

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

Complaint No. 563 of 2022

21st January, 2025

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

1. Savitha Malahotra
2. Reedna Jain
3. Babita Gupta
4. Ganesh Ashok Karche
5. Jitendra Bathla
6. Mahendra Singh Rawat
7. Sunil Kisan Khandare
8. Shiladitya Bhowmick

...Complainants

AND

1. M/s DLF Gayatri Developers
2. M/s Livana Builders & Developers Pvt.Ltd
3. M/s Latona Builders & Constructions Pvt Ltd.
4. M/s Chamundeswari Builders Pvt Ltd.

...Respondents

The present matter, filed by the Complainant, came up for final hearing before this Authority on 7th August 2024. The hearing took place in the presence of the Complainant's counsel, Sri Keesara Prithvi Reddy, and the Respondents' counsels, Sri P. Sri Ram, and B. Suresh. After hearing the arguments from both parties, this Authority passes the following order:

2. The complaint has been filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RE(R&D) Act"), read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules"). The Complainants are seeking directions from this Authority to take action against the Respondents.

A. Brief facts on behalf of the complainants:

3. The Complainants respectfully submit that they are individuals who, over time, booked residential open plots in a real estate project developed by the Respondents under the name "DLF Garden City." The said project is located in Nandigama Village, Kottur Mandal, Rangareddy District, Telangana (formerly Mahaboobnagar District), hereinafter referred to as "the Project."

4. The Complainants respectfully submit that, around 2012, representatives and marketing executives of the Respondents approached the Complainants with detailed presentations and offers regarding the Project. The Respondents conveyed that the 1st Respondent, M/s. DLF India Limited, was developing this Project as a high-end residential layout, spread across Ac.108.37 Gts. This layout encompassed land in Survey Nos. 120, 121, 122(P), 127(P), 128, 129, 130, 132, 137, 138, 524, 525, 526, 528/P, 529/P, 530/P, 531, 535, 550/P, 551, and 552/P in Nandigama Village, Kottur Mandal, Rangareddy District.

5. The Complainants respectfully submit that the Project was promoted as a joint venture partnership between two renowned entities, M/s. DLF India Limited and M/s. Gayatri Infra Private Limited. It was projected as a premium residential township leveraging the reputations of both companies. The 1st Respondent, DLF India Limited, was presented as a pioneer in real estate development with over 60 years of history, while M/s. Gayatri Infra Private Limited was depicted as a leading infrastructure company with a robust portfolio across India. This collaboration was marketed as a significant venture aimed at delivering cutting-edge residential and commercial developments within a specified timeline, assuring the highest quality standards.

6. The Complainants respectfully submit that, attracted by the high-profile joint venture and the promise of a high-end residential layout, they

proceeded to book plots in the Project. They entered into agreements for the purchase of specific plots and made payments according to the payment plans provided by the Respondents. The Complainants acted in good faith, relying on the Respondents' reputation and the representations made during the marketing campaigns.

7. The Complainants respectfully submit that, upon further investigation, they discovered that the land on which the Project was being developed was jointly held by three developers: (a) M/s. Livana Builders and Developers Private Limited, (b) M/s. Latona Builders and Constructions Private Limited, and (c) M/s. Chamundeswari Builders Private Limited. This land, located in the aforementioned Survey Numbers, extended to 4,38,558 square meters. However, the marketing and sales of the plots were conducted solely by the 1st Respondent. The Complainants were not informed about the involvement of the other developers nor made aware of the legal or contractual relationships between the Respondents and the landowners. This lack of transparency, including the absence of clarity regarding the authority under which the Respondents were executing the Plot Allotment Letters, raised serious concerns.

8. The Complainants respectfully submit that, according to the Respondents, a draft layout approval had been granted by the Hyderabad Metropolitan Development Authority (HMDA) vide letter no. 15510/LO/Plg/SHZ/HMDA/2008, dated 25.01.2012. This approval imposed several terms and conditions that the Respondents were required to comply with during the course of the Project's development. However, despite this draft layout approval, several restrictions were placed on the Project. Clause 12 of the draft approval explicitly stated that the executive authority could not approve or release any building permissions unless the developer completed the necessary development works and had the mortgaged land released from HMDA. This critical condition was not adequately disclosed to the Complainants at the time they booked the plots.

9. The Complainants respectfully submit that, following the enactment of the Real Estate (Regulation and Development) Act, 2016 by the Government of India, the Government of Telangana notified the Telangana Real Estate (Regulation and Development) Rules, 2017 (the Rules) under Section 84 of the RE(R&D) Act. Both the RE(R&D) Act and the Rules clearly mandate that all real estate projects, including ongoing projects that have not yet received a completion certificate, must be registered with the Real Estate Regulatory Authority. This legislative safeguard is crucial for protecting the interests of buyers and ensuring accountability from real estate developers.

10. The Complainants respectfully submit that the Respondents, despite being fully aware of the provisions under the RE(R&D) Act, did not register the Project with the Real Estate Regulatory Authority (RERA). Instead, they claimed that the Project was exempt from RERA registration based on the argument that building permissions had been granted before 01.01.2017, in accordance with Rule 1(2)(j) of the Telangana Rules. However, no occupancy certificate or completion certificate had been obtained prior to 01.01.2017, which is a critical requirement under the RE(R&D) Act for such an exemption.

11. The Complainants respectfully submit that, under the applicable law, the Project is considered as ongoing project since no completion certificate or occupancy certificate was issued before the enactment of the RE(R&D) Act. Additionally, it is pertinent to note that the revised final layout approval for the Project was granted only on 28.01.2019 by HMDA, confirming that the Project was still ongoing at least until that date. Therefore, the Project clearly falls within the ambit of the RE(R&D) Act and is required to be registered under the provisions of the Act and the corresponding Telangana Rules.

12. The Complainants respectfully submit that the Respondents, by not registering the Project under the RE(R&D) Act, not only violated their statutory obligations but also misled the Complainants and other buyers by falsely claiming that the Project was exempt. The Respondents acted

fraudulently by misrepresenting the legal status of the Project and failing to comply with the regulatory framework intended to protect homebuyers.

13. The Complainants further submit that the Respondents' failure to register the Project under the RE(R&D) Act has deprived them of the protections afforded under the Act, including safeguards related to timely completion, financial transparency, and developer accountability. As a result, the Complainants seek the intervention of this Hon'ble Tribunal to direct the Respondents to fulfill their obligations under the Real Estate (Regulation and Development) Act, 2016.

B. RELIEF(S) SOUGHT:

14. In view of the facts mentioned in paragraph 4 above, the complainant prays for the following relief(s):

- a) Direct the respondents to register the project under the name "Garden City" located at Nandigram Village and Mandal, Ranga Reddy District with the Telangana Real Estate Regulatory Authority;
- b) Punish the Respondents for non-compliance of Section 3 r/w 4(1) of the Act, Rules and Regulations envisaged therein and;
- c) Pass such other order or orders as this Hon'ble Authority may deem fit and proper in the circumstances of the case.

C. Interim order:

15. Pending disposal of the complaint, the Complainant prays that this Hon'ble Authority may be pleased to Stay the registration of plots in the Layout.

D. Counter filed by the respondents:

16. The Respondents deny the various allegations in the Complaint as being absolutely false and untenable, and request leave of this Hon'ble Authority to submit the following preliminary observations before addressing the specific allegations made in the Complaint.

1. Preliminary objections:

The Respondents contend that the complaint is not maintainable either in law or on facts and should therefore be dismissed in limine. They argue that the "Gardencity" project had secured approvals well before the Telangana Rules came into force, thereby rendering the provisions of the RE(R&D) Act inapplicable. As the project received approval prior to the enactment of the relevant legal framework, the Respondents assert that the complaint lacks jurisdiction and should be dismissed without further consideration.

- I. The Respondents submit that the "Gardencity" project, being a residential plotted layout, obtained layout approval from the Hyderabad Metropolitan Development Authority (HMDA) in January and April of 2012. As per the Telangana Rules, only projects approved on or after January 1, 2017 are required to be registered under RERA. Additionally, under Rule 2(j) of the Telangana Rules, the project is classified as an "ongoing project" and is exempt from registration since its approvals predate January 1, 2017. Consequently, the Respondents argue that the complaint is invalid, as the project is not subject to RERA registration requirements.
- II. The Respondents assert that the Complainants have approached the Authority with "unclean hands," having concealed material facts. They allege that the Complainants, being speculative investors, acquired plots with the expectation of profit from the real estate market. Due to the market downturn caused by the COVID-19 pandemic, the Complainants now seek to exploit the RERA framework to evade their payment obligations and exert undue pressure on the Respondents. The Respondents argue that the complaint is filed in bad faith with the intent to misuse the legal process, and therefore, request its dismissal on these grounds.
- III. The Respondents highlight that the Complainants have previously initiated consumer complaints before the District Consumer Forum in Hyderabad, seeking compensation for delays in the project. Although the District Forum ruled in favor of the Complainants, the Respondents have challenged these rulings before the State

Consumer Disputes Redressal Commission, which issued an interim stay. As the matter is currently sub judice, the Respondents argue that the present complaint under RERA is duplicative and should be dismissed on the principle that the same issue cannot be concurrently litigated in multiple forums.

- IV. The Respondents argue that the Complainants were speculative buyers who invested in the "Gardencity" project solely for profit, not for personal use or as end-users. They claim that the Complainants, after booking their plots during a market boom, now seek to use RERA provisions as a means to avoid making their final payments, particularly in light of the downturn caused by the COVID-19 pandemic. The Respondents assert that speculative investments are not protected under the RERA framework, and the complaint is, therefore, without merit and should be dismissed.
- V. The Respondents claim that they have adhered to all relevant regulations, specifically those set by HMDA, which granted layout approval for the "Gardencity" project in 2012. They have submitted the necessary applications for final layout permits and completion certificates, demonstrating their compliance with legal requirements. As such, they argue that their project falls outside the purview of RERA, and the Complainants' allegations of non-compliance are baseless.
- VI. The Respondents maintain that the project has been fully completed, including the development of plots, and that they have already applied for completion certificates from HMDA. They further submit that the completion of the project prior to the enforcement of the Telangana Rules in 2017 exempts it from RERA registration. The Respondents cite the issuance of final layout permits for various phases in 2018 and 2019, arguing that no violations of the RE(R&D) Act have occurred.
- VII. The Respondents refer to a circular issued by the Telangana RERA on September 22, 2018, which stipulates that projects approved before January 1, 2017, are exempt from RERA registration. Since

the "Gardencity" project was approved in 2012, the Respondents argue that they fall within the exemption provided by this circular. As such, they assert that the complaint lacks a legal foundation and should be dismissed.

- VIII. The Respondents contend that the Complainants have no valid cause of action. They argue that the Complainants have suppressed material facts and advanced baseless allegations to mislead the tribunal. Consequently, the Respondents request that the complaint be dismissed as frivolous and lacking in merit, and seek compensatory costs for the inconvenience caused by this litigation.

2. True Facts:

- IX. The project, developed by the Respondents, received layout approval from the Hyderabad Metropolitan Development Authority (HMDA) on January 25, 2012, and again on April 2, 2012, as part of a revised layout plan. These approvals were granted well before the Telangana Rules came into force on July 31, 2017.
- X. Under the RE(R&D) Act, 2016, as implemented by the Telangana Rules, 2017, only projects that received building or layout permissions on or after January 1, 2017, are required to register with the Real Estate Regulatory Authority. Therefore, the project is classified as an "ongoing project" under Rule 2(j) of the Telangana Rules, 2017. Rule 2(j) specifically defines "ongoing projects" as those for which building or layout permissions were granted prior to January 1, 2017, but for which a completion certificate or occupancy certificate has not yet been issued. Projects falling under this category are not required to register with RERA. Since the project received approval from HMDA in 2012, it is exempt from RERA registration.
- XI. The Respondents have demonstrated full compliance with the laws and regulations in place at the time of the project's initiation. The layout approval from HMDA, the competent authority regulating

land use and layout development in the Hyderabad region, was obtained in accordance with the rules of that time. The project involved the development of a residential plotted layout on approximately 156 acres of land in various survey numbers in Nandigama Village, Ranga Reddy District. This land was converted from agricultural to non-agricultural use for layout development purposes. The Respondents have provided documentary evidence of these conversions, including sale deeds registered between 2007 and 2008, as well as mutation proceedings and land conversion certificates issued by the Revenue Divisional Officer and Tahsildar of Kothur Mandal. The Respondents assert that they adhered to all terms and conditions imposed by HMDA, including compliance with layout rules, and obtained approvals for layout development in two phases. Furthermore, the Respondents applied for a final layout permit from HMDA, which they received in multiple phases during 2018 and 2019.

XII. The Telangana Real Estate Regulatory Authority issued a circular on September 22, 2018, clarifying the scope of the RE(R&D) Act, 2016, and its applicability to real estate projects in Telangana. According to this circular, only projects approved on or after January 1, 2017, with an area of 500 square meters or more or more than 8 residential units, need to be registered with RERA. The circular further states that any project that received building or layout permissions from competent authorities before January 1, 2017, does not need to register with RERA, even if the project was still ongoing after that date. Since the project received layout approval in 2012, well before January 1, 2017, this circular explicitly exempts the project from RERA registration requirements. The Respondents have interpreted this exemption correctly, and their reliance on this circular is legally sound.

XIII. The Respondents have acknowledged that the project is essentially complete, but they have applied for the completion certificate from HMDA. According to the documents provided, the Respondents

submitted applications for the completion certificate on September 1, 2016, and October 7, 2016, for different phases of the project. Although the completion certificate had not been issued at the time of the complaint, the layout permits for the project's final phase were issued in 2018 and 2019. The Respondents argue that the delay in receiving the formal completion certificate does not affect the project's exemption status under RERA, as the project was approved long before the Telangana Rules came into effect in 2017. Importantly, the absence of a completion certificate does not automatically imply non-compliance with RERA, as the exemption for ongoing projects with prior layout approvals remains applicable.

XIV. Another important fact in this case is that the project is a plotted layout development rather than a building construction project. Under HMDA's layout rules, projects that involve the subdivision of land into individual plots for residential purposes follow a different approval process than those that involve the construction of buildings or apartment complexes. The Respondents' project was designed to sell plots to individual buyers, who would then have the option to construct residential units on those plots. Since this type of project requires layout permission rather than building permission, and since the layout permission was obtained in 2012, the project does not fall under the scope of RERA's registration requirements.

XV. The Complainants have previously filed consumer complaints against the Respondents before the District Consumer Forum in Hyderabad, seeking compensation for delays in the project's delivery. The District Forum ruled in favor of the Complainants, granting them delay compensation. However, the Respondents challenged this decision in the State Consumer Disputes Redressal Commission, which subsequently granted an interim stay on the District Forum's orders. While the existence of these prior consumer cases is a matter of record, it does not directly affect the present case under RERA. The State Commission's stay order means that

the consumer forum's ruling has not been finalized, and this tribunal must independently determine whether the project falls within the scope of RERA. The prior consumer litigation does not undermine the Respondents' argument that the project is exempt from RERA registration.

XVI. The Respondents have argued that the Complainants were speculative investors who purchased plots in the project with the intent of making a profit rather than for personal use. The Complainants booked plots between February and July 2012, during a period when the Hyderabad real estate market was booming. The Respondents contend that the Complainants are now using RERA to avoid paying the final demand payments due on their plots, as the real estate market witnessed a downturn in 2019-2020 due to the COVID-19 pandemic. While speculative investments do not negate the Complainants' rights under RERA, the Respondents believe that this speculative intent should be taken into account when assessing the merits of the complaint. The Respondents also highlight that the Complainants signed plot allotment letters as early as 2012, and the details of these allotments were shared in the reply. This further shows that the Complainants entered into these agreements with full knowledge of the project's status and timeline.

XVII. The Respondents have consistently maintained that the project is exempt from RERA due to its approval prior to the relevant cutoff date in the Telangana Rules, 2017. They base this argument not only on the circular issued by Telangana RERA in 2018, but also on the explicit language of Rule 2(j), which defines "ongoing projects" that do not require registration. The fact that the layout permission was issued in 2012, more than five years before the RE(R&D) Act came into force in Telangana, provides a strong legal basis for their claim that the project falls outside the jurisdiction of RERA. The Respondents have provided documentation to support their timeline

and argue that they acted in compliance with all applicable regulations at the time of development.

E. Rejoinder to the counter of the respondents:

17. At the very outset, Complainant No. 5 denies each and every allegation, assertion, and claim made in the counter filed by the Respondents, dated July 2024, except where explicitly admitted in this rejoinder. The Complainant submits that the averments in the counter are incorrect, misleading, and based on factual inaccuracies. The Respondents have presented a scenario that is not only improbable but also implausible in the context of the facts of this case. The Complainant respectfully submits that this Hon'ble Tribunal should treat this rejoinder as an integral part of the original complaint and prays that both be read together.

18. The Complainant respectfully submits that the Respondents, in multiple paragraphs of their counter (including Paras 7, 15, 26, 27, 28, and 30), admitted that the project in question was an "Ongoing Project" at the time the Telangana Rules came into force in 2017. This is significant, as the definition of an "Ongoing Project" under Rule 2(1)(j) of the Telangana Rules is unequivocal. It covers projects where development is in progress and where neither the Occupancy Certificate nor the Completion Certificate has been issued. By their own admission, the Respondents have failed to obtain the necessary certificates, which place the project squarely within the ambit of the term "Ongoing Project."

19. It is humbly submitted that the Respondents have failed to comply with their legal obligations under the RE(R&D) Act, 2016. Section 3(1) of the RE(R&D) Act mandates that all ongoing projects must be registered with the Real Estate Regulatory Authority within three months of the Act's commencement. This obligation is reinforced by Section 59 of the Act, which prescribes penalties for non-registration. The Respondents' failure to register the project within the stipulated period not only violates the mandatory provisions of RE(R&D) Act but also exposes them to penalties that may

extend up to ten percent of the estimated cost of the project, and in certain circumstances, imprisonment for up to three years.

20. Misleading and Factually Incorrect Statements by Respondents: a) In response to Para 1 of the counter, it is respectfully submitted that the Respondents' statements are vague, generic, and unsubstantiated. The claim that the complaint is not maintainable is a baseless assertion and does not merit further reply. b) Paras 2 to 6 of the counter refer to the Respondents' internal records and personal knowledge, which are not in the public domain. Such records would have been accessible had the Respondents complied with their obligations under RE(R&D) Act and registered the project, as the Act mandates public disclosure of project details. c) In Para 7, the Respondents allege that the Complainants have approached this Hon'ble Authority with "unclean hands" and have suppressed material facts. This allegation is devoid of any merit. The Complainants have acted in utmost good faith and have disclosed all necessary and relevant facts to this Hon'ble Authority. The Complainants submit that the project received its final layout approval in January 2019, which squarely qualifies it as an "Ongoing Project" under Rule 2(1)(j) of the Telangana Rules, 2017. Therefore, the project is legally required to be registered under RE(R&D) Act, and the Respondents' claims to the contrary are without substance.

21. The Complainants respectfully submit that the Respondents' claim that delays in project completion were caused by the COVID-19 pandemic is misleading. The Respondents have failed to fulfill their obligations and have delayed the project for six to seven years beyond the promised timelines. The delays in delivering the plots to the Complainants have caused significant hardship. The Respondents' failure to adhere to the timelines committed in the plot allotment letters has materially affected the Complainants, irrespective of market conditions or the pandemic.

22. The Respondents have referred to consumer complaints filed by the Complainants seeking compensation for the extreme delay in handing over

possession of the plots. However, it is respectfully submitted that these proceedings are distinct and separate from the present complaint under RE(R&D) Act. The Hon'ble Supreme Court in ***Pioneer Urban Land and Infrastructure Ltd. v. Union of India (2019) 8 SCC 416*** has held that RE(R&D) Act and consumer forums are concurrent jurisdictions. The present complaint under RE(R&D) Act seeks redress for regulatory non-compliance, including transparency, project registration, and timely delivery, which is not addressed in the consumer forum. Therefore, the proceedings under RE(R&D) Act are valid and maintainable.

23. It is respectfully submitted that Para 9 of the counter, wherein the Respondents allege that the Complainants are speculative investors seeking to exploit the provisions of RE(R&D) Act, is entirely false. The Complainants are middle-class families who have invested their hard-earned money with the genuine intention of securing residential plots for personal use. The Respondents' attempt to paint the Complainants as speculative investors is an unfounded effort to distract from their failure to comply with the RE(R&D) Act provisions.

24. The Complainants submit that the project qualifies as an "Ongoing Project" under both the Telangana Rules, 2017, and the RE(R&D) Act, 2016. The final layout approval for the project was obtained in January 2019, well after the commencement of RE(R&D) Act. Therefore, the project is required to be registered under RE(R&D) Act, and the Respondents' argument that the project is exempt due to prior approvals is without legal basis.

25. The Complainants respectfully submit that the Respondents have failed to comply with the mandatory provisions of RE(R&D) Act by not registering the project. The failure to obtain the necessary Completion and Occupancy Certificates, coupled with the admission that the project is ongoing, places the project squarely within the purview of RE(R&D) Act's regulatory framework.

26. In view of the above submissions, this Hon'ble Tribunal may be pleased to:

- a) Direct the respondents to immediately register the project under RERA.
- b) Impose exemplary costs on the respondents to deter future non-compliance with RERA.
- c) Pass such other orders as may be deemed appropriate to ensure the principles of transparency and consumer protection, which are central to RERA, are upheld.

F: The points for determination on the reliefs sought in the main complaint are as follows:

27. After we have heard learned counsels for the parties at length, the following questions emerges for our consideration in the present complaint are as under:

- a. Whether the project "DLF Garden City" is required to be registered under the Real Estate (Regulation and Development) Act, 2016 (RE(R&D)).
- b. Whether Central RE(R&D) act overrides the State Rules in case of inconsistency?
- c. Whether the Respondents have violated the provisions of Section 3 of the RE(R&D) Act.

G: Observations by the Authority

28. The primary legal issue in this case centres around whether the project is required to be registered under the RE(R&D) Act. The Complainants argue that the project is an "Ongoing Project" as defined under RERA and is therefore subject to mandatory registration. In contrast, the Respondents contend that the project is exempt from registration because it secured layout approval from the Hyderabad Metropolitan Development Authority (HMDA) in 2012, well before the enactment of RERA in 2016 and the corresponding Rules.

29. The Respondents argue that the project is not maintainable under RERA, citing the definition of "Ongoing Project" under Rule 2(1)(j) of the Rules, which excludes projects where building permissions were approved prior to January 1, 2017, by competent authorities such as Urban Development Authorities (UDAs), Directorate of Town and Country Planning (DTCP), Municipal Corporations, Municipalities, Nagar Panchayats, and Telangana State Industrial Infrastructure Corporation (TSIIC).

Rule 2(1)(j) of the Rules defines an "Ongoing Project" as:

““Ongoing Project” means, a Project where development is going on and for which Occupancy Certificate or Completion Certificate has not been issued but excludes such Projects for which building permissions were approved prior to 01.01.2017 by the Competent Authorities viz., UDAs / DTCP / Municipal Corporations / Municipalities / Nagar Panchayats / TSIIC as the case may be.”

30. In the case of ***Lucknow Development Authority v. Uma Shankar Dubey [2020 SCC ONLINE RERA UP 10]*** it was observed that Section 3(2) provides specific categories of projects exempt from registration. The section 3(2) reads as under: —

“Notwithstanding anything contained in sub-section (1)- no registration of the real estate project shall be required-

a) where the area of/and proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project

Explanation.— For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand-alone real estate project, and the promoter shall obtain registration under this Act for each phase separately.”

31. In Section 3(2)(b), it is clearly stated that projects where the promoter has received a completion certificate for the real estate project prior to the commencement of the RE(R&D) Act, 2016, are exempt from registration requirements. This exemption does not apply to projects that may have received the completion certificate after the commencement of the Act. Section 3(2) exempts certain categories of real estate projects from prior registration-related provisions but does not remove them from the ambit of other provisions of the RE(R&D) Act, 2016.

32. A plain reading of Section 3 reveals that projects for which a completion certificate was issued prior to the commencement of the RE(R&D) Act are exempt only from prior registration if Section 3(1) is read with Section 3(2)(b). Section 3(2) specifically provides categories of projects where no prior registration shall be required. Section 3(2)(b) explicitly provides that no prior registration of a real estate project shall be required where the promoter has received a completion certificate prior to the commencement of the RE(R&D) Act, i.e., before 01.05.2017.

33. Hon'ble Supreme Court in the case of ***M/s. Newtech promoters and developers pvt. Ltd. Vs state of up & others [11 2021 sc 641]***, held:

“Looking to the scheme of Act 2016 and Section 3 in particular of which a detailed discussion has been made, all “ongoing projects” that commence prior to the Act and in respect to which completion certificate has not been issued

are covered under the Act. It manifests that the legislative intent is to make the Act applicable not only to the projects which were yet to commence after the Act became operational but also to bring under its fold the ongoing projects and to protect from its inception the inter se rights of the stake holders, including allottees/home buyers, promoters and real estate agents while imposing certain duties and responsibilities on each of them and to regulate, administer and supervise the unregulated real estate sector within the fold of the real estate Authority.”

In the present case, the Respondents contend that the project does not need to be registered as per Rule 2(1)(j) of the Rules, claiming exemption. On the other hand, the Complainants argue that the project received its final layout permit on 28.01.2019, which was after the commencement of the RE(R&D) Act, and therefore, as per the proviso to Section 3 of the Act, the project must be registered. This creates an inconsistency between the Rules and the RE(R&D) Act.

34. However upon perusal of Section 89 of RERA act it is evident that provisions of RERA Act will have an overriding effect on any inconsistent provisions in the any other law for the time being in force and in this case the Rules. Section 89 of RERA read as follows:

“89. Act to have overriding effect.— The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.”

As Section 84 of the Act empowers the state to make rules and regulations concerning real estate, those rules must remain subordinate to the central Act and cannot be inconsistent with it. Thus, the RE(R&D) Act overrides the Rules.

35. In the event of a conflict between the RE(R&D) Act and any rules framed by the state government under the same Act, the central legislation must prevail. This principle aligns with the doctrine of repugnancy under Article 254 of the Indian Constitution. Section 89 of the RE(R&D) Act

specifically grants overriding authority to the central law in cases of inconsistency with other laws. The intent behind this provision is to ensure uniformity and consistency in the regulation of the real estate sector across the country.

36. In the present case, the Respondents obtained the final layout permit on 28.01.2019, which was after the commencement of the RE(R&D) Act. Therefore, as per Section 3 of the said Act, the project is required to be registered under RERA.

36. The Respondents argue that their project is exempt from registration, citing Rule 2(1)(j) of the Telangana Rules. They contend that they obtained layout approval back in 2012, prior to the enforcement of the RERA Act, and since the layout approval was granted before January 1, 2017, they claim the project qualifies for exemption. However, the Hon'ble Supreme Court in ***M/s. Newtech Promoters and Developers PVT. LTD. V. State of UP & others [LL 2021 SC 641]*** held that the RE(R&D) Act, 2016, has retroactive applicability, applying to ongoing projects that had not received a completion certificate before the enactment of the Act. This ruling confirms that such projects must comply with the provisions of the RE(R&D) Act, regardless of their commencement date. In the present case, the Respondents received their final layout permit on 28.01.2019, well after the Act came into effect on 25th March 2016. Since the project had neither been completed nor granted a completion certificate before RERA came into force, it qualifies as an "Ongoing Project" under Section 3 of the Act. Consequently, the project falls within the purview of the RE(R&D) Act, and registration under RERA is mandatory. The issue at hand relates to the retroactive application of the provisions of the 2016 Act, particularly concerning ongoing projects. If we examine the objects and reasons behind the Act, it becomes evident that Parliament, after extensive deliberations on the subject, considered it necessary to implement central legislation for effective consumer protection and the standardization of business practices and transactions within the real estate sector. The intention was to ensure greater accountability to consumers, to mitigate frauds, delays, and high

transaction costs. The Act aims to balance the interests of consumers and promoters by imposing certain duties and responsibilities on both. Therefore, projects like the one in question, which have not received completion certificates before this date, are bound by the provisions of the RE(R&D) Act.

37. In view of the above observations, this Authority finds that the Respondents have failed to comply with Section 3 read with Section 4(1) of the RE(R&D) Act, 2016, and have instead adhered to the state Rules. It is further observed that in cases of inconsistency, the RE(R&D) Act will apply as per Section 89, which grants the Act overriding authority.

38. Considering the provisions of Section 89 of the RE(R&D) Act, 2016, which explicitly states that the Act shall have an overriding effect notwithstanding any inconsistencies with other laws in force, this Authority finds that the Respondents' reliance on the Telangana State Rules for exemption from registration is untenable. Under Section 3 of the RE(R&D) Act, the Respondents were clearly obligated to register the project, and their failure to do so amounts to a violation of statutory requirements. As experienced professionals engaged in the real estate business, the Respondents are expected to be fully aware of the legal obligations that govern their activities, particularly when the law explicitly overrides conflicting provisions. The principle of "*Ignorantia juris non excusat*" (ignorance of the law is no excuse) further reinforces that the Respondents cannot plead ignorance of their obligation to register the project under the RE(R&D) Act.

39. Upon examining the facts of the case, it is evident that the Respondent has sold all the plots within the concerned project. The Authority notes that as per the mandate of Section 3 of the Real Estate (Regulation and Development) Act, 2016, prior registration with RERA is compulsory for any real estate project intending to advertise, market, book, sell, or offer for sale any plots, apartments, or buildings. In the present matter, the Respondent has failed to obtain RERA registration before undertaking the sale of plots. This constitutes a clear violation of Section 3

of the Act. However, as all the plots in the project have already been sold, the purpose of obtaining RERA registration, which is to ensure transparency, compliance, and protection of consumer rights during the marketing and sale phase, has been rendered redundant at this stage. Nevertheless, the Authority is of the considered view that the Respondent's non-compliance with Section 3 of the RE(&D) Act, undermines the regulatory framework and violates the provisions of the said Act, which are intended to safeguard the interests of the consumers and promote accountability among promoters. The Authority, therefore, holds the Respondent liable for non-compliance and reserves the right to impose penalties as per the applicable provisions of the Act to ensure deterrence and uphold the objectives of the legislation.

40. To determine the appropriate quantum of the penalty in light of the specific facts and circumstances of this case, it is essential to consider the nature of the violation committed by the Respondent. A plain reading of Section 3 clearly mandates that all projects, which have not obtained an occupancy certificate or a completion certificate at the time of the commencement of the Act, must be duly registered under the provisions of the Act. In view of this, the Authority finds it necessary to impose penalty. It is important to clarify that the imposition of this penalty is not intended to regularize the Respondent's breach. Rather, the penalty serves as a deterrent, aimed at discouraging similar violations in the future and ensuring adherence to the legal requirements established under the said Act.

41. For contravening Section 3 of the said Act, this Authority, exercising its powers under Section 59 of the Act, imposes a penalty on Respondents 1-4 of Rs.2,50,000/- (Two lakh fifty thousand rupees only). This penalty is imposed for marketing/selling plots of the Project without registering the project before this Authority. The amount is payable in favor of TGRERA FUND through a Demand Draft or online payment to A/c No. 50100595798191, HDFC Bank, IFSC Code: HDFC0007036, within 30 days of receipt of this Order by the Respondents/Promoter.

42. Respondents 1 to 4 are hereby informed that failure to comply with this order shall attract Section 63 of the RE(R&D) act.

43. In the result, the complaint is disposed off.

**Sd-
Sri. K. Srinivas Rao,
Hon'ble Member
TG RERA**

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

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

