

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

COMPLAINT NO.534 OF 2023

31st Day of October, 2023

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

Sri N. Subba Reddy

...Complainant

Versus

M/s Greater Infra Project Pvt. Ltd.
Rep. by its Directors, Sri Manne Ravi
& Sri Kasukurthi Jawaharlal Nehru

...Respondent

The present matter filed by the Complainant herein came up for hearing on 17.10.2023 before this Authority, however, upon Notice both parties failed to appear and, 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 "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 of the case:

3. The Complainant is the owner of plot bearing No.89, admeasuring 300 Sq. Yards forming part of Sy.No.333, situated at Ameenpur Village and Mandal, Sangareddy having acquired the said property by way of registered sale deed bearing document No.12011 of 2006. The Respondent claims to have obtained the said property by way of a Development Agreement Cum General Power of Attorney

bearing document No.30298 of 2022, dated 29.08.2022. However, the Complainant has learnt that the principal vendor of the developer had impersonated the principal vendor of the Complainant and created an agreement of sale cum GPA with respect to the subject property.

4. Aggrieved, the Complainant has filed a suit vide OS No.93 of 2023 before Sanga Reddy District seeking a relief of declaration of title and recovery of possession. Also sought cancellation of the above mentioned DAGPA, dated 29.08.2022 as null and void on the basis of fraud played by the Respondent. Subsequently, the Court passed a status quo order with respect to the same on 27.04.2023. And Complainant has learnt regarding registration certificate of the project i.e., "GREATER INFRAS HOSTA" in Sy.No.333, plot Nos.75, 76, 89 and 90 at Ameenpur Village and Mandal, Sanga Reddy District has been granted to the Respondent by this authority vide project registration No.P01100006025, dated 04.04.2023. Accordingly, the Complainant prayed that the registration granted to the Respondent for the Project GREATER INFRAS HOSTA be revoked under Section 7 of the Act, 2016.

B. Notice to the Respondent:

5. Accordingly, vide Notice dated 26.08.2023, 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. However, no reply was received on behalf of the Respondent. Further, Notice of hearing dated 10.10.2023 was also issued to both the parties, however none entered appearance on the said date of hearing.

6. Subsequently, the Respondent, vide Reply dated 10.10.2023 submitted that they have obtained necessary building permission bearing permit No.009638/BP/HMDA/1971/SKP/2022 dt.24-1-2023 on the file of HMDA Hyderabad followed by RERA Registration - P01100006025 in the name of Greater Infra's Hosta and completed structure and undertaking internal works thereon.

7. Further, that the Respondent Builder is following all regulations and stipulations under permit No.009638/BP/HMDA/1971/SKP/2022 dt.24-1-2023 on the file of HMDA Hyderabad and RERA Registration - P01100006025 and nothing violated in any manner hence put the permissions and building open to authorities and public.

8. It was further submitted that the Complainant has admitted that there has been title dispute over plot No.89 thereby he has approached competent civil court bearing OS No.93 of 23 on the file of SCJ Sangareddy thereby the subject matter of the present complaint is siege by civil court and the title of plot No.89 would be based on the outcome in OS No.93 of 2023. That the suit schedule property (plot No.89) has been purchased by late RK Balalah s/o. late Dakaiah @ RK Bala Krishna, an ex-employee of Government Mint Hyderabad, vide sale deed No.1283 of 1987 dt.2-2-1987 and had possession of the same and died on 17-3-1998 by leaving his wife Smt. RK Sujatha as natural heir to succeed his property thereafter the said property transferred to several people.

9. Further, the Respondent submits that the vendor (RK Sujatha) of Complainant by impersonation have fabricated sale deed No.4256 of 2002 dt. 12-7-2022, thereby the title of complainant over plot No.89 is under cloud and the Complainant have admitted in OS No.93 of 2023 that he or his vendor does not

have possession of plot No.89 thereby the Complainant have suppressed material facts before this Authority. He added that, the developer has continuous flow of title since 2-2- 1987 to till date by virtue of transactions over plot No.89 vide sale deed No.1283 of 1987 dt.2-2-1987 Agreement of Sale Cum GPA No.1445 of 2006 dt. 19-1-2006, Sale Deed No.14007 of 2006 dt.3-6-2006, sale deed No.26509 of 2022 dt.3-12-2022 and Development Agreement Cum GPA No.30298 dt.29-8-2022 and obtained necessary statutory permissions and adhering the same hence there is no violation or have any grievances either from officials or interested parties thereon.

10. In conclusion, he submitted that the Complainant does not have *locus standi* to approach RERA and seek for cancellation of RERA Registration - P01100006025 conferred on Greater Infra's Hosta and that the subject matter of complaint is pending adjudication by competent civil court, therefore prayed to reject the present complaint as the same is vexatious & frivolous in nature for pecuniary benefits in view of completion of apartment building complex.

C. Observations and Directions of the Authority:

11. In consideration of the facts and circumstances of the present case, it is seen that, on the date of the registration before this Authority i.e., on 04.04.2023, there is no litigation against the said Project filed by the Complainant herein. However, subsequent to the registration being granted, the Complainant filed O.S. No.93/2023 before Sr. Civil Court, Sanga Reddy District on 20.04.2023 in which, vide Order dated 27.04.2023, the Ld. Court directed the parties to maintain *status quo* without alienating the suit schedule property i.e., plot No.89, admeasuring 300 sq yds in survey No.333 at Ameenpur Village, Sangareddy Taluk, until 27.06.2023. However, there is no update as to whether the said order has been extended by the

Ld. Court or not. As Rule 14(1)(a)(iii) provides for declaration of details of litigation in the past five years in relation to the real estate projects developed or being developed by the promoter, therefore, as there was no litigation pending at the time of filing the Application for registration before this Authority, there is no violation *per se* on part of the Respondent Builder. However, it is apparent from the record that Plot No.89, against which the status quo order is granted by the Ld. Civil Court is forming part of the total admeasuring 989.42 sq mtrs (covered under plot nos.75, 76, 89 & 90 in Sy No.333) over which the present Project construction work is going on.

12. In the present circumstances, it is also pertinent to note that Annexure to Rule 38 provides for a format of the Sample Agreement of Sale that the promoter ought to enter into with its potential allottees. In the said Agreement of Sale, Clause 8(1)(v) provides that the promoter shall disclose pending litigation, if any, on the subject property at the time of entering into such Agreement of Sale with the prospective allottee. Therefore, to protect the interest of the allottees, this Authority while exercising its powers under Section 37, deems it fit and necessary to direct the Respondent Builder to disclose about the pendency of the Civil Suit in O.S. No.93/2023 and the status of the interim order dated 27.04.2023 passed in I.A. No.618/2023 in the above-said suit, directing the Respondent herein to maintain status quo without alienating the suit schedule property i.e., Plot No.89 which is forming part of the total land admeasuring 989.42 sq mtrs over which the present Project construction is going on, in their respective Agreement of Sales and also disclose the same on the TS RERA Website to bring to the knowledge of the allottees, such pending litigation. In lieu thereof, the present complaint stands disposed of. The parties are hereby informed that failure to comply with this Order shall attract Section 63 of the Act, 2016.

13. 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

