously the complainant would straightaway file a complaint before the AO. The complaint will be filed in form CAO and will be referable to Rule 29 of the Haryana Rules. The AO in such instance would proceed to determine whether there is a violation of Sections 12, 14, 18 and 19 of the Act. Therefore, the question of any inconsistent order being passed by the Authority in such instance would not arise.”

Their Lordships in Para 67 observed further as under:

*“The second scenario is that a single complaint is filed seeking a combination of reliefs with one of the relief is being relief of compensation and payment of interest. In such instance, the complaint will first be examined by the Authority which will determine if there is a violation of the provisions of the Act. If such complaint is by the allottee and against the promoter and if the Authority comes to an affirmative conclusion regarding the violations it will then, for the limited purpose of adjudging the quantum of compensation or interest by way of compensation, refer the complaint for that limited purpose to the AO. With the Authority already having found in favour of the complainant as regards violation by the promoter of Sections 12, 14, 18 and 19 of the Act, Act, clearly the AO will not further examine that question. The AO will only proceed to determine the quantum of compensation or interest keeping in view the factors outlines in Section 72 of the Act. In other words, the AO will act on the finding of the Authority on the question of violation of those provisions and not undertake a fresh exercise in that regard. ...
... ..”*

In **Sana Realtors Pvt.Ltd. vs Union of India (SLP (C) No.13005 (2020).** Hon'ble Supreme Court did not specifically deal with said point of law decided in **"Experion Developers Pvt.Ltd. vs. State of Haryana"**.

34(d) .I have considered the contentions raised on behalf of both the parties. I have also gone through said decisions. Now the question is whether the said decision of the Division Bench of Hon'ble Punjab & Haryana High Court relied by the learned Counsel for Respondent Nos.2 and 3 is binding on this Authority/Tribunal. A similar question arose before Hon'ble Bombay High Court in **Commissioner of Income Tax, Vidharbha vs. Godavari Devi Saraf (1878 (2) ELT 624 (Bombay)** as to whether a decision of High Court of one State is binding on the subordinate Courts and Tribunal of another State or other States.

34(e). Hon'ble Chief Justice of Bombay High Court in said **Commissioner of Income Tax, Vidharbha's** case considered the said issue and also the authoritative or persuasive effect of a decision of any other High Court on the subordinate Courts and Tribunals of other State. His Lordship referring to the decisions of Hon'ble Supreme Court in **K.S.Venkaraman & Co.(P) Ltd. vs. State of Madras** (1966) 60 ITR 112 in Para – 6, another decision in **A.M.Sali Maricar** (1973) 90 ITR 116 in Para 8, decision of Hon'ble Supreme Court in **East India Commercial Co.Ltd. vs. Collector of Customs, Calcutta** (AIR 1962 SC 1893) and referring to Articles 215, 226 and 227 of the Constitution of India, held as under:

"..... Until contrary decision is given by any other competent High Court, which is binding on a Tribunal in the State of Bombay, it has to proceed on the footing that the law declared by the High Court though of another State, is the final law of the land. "

34(f). It is not disputed during the course of arguments that there is any decision rendered on said point raised by the parties by our Hon'ble High Court of Telangana. Complaint No.2/2020 filed in Form "M" has been dismissed vide order

dt.23.11.2023 (Ex.B14) by the RERA Authority holding *inter alia* that the complainant is not an aggrieved person in terms of Section 31 of the Act and that the complainant has failed to prove that Respondent No.3 has violated the provisions of the Act and Rules. In these circumstances and in view of the said decision of Hon'ble Bombay High Court in **Commissioner of Income Tax, Vidharbha's** case, I have no hesitation to hold that the contention raised on behalf of Respondent Nos.2 and 3 that the Adjudicating Officer is not permitted to conduct an enquiry on same allegations and the findings of RERA Authority shall become final and bind the complainant appears to have considerable force.

35(a). The complainant has also raised certain other pleas including the pleas with regard to violations of the provisions of the Act and Rules. Respondent Nos.2 and 3 have denied such plea raised by the complainant and according to them, the complainant is not an aggrieved person, cannot maintain complaint and they did not commit any violations much less the violations alleged by the complainant.

35(b). I have given anxious consideration to the said pleas raised by rival parties. From the discussion made supra on material issues and documents filed by the parties coupled with settled proposition of law and the conclusion arrived at, it has to be said that the pleas including the pleas raised with regard to alleged violations by Respondent Nos.2 and 3 are of no help to the complainant and there is sufficient force in the contentions on behalf of respondent Nos.2 and 3.

36. For all the foregoing reasons, the conclusion that emerges on Point Nos.1 and 2 is that the complainant cannot be termed as an *aggrieved person* under Section 31 of the Act read with Rule 35 of the Rules and that the Agreement of Sale dt.14.12.2007 (Ex.A1) does not enable the complainant to enter into other transactions under Documents Exs.A2 to A7, A21 and A22 and, therefore, the

complainant is not entitled for compensation. The Points are accordingly answered against the complainant and in favour of Respondent Nos.2 and 3.

37. In the result, the complaint is dismissed. However, considering the peculiar facts and circumstances of the case, the parties shall bear their own cost.

Typed to my dictation, corrected and pronounced by me in open Court on this, the 18th day of OCTOBER, 2024.

Sd/-
**ADJUDICATING OFFICER,
TG RERA: HYDERABAD.**

APPENDIX OF EVIDENCE
NONE

DOCUMENTS MARKED FOR COMPLAINANT (BY CONSENT)

Exhibit Number	Date of Document	DESCRIPTION OF DOCUMENT MARKED
Ex.A1	14.12.2007	Copy of agreement of sale between Sri Upadrasta Venkata Shastri & others and Sri Boyenepally Sri Jayavardhan (Complainant)
Ex.A2	20.06.2008	Copy of Regd. Development Agreement-cum-General Power of Attorney bearing document No.4940/2008 of Jt.Sub-Registrar, Ranga Reddy District.
Ex.A3	20.06.2008	Copy of Regd. Development Agreement-cum-General Power of Attorney bearing document No.4941/2008 of Jt.Sub-Registrar, Ranga Reddy District.
Ex.A4	09.01.2013	Copy of Supplementary Development Agreement-cum-General Power of Attorney bearing document No.1270/2013 of Joint Sub-Registrar, Ranga Reddy.
Ex.A5	09.01.2013	Copy of Supplementary Development Agreement-cum-General Power of Attorney bearing document No.1271/2013 of Joint Sub-Registrar, Ranga Reddy.
Ex.A6	30.08.2014	Copy of 2 nd Supplementary Development Agreement-cum-General Power of Attorney bearing document No.10744/2014 of Joint Sub-Registrar, Ranga Reddy.
Ex.A7	30.08.2014	Copy of 2 nd Supplementary Development Agreement-cum-General Power of Attorney bearing document No.10745/2014 of Joint Sub-Registrar, Ranga Reddy.
Ex.A8	NIL	Copy of Allotment Letter issued by Respondent No.2.
Ex.A9	NIL	Copy of Allotment Letter issued by Respondent No.2.
Ex.A10	04.07.2019	Copy of Deed of Assignment-cum-Development Agreement-cum-General Power of Attorney.

Ex.A11	01.02.2020	Copy of legal Notice got issued by Complainant to respondents.
Ex.A12	10.06.2020	Copy of legal Notice got issued by Complainant to respondents.
Ex.A13	NIL	Photocopy of the returned envelop.
Ex.A14	NIL	Postal receipt for the notice sent to Respondent No.2.
Ex.A15	NIL	Track consignment for delivery of notice by Respondent No.3.
Ex.A16	07.02.2020	Building permission order issued by GHMC.
Ex.A17	07.02.2020	Building permission order issued by GHMC
Ex.A18	NIL	Application submitted to RERA by R3 for East side of the Project.
Ex.A19	NIL	Application submitted to RERA by R3 for West side of the Project.
Ex.A20	NIL	Copy of Form-B submitted by Respondent No.3 to RERA
Ex.A21	06.02.2020	Copy of Agreement of Sale-cum-GPA Doc.No.2992/2020.
Ex.A22	06.02.2020	Copy of Agreement of Sale-cum-GPA Doc.No.3324/2020.
Ex.A23	22.01.2020	Copy of Development Agreement-cum-irrevocable GPA Doc.No.989/2020.
Ex.A24	22.01.2020	Copy of Development Agreement-cum-irrevocable GPA Doc.No.990/2020.
Ex.A25	20.03.2020	Copy of Registration Certificate of Project issued by TG RERA
Ex.A26	20.03.2020	Copy of Registration Certificate of Project issued by TG RERA
Ex.A27	14.02.2024	Orders passed by the Hon'ble High Court of Telangana in IA No.3 of 2023 in WP No.33433/2023.

DOCUMENTS MARKED FOR RESPONDENT Nos.2 and 3
(BY CONSENT)

Exhibit Number	Date of Document	DESCRIPTION OF DOCUMENT MARKED
Ex.B1	06.02.2020	Copy of agreement of sale-cum-GPA Doc.No.3324/2020.
Ex.B2	06.02.2020	Copy of agreement of sale-cum-GPA Doc.No.2992/2020.
Ex.B3	31.07.2023	Copy of orders on Hon'ble Supreme Court in TP (Civil) No.1622-1623/2022 and Batch.
Ex.B4	05.08.2020	Copy of Complaint No.2/2020 filed by Sri B.Jayavardhan before TS RERA
Ex.B5	18.02.2020	Copy of Sale Deed Document No.3064/2020.
Ex.B6	18.02.2020	Copy of Sale Deed Document No.3066/2020.

Ex.B7	18.02.2020	Copy of Sale Deed Document No.3067/2020.
Ex.B8	18.02.2020	Copy of Sale Deed Document No.3068/2020.
Ex.B9	22.02.2020	Copy of Sale Deed Document No.3368/2020.
Ex.B10	22.02.2020	Copy of Sale Deed Document No.3360/2020.
Ex.B11	22.02.2020	Copy of Sale Deed Document No.3372/2020.
Ex.B12	22.02.2020	Copy of Sale Deed Document No.3370/2020.
Ex.B13	22.02.2020	Copy of Sale Deed Document No.3373/2020.
Ex.B14	23.11.2023	Copy of Order passed by TG RERA in Complaint No.2/2020.

Sd/-
ADJUDICATING OFFICER,
TG RERA: HYDERABAD.

C.

