

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

**I.A.No.47 of 2024 of
COMPLAINT NO.151 OF 2024
I.A.No.43 of 2024 of
COMPLAINT NO.152 OF 2024
I.A.No.44 of 2024 of
COMPLAINT NO.153 OF 2024
I.A.No.45 of 2024 of
COMPLAINT NO.154 OF 2024
I.A.No.46 of 2024 of
COMPLAINT NO.155 OF 2024**

Dated 21st 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**

Between

1. Sri Thatipali Rohit
2. Smt. T. Radhika
3. Smt. G. Soumya
4. Sri G. VenkataSatyanarayana
5. Sri T. ShekharBabu

...Complainant(s)

And

1. Sri N.V.Subha Rao
2. Smt Gokuraju Sita Devi
3. M/s Namitha Builders
4. M/s Shreemukh Namitha Homes Private Ltd
5. Sri K Srikanth
6. Mr.Vijay Kumar

...Respondent(s)

The present Interim Applications, filed by the complainants, came up for hearing before this Authority on 18.10.2024, in the presence of the Counsel for the Complainants Sri Drupad Sanghvi, the Counsel for Respondents 1 & 2 Sri Naga Deepak, the Counsel for Respondents 3, 4, & 5 Sri Kasi Nageshwara Rao, and Mouli Chandrashekar representing Respondent 6 and Counsel for Respondents 1 and 2 sought time to file a reply counter, while Counsel for Respondents 3 to 5 filed counter and requested additional time to file a detailed counter. Counsel for the complainants raised objections to granting additional time and prayed for an Interim order. Upon hearing the

arguments presented by the respective Counsel, this Authority hereby passes the following **INTERIM ORDER**:

A. Brief Facts of the Complaint

2. This matter arises out of a batch of complaints filed under Case Nos. 151/2024/TGRERA to 155/2024/TGRERA by five complainants against the respondents. The core issue pertains to the sale and allotment of residential apartments in the project titled "Namitha 360 Life," situated at Izzatnagar Village, Serilingampally Mandal, Serilingampally Circle, within the territorial jurisdiction of the Greater Hyderabad Municipal Corporation (GHMC), Hyderabad.

3. The respondents, Nos. 1 to 4, acting pursuant to a development agreement, initiated the aforementioned project with RERA Registration No. P024000009888 and commenced offering flats for sale to prospective purchasers. The complainants entered into agreements for the sale and purchase of specific residential flats, having paid the entire sale consideration as recorded in the sale agreement dated 24.06.2020. However, despite the receipt of full consideration, the respondents failed to hand over possession or complete the project within the time period stipulated in the agreement.

4. In view of the delay, the matter further escalated when one of the respondents disputed the validity of the sale agreement, alleging non-receipt of the sale consideration despite prior acknowledgment of the same. This dispute culminated in the issuance of a legal notice dated 03.07.2023, wherein the respondent denied the existence of the sale agreement and attributed the delays to internal disputes among the company's directors.

5. Consequently, the complainants seek an interim order restraining the respondents from alienating or creating any third-party interests in the property during the pendency of this complaint.

B. Counter on Behalf of the Respondents:

6. Respondents Nos. 3 to 5 categorically deny the allegations put forth by the complainants. They contend that the complainants, in connivance with Respondent No. 6, have attempted to defraud the company. It is their submission that Respondent No. 6, a former director of Respondent No. 4, failed to fulfil his financial obligations toward the project and misappropriated funds by collecting monies from buyers without adhering to proper accounting procedures. As a result of the non-payment of the sale consideration as stipulated in the sale agreement, Respondents Nos. 3 to 5 assert that the agreements executed with the complainants were lawfully cancelled.

7. Further, Respondents Nos. 3 to 5 alleges that Respondent No. 6 abused his position as a director by issuing sale agreements without receiving full payments from the complainants. They assert that the complainants have failed to furnish any credible evidence substantiating the payment of the consideration, and they contend that such payments, if made, were not deposited into the designated escrow account as required under RERA provisions. In view of these facts, Respondents Nos. 3 to 5 argue that they are not under any obligation to execute the sale deeds in favor of the complainants.

8. Respondent No. 6, Mr. Yerram Vijay Kumar, submits that he, along with the Managing Director of Respondent No. 4, duly executed the agreements of sale with the complainants, acknowledging full receipt of the sale consideration. He emphatically denies the allegations of fraud leveled against him and asserts that the sale agreements were legitimate and binding. Furthermore, Respondent No. 6 accuses his co-director, Mr. K. Srikanth, of misappropriating funds from the project and orchestrating his removal from the company's board to gain control of the project and evade the company's obligations to the allottees.

9. Respondent No. 6 further submits that his efforts to bring transparency and accountability in the financial management of the project were obstructed by his co-directors, resulting in delays in the project's completion. In light of these allegations, he prays for a forensic audit of the

company's accounts to uncover the alleged financial misappropriations and further seeks a restraining order against Respondent No. 4 to prevent the sale of any disputed properties until the resolution of the present matter.

C. Observations of the Hon'ble Authority:

10. These Interim Applications were posted on 18.10.2024 for the counters of Respondents and for hearing. When the matter was taken up for hearing on 18.10.2024, the learned counsel for Respondents 1 and 2 sought additional time to file their counters, and the counsel for Respondents 3, 4, and 5 filed counter and sought time, stating that a detailed counter would be filed on their behalf. The counsel for the complainants strongly opposed the said request, contending that if time were granted as prayed, third-party interests might be created over the subject matter, thereby defeating the very purpose of filing the case. The learned counsel for the complainants further submitted that if time were granted for the filing of counter by Respondent 1 and 2, and detailed counter by Respondent 3 to 5, an Interim Order should be passed restraining the creation of third-party interests until further orders.

11. In view of the submissions made by the parties, the questions that arise for consideration are:

1. Whether Respondents 1 and 2, as well as Respondents 3 to 5, should be granted time to file their counter and detailed counter respectively as requested?
2. Whether the complainants' request for an Interim Order, if time is granted for filing counters, is tenable?

Points:

12. Admittedly, the case is posted for the counters of Respondents 1 and 2 and for hearing. The counters of Respondents 1 and 2 have not been filed, and they seek additional time. Respondents 3 to 5 filed counter and wish to file further detailed counters. The complainants express apprehension that the Respondents may create third-party interests over the subject property if time is granted for the aforementioned counters. There is no doubt that the

complainants have paid the full consideration for the flats, and Respondent 6, along with the Managing Director, Respondent 5, have executed an Agreement of Sale in favor of the complainants. It is also acknowledged that Respondents 3 to 5 have made allegations against Respondent 6, stating that the total amount paid by the complainants has not been deposited in the designated account as required under the RE(R&D) Act.

13. This Authority cannot, at this juncture, address the disputed contentions of the parties, as Respondents 1 and 2 still need to file their counters. Having regard to the said contentions and the facts and circumstances of the case, this Authority is of the considered view that Respondents 1 and 2 may also be granted time to file their counters. Meanwhile, there should be an interim order restraining all Respondents from creating third-party interests over the property agreed to be sold to the complainants until further orders on this application. It is needless to observe that such an order, if passed, would not cause any hardship or prejudice to either party; it would merely preserve the subject property until orders are issued following the filing of counters and hearing from both parties.

14. In conclusion, Respondents 1 and 2, as well as Respondents 3 to 5, are granted time to file their counters and detailed counters respectively, until 07.11.2024. In the meantime, there shall be an interim order restraining all Respondents from creating third-party interests over the subject properties agreed to be sold to the complainants (i.e., Flat Nos. 1008, 908, 1508, 1104, and 1105) until further orders in this application.

15. Post this application on 07.11.2024 for the counters of Respondents 1 and 2 and the detailed counters of Respondents 3 to 5, and for hearing.

Sd/-
Sri. Laxmi Naryana Jannu,
Hon'ble Member
TG RERA

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

