BEFORE TELANGANA REAL ESTATE REGULATORY AUTHORITY

[Under the Real Estate (Regulation and Development) Act, 2016]

Complaint No. 159 of 2024

22nd Day of October, 2025

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

1. K Nagendra Prasad
2. K Bharathi
(Both are R/o Plot 128, Road 10,
Jubilee Hills, Hyderabad, Telangana -50070)

…Complainants

Versus

M/s. Aliens Developers Pvt Ltd
(Represented by Hari Challa and Venkat Prasanna Challa
(Tellapur, Sy.no. 384 & 385 Ramachandrapuram Mandal,
Hyderabad – 502032)

…Respondent

The present matter filed by the Complainants herein came up for hearing before this Authority in the presence of the Complainants in person, and the learned Counsel for Respondent M. Ashwin Reddy, V. Sai Teja and Umesh Mantri and upon hearing submissions made by both parties, and the matter reserved over for consideration till this date, this Authority passes the present Complaint **ORDER**:

2. The Complainant has filed complaint on hand 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"), alleging commission of violation and contravening of the provisions of the said Act and Rules and sought for the appropriate reliefs against the Respondent.

A. Brief facts of the case:

3. The Complainants, in their complaint, submitted that they had initially booked Flat No. 631, situated on the 6th Floor, Station-5, of the Respondent's project titled "Aliens Space Station" on 27.07.2023, for a total sale consideration of ₹1,63,00,000/- (Rupees One Crore Sixty-Three Lakhs only). A token advance of ₹50,000/- (Rupees Fifty Thousand only) was paid

to the Respondent at the time of booking, followed by subsequent payments aggregating to ₹42,50,000/- (Rupees Forty-Two Lakhs Fifty Thousand only) made towards the total sale consideration, as detailed below:

Date of Payment	Amount
27.07.2023	Rs. 50,000/-
29.07.2023	Rs. 2,00,000/-
31.07.2023	Rs. 20,00,000/-
01.08.2023	Rs. 20,00,00/-

Total Amount Paid by Complainant to Respondent is Rs. 42,50,000/-

4. The Complainants submitted that, at the time of booking, there were no lifts available, and hence the apartment could not be physically inspected by them. After about one and a half months, upon inspection, it was found that the balcony faced a burial ground. Accordingly, the Complainants requested the Respondent either to allot a similar apartment in another tower or to cancel the booking. Subsequently, on 17.10.2023, the Respondent proposed to shift the allotment to Apartment No. 1461 on the 14th Floor of Station–10, which the Complainants accepted and requested an adjustment of the payments already made.

5. At that time, the project was still pending RERA registration and third-party funding, with no visible progress. Despite this, the Respondent demanded an additional ₹1,17,10,000/-. The Complainants, however, offered to issue two cheques amounting to ₹40,00,000/- and requested execution of a Sale Agreement with a fixed possession date, while seeking to defer further payment until RERA approval and funding were obtained, which was a reasonable request under the circumstances.

6. It is submitted that instead of providing the draft Sale Agreement for Flat No. 1461, the Respondent erroneously uploaded a draft Sale Agreement pertaining to Flat No. 631 and further insisted that execution of the agreement would be considered only upon payment of 90% of the total sale consideration. Despite the Complainant’s reasonable request to defer further payment until RERA registration and funding were secured, the Respondent’s management pressurised the Complainant to remit an additional ₹1,17,10,000/–, failing which the newly

allotted Flat No. 1461 would be cancelled. Having no alternative, the Complainants agreed to the cancellation and sought a refund of ₹42,50,000/– already paid.

7. Thereafter, vide email dated 19.10.2023, the Respondent unilaterally informed that the Complainant was reverted to the earlier Flat No. 631, which had already been rejected for valid reasons. Acting on the advice of the Respondent's representative, the Complainants submitted a formal email dated 22.10.2023 requesting cancellation and refund. However, the Respondent kept the request pending for nearly four months without any proper communication. Despite repeated follow-ups and several emails addressed to the Managing Director, Mr. Hari Chella, no response or resolution was provided.

8. Subsequently, in April 2024, the Respondent issued a Deed of Cancellation providing for refund in ten equal instalments commencing from July 2024 till April 2025. The Complainant, acting in good faith, waited for compliance; however, the first instalment due in July 2024 was not honoured. Such failure to refund the amount as per the agreed schedule constituted a clear breach of contractual obligation and good faith, thereby constraining the Complainants to approach this Authority seeking redressal under the provisions of the Real Estate (Regulation and Development) Act, 2016. Hence this Complaint.

B. Relief(s) Sought:

9. Accordingly, the Complainants sought for the following reliefs:

a) To direct the Respondent to refund of ₹42,50,000/- (Rupees Forty-Two Lakhs Fifty Thousand only) along with applicable interest, as the Respondent failed to honour the agreed Deed of Cancellation.

C. Counter on behalf of the Respondents:

10. The Respondent submitted that the complaint does not fall within the jurisdiction of the Telangana Real Estate Regulatory Authority, as the Complainant voluntarily cancelled the allotment of the flat and thereby ceased to hold the status of an "allottee" under Section 2(d) of the RE(R&D) Act, 2016. There exists no provision under the Act or Rules conferring jurisdiction on this Authority to adjudicate complaints where the allottee self-initiates cancellation. Even assuming jurisdiction exists, the complaint is premature, as the project's completion is scheduled for December 2024, and the Complainant has filed this complaint without assigning any valid reason, seemingly to coerce the Respondent for monetary gain.

11. It is submitted that the Complainant was physically shown the initially allotted apartment and requested internal modifications, including wardrobes, air conditioning points, and interior design preferences. The subsequent reallocation to Flat No. 1461 on the 14th floor in Station 10 was made solely at the Complainant's request, despite causing a loss of ₹10,00,000 to the Respondent. The Complainant defaulted in honouring the mutually agreed payment schedule and failed to execute the Sale Agreement provided by the Respondent on 17.10.2023, despite agreeing to issue two cheques totaling ₹40,00,000.

12. The Complainant's allegations regarding demand of additional payment of ₹1,17,10,000 and stalling of the project are false. In fact, the Complainant neither paid any amount for the reallocated flat nor executed the Sale Agreement, thereby blocking both flats and causing loss to the Respondent and prospective buyers. The Complainant voluntarily requested cancellation via email on 22.10.2023, and upon receipt of the request on 23.11.2023, the Respondent promptly initiated the cancellation process. A Deed of Cancellation dated 09.01.2024 was executed to refund the entire amount of ₹42,50,000 (Forty-two lakhs fifty thousand rupees) without any deduction.

13. At all stages, the Respondent acted in accordance with contractual obligations, principles of fairness, and customer-centric practices. Any claims of coercion, delay, or non-compliance on the part of the Respondent are baseless and denied. The Respondent has fully complied with all obligations, and the Complainant cannot take advantage of their own defaults to allege wrongdoing against the Respondent.

14. The Respondent Relied on Maula Bux Vs. Union of India, (1970) 1 SCR 928 and Sirdar K.B. Ram Chandra Raj Urs Vs. Sarah C. Urs, (2015) 4 SCC 136, wherein the Hon'ble Supreme Court has held that:

that forfeiture of the amount in case of breach of contract must be reasonable and if forfeiture is in the nature of penalty, then provisions of Section-74 of Contract Act, 1872 are attracted and the party so forfeiting must prove actual damage. After cancellation of allotment, the flat remains with the developer as such there is hardly any actual damage. This Commission in CC/438/2019 Ramesh Malhotra Vs. EMAAR MGF Land Ltd. (decided on 29.06.2020), CC/3328/2017 Mrs. Prerana Banerjee Vs. Puri Construction Ltd. (decided on 07.02.2022) and CC/730/2017 Mr. Saurav Sanyal Vs. M/s. IREO Grace Pvt. Ltd. (decided on 13.04.2022) held that 10% of basic sale price is reasonable amount to be forfeited as "earnest money".

15. In conclusion the Respondent prayed this hon'ble authority to dismiss the complaint.

D. Points for consideration:

16. After deliberation on the facts and circumstances of the present case and the documents filed in this behalf, following issues sprout for consideration:

I. Whether the present complaint is maintainable before this Authority?
II. Whether the Complainants are entitled to the reliefs as prayed for? If yes, to what extent?

E. Observation of the Authority:

Point – I

17. The main contention of the Respondent is that the Complainant ceased to be an allottee upon cancelling the booking voluntarily, and that no specific violation of the RE (R&D) Act, 2016, exists necessary to establish the legal tenability of the complaint, and it is further argued that the dispute, arising from a cancellation deed, is contractual in nature and should be adjucated by a civil court rather than this Authority and in order to determine the maintainability of the complaint, the status of the complainant as allottee needs to be considered first.

18. This Authority has previously dealt with a similar issue involving the same Respondent in Kolla Lakshmi Kumari vs. M/s Aliens Developers Private Limited (Complaint No. 304 of 2024), wherein the Respondent had advanced an identical argument contending that upon execution of a cancellation deed, the complainant ceased to be an *allottee* and thus could not seek relief under the Act. The Authority, while rejecting the said contention, observed as follows:

> *"14…The cancellation of allotment becomes final only when the entire refund amount is remitted back to the Complainant as agreed. It is observed that the said cancellation process only commenced when the parties executed the cancellation deed but remains incomplete due to the non-payment of the refund amount as per the agreed payment schedule. Since the cancellation has not attained its finality, the complainant continues to be recognized as an allottee, rendering the respondent's claim that the complainant has ceased to be an allottee untenable."*

19. In a similar case, the Hon'ble Maharashtra Real Estate Appellate Tribunal in *Chandrika Dinesh Chowatia & Ors. vs. S.R. and Shah Developers* (Appeal No. AT006000000005265, decided on 25.08.2022), wherein the Tribunal held:

> *"14… In view of the above, we find that the cancellation process appears to have been initiated but has neither been completed nor attained its finality for want of non-fulfilment of the condition mentioned therein and also due to only partial refund. Therefore, contention of the promoter that complainants are no longer allottees is ex-facie not tenable."*

20. As the above judicial pronouncements clearly establish that the process of cancellation attains finality only upon the completion of all conditions stipulated in the cancellation deed, including refund of the entire amount due. However, as of the date of the Complaint on hand, in the present case, the Complainants have not received the agreed refund, and therefore, the cancellation remained unfulfilled. Consequently, the Complainant continued to retain the status of an allottee under the said Act.

21. It is well settled that a promoter's obligations do not terminate merely upon execution of a cancellation deed; such obligations continue until all terms and conditions, including full refund of amounts due, are complied with. Failure to discharge these obligations entitles the allottee to seek redress under the provisions of the Act before this Authority.

22. Accordingly, this Authority holds that the Complainants continued to be "an allottee" within the meaning of Section 2(d) of the Act, and the grievance relates to the promoter's failure to fulfil obligations arising from a registered real estate project. Consequently, this Authority is duly empowered under Sections 31 and 34 of the RE(R&D) Act, 2016, to adjudicate the matter. In view of the foregoing discussion and precedents, Point No. I, It is answered in the affirmative, and the present complaint is held to be maintainable before this Authority.

Point II:

23. The Complainants in the present matter sought a refund of ₹42,50,000/- (Rupees Forty-Two Lakh Fifty Thousand only) along with interest as the deed of cancellation is not honoured. As answered above in Point I, the Complainant continues to hold the status of an allottee within the meaning of Section 2(d) of the Real Estate (Regulation and Development) Act, 2016, and is therefore entitled to seek appropriate relief before this Authority.

24. This authority, from material available on record, notes that the Complainant had addressed emails dated 20.10.2023, 21.10.2023, and 22.10.2023 to the Respondent seeking cancellation of the flat/booking and subsequently, placed cancellation deed before this Authority which stipulated the terms and conditions governing the refund of the amounts paid. The said Deed reflects a clear agreement between the parties, establishing the rights and obligations of both the Complainant and the Respondent in relation to the cancellation and refund.

25. As per the said Cancellation Deed submitted by the complainant, the Respondent undertook to refund ₹42,50,000/- in ten monthly equal instalments of ₹4,25,000/- each, commencing from July 2024 and ending by April 2025. During the proceedings, it was brought to the notice of this Authority that the Respondent had initially not adhered to the agreed repayment schedule, resulting in a delay in repayment for few months. The Respondent, through counsel, admitted the delay and assured that the shortfall would be compensated by doubling the subsequent instalments to ₹8,50,000/- each, thereby ensuring completion of the refund within the stipulated scheduled period as agreed in the cancellation deed and accordingly the Respondent filed an affidavit confirming the revised enhancement repayment schedule and payments were made to the Complainant, which has been duly acknowledged by the Complainant as full repayment of the amount paid by them is received on or before the due date as mentioned in the cancellation deed.

26. In view of the above, since the refund amount as agreed under the *Cancellation Deed* has been received by the Complainant within the stipulated time frame as mentioned in the cancellation deed, the contractual obligations arising therefrom stand duly fulfilled. Accordingly, no further relief in respect of the said claim survives for consideration before this Authority, and so also does not warrant further adjudication under the provisions of the RE (R&D) Act, 2016. Accordingly, the complaint is liable to be dismissed.

27. In the result, the complaint accordingly dismissed.

Sd/-	**Sd/-**	**Sd/-**
Sri K. Srinivasa Rao,	**Sri Laxmi Narayana Jannu,**	**Dr. N. Satyanarayana, IAS (Retd.),**
Hon'ble Member,	**Hon'ble Member,**	**Hon'ble Chairperson,**
TG RERA	**TG RERA**	**TG RERA**