

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

**COMPLAINT No.2 of 2020**

**Dated this, the 23<sup>rd</sup> day of NOVEMBER, 2023.**

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

Between:

Sri Boyenepally Sri Jayavardhan.

...Complainant

Versus

- 1) Sri P.Raja Rao.
- 2) Ms. Sri Sai Ram Projects Limited, represented by its Managing Director Sri S.Satyanarayana Reddy.
- 3) M/s. Vasavi Realtors LLP, represented by its Partner Sri Yerram Vijay Kumar.

...Respondents

*This case has come for hearing on 03.08.2023, 19.08.2023, 24.08.2023 and on 31.10.2023 in the presence of Sri Rahul Reddy, Advocate for Complainant, Sri Boyenepally Sri Jayavardhan and Sri D. Raghvendra Rao, Advocates for Respondent Nos.1 to 3 and upon hearing the arguments of both parties, the Authority passed the following:*

**ORDER**

This is a complaint filed under Section 31 of 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") by the Complainant seeking reliefs, viz.,

- (1) to revoke the registration under Section 7 of the Act granted in favour of Respondent No.3;

(2) to direct the Promoter/Respondent No.3 to enter into an agreement in favour of Complainant in respect of 3055.50 Sq. yards of land; and also in respect of 4944.50 Sq. yards of land, which is made part of real estate project; and

(3) to restrain Respondent No.3 from allotting, selling or advertising or in anyway dealing with the project under Section 37 of the Act.

2. **FACTS OF THE COMPLAINT:**

The case of the Complainant as revealed from the complaint, in brief, is as under:

3. Respondent No.1 and his father, namely, 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, Serilingampally Mandal, Ranga Reddy District, for a total consideration of Rs.1,65,00,000/- (Rupees One Crore and Sixty five lakhs only). The Complainant on the same day on 14.12.2007 has paid the total sale consideration, i.e., a sum of Rs.1,00,000/- (Rupees One lakh only) by way of Cheque bearing No.634994, dt.14.12.2007, drawn on Andhra Bank, Ashok Nagar Branch, Hyderabad to Respondent No.1, a sum of Rs.4,00,000/- (Rupees Four lakhs only) by way of Cheque bearingNo.654995, dt.14.12.2007, drawn on Andhra Bank, Ashok Nagar Branch, Hyderabad to Sri P.Nagabhushanam, and a sum of Rs.1,60,00,000/- (Rupees One Crore and Sixty lakhs only) by way of cash to Respondent No.1 and his father and they have acknowledged the receipt of the same, as mentioned in agreement (Copy of the agreement of sale filed as Document No.1). Later the Complainant had given an extent of 1826 Sq. yards + 1229.50 Sq. yards, i.e., 3055.50 Sq. yards of land out of the land purchased under agreement of sale dated 14.12.2007 to Respondent No.2 under Registered

Development Agreement-cum-General Power of Attorney bearing Document Nos.4940/2008 and 4941/2008 respectively both dated 20.06.2008 (Document Nos.2 and 3) and in lieu of such land, Respondent No.2 agreed to deliver certain constructed area to the Complainant. The said registered development agreements were signed and executed by Respondent No.1, his father, Respondent No.2 and the Complainant. Therefore, the Complainant alone is entitled to enjoy and get benefits or has right or claim over the B Schedule Property, i.e., the land as referred under Document Nos.2 and 3 and Respondent No.1 herein and his father are only proforma parties to the said documents.

4. It is stated that even though an extent of 3055.50 Sq. yards of land was given for development to Respondent No.2 as back as on 14.12.2007, Respondent No.2 did not develop the land till 2019, i.e., until final building permit orders are given by GHMC, even by 07.02.2020. Meanwhile, Respondent No.2 entered into two supplementary development agreements-cum-General Power of Attorneys dt.09.01.2013 in favour of the Complainant which were duly registered as Registered Documents bearing Nos.1270/2013 and 1271/2013 (Document Nos.4 and 5). Respondent No.2 has also executed second supplementary agreements in favour of the Complainant on 30.08.2014, which were also duly registered as Document Nos.10744/2014 and 10745/2014 (Document Nos.6 and 7), wherein allotments of the 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 the flats to be allotted to the Complainant in respect of 1826 Sq. yards + 1229.50 Sq. yards= 3055.50 Sq. yards of land.

5. Further, Respondent No.2 entered into several registered development agreements similarly with the other plot owners on various dates. According to him, 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 the same at all for quite a long time, i.e., for more than a decade, nearly 12 years. The Complainant from time to time demanded for allotment of flats, but it was of no use and Respondent No.2 gave some reasons, which were not convincing. 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 anything to the Complainant. The Complainant also came to know that Respondent No.2, who entered into development agreements with the Complainant on 20.06.2008 under Document Nos.2 and 3, has also entered into similar agreements with all the plot owners during that time, i.e. in the year 2008. Respondent No.2 afresh along with Respondent No.3 enhancing the constructed area to be allotted to the plot owners (other than what was agreed under development agreement earlier entered with respective land lords afresh) entered into a new document under the name and style of Deed of Assignment-cum-Development Agreement-Cum-General Power of Attorney, during the year 2019 and similar documents were executed by both Respondent Nos.2 and 3 in favour of all land owners except the Complainant with a fraudulent intention to make profit for themselves, without giving the enhanced rate of constructed area on par with other land owners (Document No.10). Under the terms of the said new document, i.e., Document No.10, Respondent No.3 undertook to construct and deliver the flats to the respective owners.

6. It is further stated that having been aggrieved by the dishonest intention of Respondent No.2 in not delivering the flats as agreed by Respondent No.2 under the Document Nos.2 to 9, the Complainant got issued a legal notice (Document No.11) to Respondent No.2 on 01.02.2020 from the office of Sri K.Narayana Rao, Advocate, reminding Respondent No.2 to deliver the flats earlier allotted under Document Nos.6 to 9. But no reply was given to the Notice. When the Complainant asked Respondent No.1 to deliver the balance extent of land of 4955.50 Sq. yards, he 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 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. Respondent No.2 to knock away the land belonging to the Complainant and in order to deprive the rights of the Complainant did not enter into the deed of Assignment-cum-Development Agreement-cum-General Power of Attorney afresh, as he entered with other landowners during the month of June 2019 in respect of 3055.50 Sq. yards. Further, Respondent Nos.2 and 3 have not allotted any flats to the Complainant in respect of 4955.50 Sq. yards of land, and not entered into the deed of assignment-cum-development agreement-cum-general power of attorney during the year 2019 despite taking the said land into the project areas. Having vexed with the attitude of the Respondents, the Complainant got a legal notice issued to Respondent Nos.1 to 3 on 05.06.2020 and 10.06.2020. Respondent

No.1 did not receive the notice. Respondent Nos.2 and 3 have received the notice but did not give any reply at all. (Documents No.13, 14 and 15).

8. Respondent No.3 is an assignee in the Real Estate project and the same is an “Ongoing Project” as defined under Rule 30 of Rules, 2017, since occupancy certificate or construction certificate was not issued. Respondent No.3 approached GHMC for permission to construct flats in the project area comprising of 2 parts, one is Lake City East having an area of 30268 Sq.Mts and another is Lake City West, having an area of 34598.75 Sq.Mts and obtained permission under Permit dated 07.07.2020. The land belonging to the Complainant under document Nos.1,2 and 3, is part of the Real Estate Project. Building permit order for east and west were given to Respondent No.3 on 07.02.2020 by GHMC (Document Nos.16 and 17).

9. It is further stated that under Section 4(2) of the Act, the promoter shall enclose the following documents along with the application referred to in subsection (1), namely: (a) under Section 4(2) a declaration supported by an affidavit, which shall be signed by the promoter or any person authorised by the promoter, stating that he has a legal title to the land on which the development is proposed along with legally valid documents with authentication of such title, if such land is owned by another person; and (b) that the land is free from all encumbrances, or as the case may be, details of the encumbrances on such land including any rights, title, interest or name of any party in or over such land along with details. Respondent No.3 did not give the particulars of the Complainant’s land, i.e., 3055.50 Sq.yards and 4944 Sq.yards of land in the RERA application submitted with the authority, i.e., RERA application for east side of the project and RERA

application for west side of the project, (Document No.18 and 19) and in the declaration submitted before the RERA. Thus, Respondent No.3 has contravened Section 4(2) (l) (B) of the Act. Respondent No.3, who made application to RERA (Document No.18 and 19) deliberately avoided to include the registered development agreements in the ongoing project entered in between Respondent No.2 and the Complainant, i.e., Documents No.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 developmental activity, to avoid the allotment of flats to the Complainant with dishonest intention to make good for themselves and make unjust enrichment and the same is in contravention of Section 4(2) (l)(A) and (B) and 4(2) (l) (F) and (m) of the Act and Rule 3 (1) (e) (f) and (4) of the Rules.

10. Further, Respondent No.3 in a fraudulent manner to avoid the legitimate rights and entitlement of the Complainant did not mention anything about the Complainant or the land belonging to him and various documents such as Documents No.1 to 6, even though it is incumbent on his part to mention those details in the Form-B. Form-B as prescribed by Rule 3(4) attached to the Rules speaks of the affidavit-cum-declaration to be given by Respondent No.3. Para 2 of Form-B format, as prescribed by the Rules, is not complied. In the Form-B (Document No.20) submitted by the Respondent No.3 promoter, the second limb of Para 2 is deliberately avoided.

11. Further, Respondent No.3 did not enter into any agreement as prescribed under the Act in respect of 4944.50 Sq. yards of land inspite of the fact that Respondent No.3 made use of the said land for the project developmental activity,

without making any allotment of constructed area to the Complainant, even though he entered into fresh Deed of Assignment-cum-Development Agreements-cum-General Power of Attorney, dated 04.07.2019, with all the persons who held the land, except the Complainant. No information about the agreement entered in between Respondent No.2 and the Complainant is furnished in the RERA application and no details are given. Respondent No.3 avoided to enclose the documents required to be enclosed as prescribed in clause 2 (iv) and (v) of the application for registration of project, i.e., Form 'A' in terms of Rule 3(2) of the Rules, in case of the Complainant, which is in contravention of the Rule 3 (d), (e) and (f) of the Rules.

12. Further, as per the information furnished in the Web by the RERA in turn furnished by Respondent No.3, vide Documents No.18 and 19, Respondent No.3 sought to develop 30268 Sq.Mts of land on the east and 34598.75 Sq.Mts of land on the west side of the entire land, situated in Sy.Nos.105 to 109 and 111 to 114 of Hafeezpet village, Serilingampally Mandal, Ranga Reddy District and he is a promoter as defined in the Act. The promoter has given names of landowners, whose land is sought to be developed. But, inspite of the fact that the Complainant being the land owner having rights in respect of an area of 3055.50 Sq.yards of land under the development agreements under Documents No.2 and 3, his name and flats to be allotted and other information as required to be furnished is not furnished, which is in contravention of Section 4(2) (l) (A) and Section 4(2) (l) (B) of the Act. Respondent No.3, who made application to the Authority under Documents No.18 and 19 has also deliberately avoided to include the Registered Development Agreements dt.20.06.2008, Documents No.2 to 6 in



respect of 3055.50 Sq.yards of land, which is taken into the project for developmental activity, to avoid the allotment of flats to the Complainant with dishonest intention to make good for themselves and make unjust enrichment and the same is in contravention of Section 4(2)(l)(A) and (B) and 4(2)(l)(F) and (m) of the Act. Document No.15 Para 2 suffers from the defect of not furnishing the information required to be furnished and in contravention of the Form-B Format. The definition of a person is given in Section 2(zg) (i), i.e., “an individual” and thus, the Complainant is entitled to file this complaint against Respondents, more particularly, Respondent No.3 for violating and contravening the provisions of the Act and Rules and Regulations made thereunder.

13. Respondent No.3 has also violated Section 7(1) (d) of the Act, since the promoter indulged in fraudulent practices, i.e., the promoter/respondent No.3, who made application to the RERA, deliberately avoided to include the particulars of the Complainant, the registered development agreements entered into in between Respondent No.2 and the Complainant, i.e., Documents No.2 to 6, in respect of 3055.50 Sq. yards of land and submit the copy of agreement of sale, i.e., Document No.1 and details in respect of remaining land of 4944.50 Sq. yards which is also taken into real estate project for developmental activity and to avoid the allotment of flats/constructed area to the Complainant with a dishonest intention to make good for themselves and make unjust enrichment.

14. Respondent No.3 has also violated Section 11 (1) (f) of the Act as he avoided to furnish information and documents in regard to Complainant and his land and thus failed to discharge his duties and functions as promoter. Hence, the complaint.

15. **REPLY ON BEHALF OF RESPONDENT Nos.2 and 3:**

Respondent Nos.2 and 3 have filed separate counters. The pleas advanced by Respondent Nos.2 and 3 are almost similar. As such, the contents from the counter of Respondent No.2 are referred to as under.

16. It was stated that the Complaint is not maintainable both on law and facts. The Complainant has initiated the present complaint only to harass the Respondents and is trying to arm twist and extort money from the Respondents under the threat of these proceedings. The Complainant has approached this forum with unclean hands and has deliberately suppressed material facts and is, thus, misleading the Authority by playing fraud.

17. Respondent No.2 had originally entered into various registered development agreements with several land owners of varied extents and thereby has consolidated to develop all that total land area admeasuring 64,866.75 Sq.meters in Sy.Nos.104 to 109 and 111 to 115 situated at Hafeezpet village, Serilingampally Mandal, Ranga Reddy District. Respondent No.2 *inter se* entered into the following registered agreements, i.e., two development agreements bearing Nos.4840/2008 (for development of land admeasuring 7304 sq.yards between M/s. Sri Sai Ram Projects Ltd. & land owners B.Jayavardhan – Agreement Holder for an area of 1826 Sq.yards) and 4841/2008 (for development of land admeasuring 4918 Sq. yards between M/s.Sri Sai Ram Projects Ltd. & land owners & B. Jayavardhan – Agreement Holder for an area of 1229.50 Sq. yards) both documents dated 20.06.2008. Thereafter, Respondent No.2 entered into registered supplementary agreements bearing Nos.1270/2013 & 1271/2013 (both documents dated 09.01.2013) and second supplementary Agreements bearing

Nos.10744/2014 & 10745/2014 (dated 30.08.2014). Under these documents, the original landowners along with the Complainant for an extent of area of 3055 Sq. yards, was made a party towards recognizing the rights as an Agreement of Sale holder dated 14.12.2007.

18. Respondent No.2 has also entered into the Development Agreements with various owners for the entire land all in the year 2008. Respondent No.2 aggregated large extents of land and wanted to consolidate and make constructions of Residential Apartments over the said total land in Sy.Nos.104 to 109 and 111 to 115 situated at Hafeezpet village, Serilingampally Mandal, Ranga Reddy District. However, the development activity could not be commenced by Respondent No.2 due to various unforeseeable reasons beyond the control of Respondent No.2. Neither the development commenced nor registration certificate of project under Section 5 of the Act was obtained by Respondent No.2. But, in the interest of all stake holders, it was decided to hand over the development project to some reputed developer. Thus, even before the project was registered as per the provisions of Section 5 of the Act, it was decided between the landowners, the previous developer (i.e., Respondent No.2) to give the development rights in favour of Respondent No.3 (i.e., M/s. Vasavi Realtors LLP). All the land owners of the land have executed registered agreements in favour of Respondent No.3 (i.e., M/s. Vasavi Realtors LLP) and Respondent No.3 agreed to develop two projects one admeasuring 34,598.75 Sq. meters & another 30,268 Sq. meters in Sy.Nos.104 to 109 & 111 to 115 of Hafeezpet village, Serilingampally Mandal, Ranga Reddy District. Building permit application was applied 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 proceeding/Builder Permit No.1/C20/01691/2020 in File No.1/HO/15979/18 obtained from GHMC (dated 07.02.2020) (for area measuring 30,268 Sq.meters – Vasavi's Lake City West and Building Permit No.1/C20/1690/2020 in File No.1/HO/15700/18 (Dt.7-2-2000) for area admeasuring 34,598.75 Sq.meters – Vasavi Lake City West. Thus, the total area being developed as per the Sanction Plan is 64,866.75 Sq. meters.

19. It is stated that after obtaining the above permissions from GHMC, Respondent No.3 has applied to the RERA Authority seeking registration of the project in accordance with Section 5 of the Act and Rules applicable. After considering the application, the Authority has issued registration certificate of projects bearing Nos.P02500001819 (Vasavi's Lake City West) and P02500001821 (Vasavi's Lake City East) dated 20.03.2020. The validity of the said registration is from 20.03.2020 to 07.02.2025. Subsequent to obtaining registrations from the Authority, the development works have been commenced and the work is being carried out as per the terms and conditions. Respondent Nos.2 and 3 are not a party to the various earlier transactions/documents that the Complainant is presently relying before the Authority. Respondent Nos.2 and 3 after obtaining the development rights from all the landowners, the present arrangement for development has been commenced after duly informing and obtaining necessary permissions from all the statutory authorities.

20. According to Respondent Nos.2 and 3, the Complainant filed the present complaint before the Authority without disclosing the true and complete material facts. In fact, he has deliberately suppressed important facts regarding the present case. The Complainant has completely suppressed the two crucial

documents, i.e., Registered Agreement of Sale-cum-General Power of Attorney bearing Document Nos.3324/2020 and 2992/2020 (dated 06.02.2020) which were entered between the original land owner (i.e., Sri P.Raja Rao/Respondent No.1) and the Complainant. From a reading of the contents of these Agreements, the entire so-called controversy now claimed by the Complainant will totally fall flat.

21. The Complainant has clearly admitted about the project being developed by Respondent No.3 and thereby the Complainant has proceeded to obtain new areas from the Land owner's (i.e., Sri P.Raja Rao/Respondent No.1) share. The Complainant has already received the entire area in lieu of his rights accruing under the Agreement of Sale (dated 14.12.2007) entered between himself and the landowner. The Land owner (Sri P.Raja Rao) has given the areas from his exclusive share to the Complainant and thus the Complainant after receiving the same cannot make the present allegations.

22. It is also contended that the Complainant is not a land owner and he is merely an Agreement of Sale rights holder and towards these rights he has already received the areas from the share of the Land owner (i.e., Sri P.Raja Rao/Respondent No.1). Therefore, under no capacity the present Complainant can raise any complaint against Respondent Nos.2 and 3. All the contentions raised by him regarding usurping his rights and areas are totally false and baseless. The original owner of the land is Sri P.Raja Rao and Respondent No.3 has obtained developmental rights from him under two Registered documents bearing Nos.989/2020 and 990/2020. Respondent No.2 (i.e., M/s. SriSai Ram Projects Ltd.), which was the previous developer, has entered into the various registered agreements with the original land owner, i.e., Respondent No.1 herein

(i.e., Sri P.Raja Rao) and other parties. The Complainant being a recognized agreement holder through the unregistered Agreement of Sale (dt.14.12.2007), he was made a party in the following documents. The fact remains that the Complainant is not the absolute owner as there has never been any registered conveyance deed/sale deed that has been obtained by the Complainant from his Vendors/Original landowners and that he only remains to be an agreement holder. The claim that the Complainant is owner with respect to the land admeasuring 8000 Sq.yards in Sy.Nos.105 to 114 situated at Hafeezpet village, Serilingmpally Mandal, Ranga Reddy District is totally baseless. The land owner of said land is Sri P.Raja Rao (Respondent No.1) and the said land owner has already executed registered development agreements with respect to total area entitlement of Complainant and thus, the Complainant has already received the new revised allocations/area that he was entitled under the Registered Agreement of Sale-cum-General Power of Attorney bearing Document Nos.3324/2020 and 2992/2020 (dated 06.02.2020). Therefore, the Complainant cannot raise any further claim and demands.

23. The relevant recitals (made in registered Agreement of sale-cum-General Power of Attorney bearing Document Nos.3324/2020 and 2992/2020 (dated 06.02.2020) to the above affect is being reproduced below for easy reference and to show the admissions made by the Complainant.

Document No.2992/2020.

- (i) “WHEREAS in pursuant to earlier Development Agreement-cum- GPA 49041/2008 and Supplementary Development Agreements 1270/2013 and 10745/2014 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 Sai Ram Projects Limited, the parties have mutually agreed to cancel earlier Supplement Agreements pursuant to cancellation of said Development Agreements. ”

Document No.3324/2020

(ii) “WHEREAS in pursuant to earlier Development Agreement-cum-GPA 4940/2008 and Supplementary Development Agreements 1271/2013 and 10744/2014 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 Sai Ram Projects Limited, the parties have mutually agreed to cancel earlier Supplemental Agreements pursuant cancellation of said Development Agreements”

24. In light of the said admissions made by the Complainant under registered documents, the present Complaint has to be dealt. Respondent No.2 has already issued legal notice dated 31.07.2020 calling upon the Complainant to perform his obligation of executing the registered cancellation deeds as agreed between the parties. However, for certain *malafide* reasons, the Complainant has been avoiding to do the same. Respondent No.2 has fully realized that the Complainant is deliberately avoiding his obligations and on the other hand, he has been harassing the present parties before various forums clearly contradicting to the understanding already reached between the parties. Therefore, Respondent No.2 and the Complainant, who are parties to the Registered Second Supplementary Deeds bearing Nos.10744/2014 (dated 30/08/2014) and 10745/2014 (dated 30/08/2014), where under they have specifically agreed for resolution of all

disputes through arbitration, invoking the said provision available between the parties the steps for initiating arbitral proceedings have already been initiated by Respondent No.2.

25. Therefore, it is clear that the Complainant, who is claiming to be a landowner, will not be a consumer or “allottee” within the definition of the RERA Act and the landowner can only be treated as Co-Promoter. The Act clearly provides resolutions of disputes only when “allottee” files a case/complaint alleging violation of obligation on the part of the “Promoter” or “Real Estate Agent” as per the Section and terms of the Agreement of Sale and *vice versa*. The Authority cannot deal with disputes between Promoter & Co-Promoters for the same the parties must choose to resolve their disputes through other remedies available under law. The Complainant has initiated the present complaint in bad faith and only to harass this Respondent.

26. Respondent Nos.2 and 3 further pleaded that the Complainant has deliberately suppressed the facts concerning the execution of Registered Agreement of Sale-cum-General Power of Attorney bearing Document Nos.3324/2020 and 2992/2020 (dated 06.02.2020). On perusal of the recitals of the said documents makes it very clear that the Complainant purely as an afterthought has initiated these proceedings when on one hand the Complainant has voluntarily admitted to execute registered cancellation deeds to cancel the following previous transactions, Registered Development Agreements (Nos.4940/2008 and 4941/2008), Supplementary Agreements (Nos.10744/2013 and 10745/2013). The Complainant has fully admitted the knowledge about the development being carried out by Respondent No.3 after the execution of fresh



Development Agreement by the original land owner, i.e., Sri P.Raja Rao (Respondent No.1). It is established principle of law that any persons who approaches any Court of law, Tribunal or other statutory Authority by suppression of material facts, he will not be entitled to any relief.

27. It is contended that the fundamental assertion of the Complainant before this Authority is by claiming that he is a “landowner” of 8000 Sq. yards of land and in this capacity, he seeks to invoke the power of this Authority claiming that the Respondents have violated various obligations under the Act. In this regard, it is submitted without admitting, for a moment even if it is assumed that the Complainant is a landowner, then “Landowner” can never be categorized under the definition “allottee” under Section 2(d) of the Act and that “Land Owner” can only be treated as a “Promoter” within the definition of Section 2(zk) of the Act. There is more than one reason to support this submission.

28. Firstly, the legislation in its wisdom has deliberately left out to include landowner/s from the definition of “allottee”, Secondly, in the definition in Section 2(zk) in sub-clause (i) the expression used is “causes to be constructed” is wide enough to include the landowner within the fold of this definition as the land owner acts/causes the construction over the land. Thirdly, in the definition in Section 2 (zk) in sub-clause (v) has specifically included power of attorney holder of the landowner. Fourthly, the obligations that are stipulated under Sections 16 (1) (i), 17 & 18 (2) cannot be discharged without the landowner being a Promoter or Co-Promoter to the project. Hence, the issues raised by the Complainant (as a Co-Promoter) are matters which call for resolution before other forums such as Arbitration Tribunals or Competent Civil Court/s as the case may be.

29. Respondent No.3 under the Development Agreements stated above has for the first time applied and obtained registration of project under Section 5 of the Act on 07.02.2020 for which the Registration Nos.P02500001821 and P02500001819 have been issued by this Authority. All the transactions that are being complained of are all prior to obtaining of the project registration in this case and as such, by no stretch of imagination, Section 15 violations get attracted. Respondent No.3 has obtained registration and has been carrying out the constructions as per law. There has been no illegal transfer of rights/obligations of the Promoter as is being stated by the Complainant, as the arrangement for Development entered between the landowners, previous developer (Respondent No.2) and the present Developer (Respondent No.3) are all before obtaining of registration of project. Respondent No.3 has got the development rights through the deeds executed by all the landowners and previous developer. The Complainant not being a landowner, he cannot make any claims. On the other hand, the original land owner (Sri P.Raja Rao) has executed necessary documents in favour of Respondent No.3. Therefore, there is no merit in the contentions raised by the Complainant in connection with the violation of Section 15 (1) and (2) of the Act.

30. This Respondent has made no violations and has disclosed all the complete disclosures as mandated by the Act, 2016 and the applicable Rules. Respondent No.3 has disclosed all the details of persons who own the land in the present case. It is being repeated at the cost of repetition that the Complainant is not a land owner and the original land owner is Sri P.Raja Rao/Respondent No.1. His details and the execution of necessary documents have been clearly disclosed. More

importantly in light of the admissions made by the Complainant under the two Registered Agreement of Sale-cum-GPA bearing Document Nos.3324/2020 and 2992/2020 (dated 06.02.2020) entered between the Complainant and the original land owner, i.e., Sri P.Raja Rao/Respondent No.1, these allegations stand to fail. The Complainant has categorically admitted his status of being only an Agreement of Sale Holder (vide unregistered Agreement of Sale dated 14.12.2007) and he has already received the entire entitlement based on such Agreement from the Land owner, i.e., Sri P.Raja Rao/Respondent No.1 under the above mentioned registered documents. The Complainant has received a total area of 27,745 Sq. feet (super built up area) from the proposed development from the exclusive share of Land owner, i.e., Sri P.Raja Rao/Respondent No.1. Therefore, all the allegations concerning violations under Sections 4 & 11 (1) (f) read with Rule 3 of the Act and Rules are not sustainable.

31. Respondent No.3 has committed no “fraudulent practices” as is being alleged by the Complainant. The Complainant is clearly aware of the new arrangement that has been made between the parties. From the Complainant clearly admitting to such knowledge and his implied consent to the same by the clear recitals made in two Registered Agreements of Sale-cum-GPA bearing Document Nos.3324/2020 and 2992/2020 (Dated 06.02.2020), the Complainant is now stopped from making this false claim. The Complainant has suffered no loss whatsoever as being alleged. The Complainant has voluntarily accepted the new revised areas under the above referred registered documents where under he has received total constructed area of 27,745 Sq. feet (super built up area) from the original land owner, i.e., Sri P.Raja Rao/Respondent No.1. Therefore, all the

contentions now being made by the Complainant are purely an afterthought only to arm twist the Complainant and is making illegal attempts to cause unwarranted harassment to the Respondents.

32. It is further pleaded that misusing the provisions under Section 31 of the Act for the reasons already mentioned supra, the Complainant cannot invoke the powers of this Authority on the basis of the present complaint. The Complainant if at all seeks to redress any grievance against the Land owner (Sri P.Raja Rao) or the previous Developer (Sri Sai Ram Projects Ltd.), he has to resort to legal remedies before the Arbitral Tribunal or competent Civil Courts. The Complainant is purportedly trying to drag Respondent No.3 (Vasavi Realtor LLP), who has no privity of contract or any relation to the Complainant, and therefore, there is no reason whatsoever to file this complaint before this Authority as clearly there are no violations whatsoever committed by Respondent No.3 under any of the provisions of Act or Rules. Therefore, Respondent Nos.2 and 3 pray to dismiss the complaint.

**REJOINDER BY THE COMPLAINANT:**

33. The Complainant filed a rejoinder stating *inter alia* that the development agreements were wrongly referred to as Document bearing No.4840/2008 and 4841/2008, but in fact the registered numbers as given by the registration department are 4940/2008 and 4941/2008 which are referred as Document No.2 and 3 in the complaint. Respondent No.2 after having studied the contents of the Agreement of Sale dated 14.12.2007, i.e., Document No.1 executed the Registered Development Agreements-cum-General Power of Attorney dated 20.06.2008, i.e., Documents No.2 and 3 along with Respondent No.1 and his father. Of course,

reference of Agreement of Sale dated 14.12.2007 is also there in Documents No.2 and 3. It is also abundantly clear by the parties to the said documents, i.e., Party No.1 and 2 therein and Respondent No.2 herein, i.e., M/s. Sri Sai Ram Projects Limited that the Complainant alone is entitled to enjoy and get benefits or has right or claim over the B-Schedule property, i.e., the land as referred under Documents No.2 and 3 and Respondent No.1 herein and his father are only proforma parties to the said documents as is evident from page 3 of the documents No.2 and 3 filed by the Complainant.

34. As admitted by Respondent No.3, Respondent No.2 entered into the development agreements with various owners and thus the Complainant herein who holds development agreements is treated as owner for his portion of the land.

35. Respondent No.2 fraudulently, inspite of entering into development agreements with various landowners did not develop the land and deliberately did not apply for registration of the Real Estate Project, even though the Act came into force as back as on 01.01.2017 and thus, Respondent No.2 violated Section 3 of the Act. Registration of the Project with RERA is a mandatory procedure whether or not the development is commenced and thus not getting the registration certificate by Respondent No.2 cannot be taken as a privilege and for that it should be penalized under Section 59 of the Act.

36. It is stated that in Para 1 of page 4 of Document No.10 filed along with the complaint, Respondent No.2 categorically admitted that it obtained building permit No.53475/HO/WZ/Cir-12/2016 in File No.31694/31/05/2014/HO dated 18.05.2018 and thus, it is evident that without getting the project registered with RERA started development activity and other works according to it. It obtained

permission on 18.05.2018 but in fact the RERA came into force on 01.01.2017 and thus violated Section 3 and 4 of the Act. The Complainant is neither aware nor was put on any notice regarding the handing over of the development project to some reputed developer, as stated by Respondent NO.3. That whether or not the promoter registers the project with RERA, the Act unconditionally applies with effect from 01.05.2017 in Telangana State.

37. Under Documents No.6 and 7 dated 30.08.2014, filed along with the complaint i.e., Second Supplementary Agreements at un-numbered para No.3 of page 2, Respondent No.2 categorically admitted that the Complainant is absolute owner and possessor of an area of 1826 Sq. yards and 1229.50 Sq. yards respectively and in fact flats were allotted to him as land owner and thus Respondent No.2 and 3 are stopped from claiming that the Complainant is not the absolute owner or otherwise under Section 115 of the Evidence Act.

38. As a matter of fact, deeds of assignments, executed by Respondent Nos.2 and 3 jointly, which were executed during the year 2019, are without getting the registration of the project and thus both Respondents have violated Sections 3, 4 and 5 of the Act as the RERA Certificate were issued on 07.02.2020, i.e., Documents No.25 and 26. Respondent No.3 specifically admitted that he has entered into registered agreements with all the land owners in respect of entire project area, but Respondent No.3 in order to avoid the legitimate rights and benefits in the constructed area and to knock away the land belonging to the Complainant neither informed nor entered into any such registered document (Document No.10), as in case of other land owners, which is illegal. The complainant was kept in dark without any intimation.

39. It is further contended that since Respondent No.3 is not a party to the various documents, i.e., Documents No.2 to 7, it can't absolve its liability and obligations as contemplated under Section 15(2) of the Act as Respondent No.3 itself submitted to the jurisdiction of RERA. Further, Respondent Nos.2 and 3 are nowhere concerned with the document Nos.3324/2020 and 2992/2020 agreement of sale cum general power of attorney executed by Respondent No.1 in favour of the Complainant for the following reasons:

- a. These documents are power of attorneys under which Respondent No.1 is the principal and the Complainant is an agent to the principal.
- b. Respondent Nos.2 and 3 are not parties to these documents and, therefore, cannot make use of these documents and Respondent No.2 and 3 cannot claim discharge of its liability under Document Nos.2 to 7.
- c. It is specifically stated by the principal/Respondent No.1 herein that *"and the following flats now being sold through this agreement of sale cum GPA has fallen to the share of the vendor herein, more fully described in aforesaid deed of development agreement cum general power of attorney document No.989/2020 dated 22.01.2020"*
- d. It is specifically stated by the principal/Respondent No.1 that *"and the following flats are now being sold through this agreement of sale cum GPA has fallen to the share of the vendor herein"*.
- e. Respondent No.2 who earlier entered into development agreement cum GPA and other Documents No.2 to 7 is not a party to the parent document of these two AGPAs i.e., Document No.990/2020 dt.22.01.2020 and document No.989/2020, dt.22.01.2020.
- f. Thus, both transactions are different and documents No.23 and 24, the flats have fallen to the share of Respondent No.1 are given to his agent, i.e., the Complainant, which is altogether a different transaction, unconnected to Respondent Nos.2 and 3 in the wake of Respondent Nos.2 and 3 in turn discharging their liabilities under Document Nos.2 to 7.

40. Further, Documents No.21 and 22 are power of attorneys and the Complainant is only an agent and Respondent No.1 is the principal and the terms of the said documents further confirm the said fact. Thus, the Complainant is only an agent under Documents No.21 and 22 acting on behalf of principal and for these documents, no consideration is paid by the Complainant and the Complainant is answerable and accountable to Respondent No.1 as he being the agent acting for principal, i.e., Respondent No.1.

41. Under Documents No.23 and 24, nowhere it is stated that the Complainant shall be given certain flats in discharge of Respondent No.2's liability or Respondent No.3's liability in discharge of liabilities created under Documents No.2 to 7 and, therefore, transactions under Documents No.21 and 22 are altogether different and distinct and unconnected to Respondent Nos.2 and 3.

42. The Complainant contends that it is false to say that the Complainant has already received the entire area in lieu of the agreement of sale dated 14.12.2007, entered in between himself and landowners, as the Complainant is a land owner and the Respondent No.1 and his father, have no rights as admitted by the parties to documents No.2 to 7 and as admitted by Respondent No.2. As the Complainant is a land owner and he has to be given the same constructed area, which is given to abutting land owners and there cannot be any discrimination while giving such enhanced constructed area, which shall be on par with other land owners and the Respondent Nos.2 and 3 cannot make any discrimination and any such discrimination is against Rule 3 (4) of the Telangana Real Estate (Regulation and Development) Rules, 2017.



43. Under un-numbered para 4 of page 5 of the Document No.10, the adjacent land owner as against his land being given under the said document, i.e., 200 Sq. yards is given an area of 8930 Sq/feet (i.e., 8930 Sq. Ft. is divided by 200 Sq. yard is equal to 44.65 Sq. Ft., thus for 1 Sq. yard of land, 44.65 Sq. Ft. of constructed area is given and thus the Complainant is entitled for 8000 Sq. yard x 44.65 Sq. Ft. = 3,57,200 Sq. Feet of constructed area and in order to avoid such an area of 3,57,200 Sq. Feet being allotted to the Complainant, to make unjust enrichment of itself, Respondent No.2 and Respondent No.3 did not put on any notice or intimation to the Complainant at the time of entering into such deed as described under Document No.10, with all other land owners as admitted by him at para 6 of the above counter. Respondent No.3 being an assignee has not discharged its obligation under Documents No.2 to 7, at any point of time and it cannot take shelter, under Document Nos.21 and 22, i.e., transactions in between Respondent No.1 and the Complainant which are totally different. Further, Respondent No.3 cannot plead that "*he has no role to play*" since he is obligated to the Complainant under Section 15 of the Act and it is a make-believe story, set up for the purpose of knocking away the constructed area to which the Complainant entitled. Further, when the Complainant has to get an area of 3,57,200 Sq. Ft as against his land of 8000 Sq. yards, Respondent No.3 is resorting to unfair practice and in a fraudulent manner trying to knock away the property of the Complainant with make believe stories.

44. According to Complainant, he has got nothing to do with the documents executed in between Respondent Nos.1 and 3 under Document No.3 that towards the Complainant's share, the flats shall be given to the Complainant by

Respondent No.1 and the Complainant is not a party to these documents and therefore, the liability of Respondent Nos.2 and 3 is not discharged. As earlier said, the transaction in between Respondent No.1 and the Complainant is altogether different and distinct under which the Complainant is an agent of Respondent No.1, who is acting for and on behalf of Respondent No.1. Further, Act would not keep aside the right of agreement holders as is evident from Section 4(2) (l) (A)(B) read with Rule 3 (1) (f) of the Act and Rules. The rights of the Complainant and that of P.Raja Rao, i.e., Respondent No.1 and his father late P.Nagabhushanam are clearly stated in the Registered Development Agreements, i.e., Documents No.2 and 3.

45. The complainant contends that he never agreed for cancellation of the Agreement of Sale of 2007. Parties agreed to cancel as stated in Documents No.22 and 23 means as it is understood by the parties, Respondent No.2, who did not develop the project joined hands with Respondent No.3 and both of them in discharge of various liabilities under development agreements or in place of various development agreements, which Respondent No.2 earlier entered with various land holders has along with Respondent No.3 afresh in turn entered into a deed under the name and style of "*Deed of Assignment-cum-Development Agreement-cum-General Power of Attorney*" which is specifically admitted by Respondent No.3 here in para (vi) of the counter. For the sake of better appreciation of facts, the contents of the document entered and executed in between the other landowners and Respondent No.2 and 3 under the name and style of "*Deed of Assignment-cum-Development Agreement-cum-General Power of Attorney*", i.e., Document No.10 can be looked into. Thus, Respondent Nos.2 and

3 in this document admitted that Respondent No.2 also obtained various other development agreements from the owners of abutting extents of land apart from the schedule land and Respondent No.3 is a party to the said documents and thus Respondent Nos.2 and 3 admitted that development agreements are existed earlier, with land owners in this context, all the registered development agreements holders are treated as land owners and thus in view of existence of registered development agreements in favour of Complainant, the Complainant shall also be treated as land owner on par with other adjacent land owners. Since no such “*Deed of Assignment-cum-Development Agreement-cum-General Power of Attorney*” is executed by Respondent Nos.2 and 3, as executed in favour of all the land owners as admitted by Respondent No.3 in para 6 of the above counter, by Respondent Nos.2 and 3 in favour of the Complainant in place of Documents No.2 to 7, the question of cancellation of Registered Supplementary Agreements 4 and 7, pursuant to the Development Agreement, i.e., Documents No.2 and 3 did not happen and the Complainant is always ready to cancel these documents, provided in place of these documents, the Deed of Assignment-cum-Development Agreement-cum-General Power of Attorney similarly executed in favour of abutting plot owners/land owners are executed in favour of Complainant with such an enhanced area as specified in the Document No.10. Since none of the documents are cancelled, i.e., Documents No.1 to 7, these documents remain undisturbed and binding on Respondent Nos.2 and 3.

46. The Complainant had no knowledge either about the project being developed by Respondent No.3 and assignment of the said property to it by Respondent No.2 and execution of such deeds, i.e., under Document No.10. Either Respondent

No.2 or Respondent No.3 never gave any notice or intimation of any such assignment to the Complainant and Respondent No.2 and Respondent No.3 are put to strict proof of the same. The transactions entered in between Respondent No.1 and the Complainant under Documents No.21 and 22 are altogether different and distinct as stated in the foregoing paragraphs. The Complainant never agreed for cancellation of the Documents as alleged by Respondent No.3 but it is as explained and stated above. Since there is no dispute in respect of Documents No.2 to 7 as to their execution etc., and since all these documents are admitted by Respondent No.2, there is no necessity of any Arbitral proceedings, and the provisions of Act will prevail.

47. The Complainant is an allottee so far as the extent of 3055.50 of land is concerned as defined under Section 2 (d) of the Act and also in view of the fact that Respondent No.2 having entered in Registered Development Agreements and Supplementary Agreements under Documents No.2 to 7 and issued allotment letters under Documents No.8 and 9. The said extent of 3055.50, which is subject matter of Documents No.2 to 7 is nothing but part of the Document No.1 and as explained in the complaint. For the balance land of 4944.50 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) "*Person*" includes an Individual. A combined reading of Section 31 along with 2 (zg) says that any aggrieved person as an individual can file a complaint with the Authority. Therefore, the Complainant is an aggrieved person as contemplated under the said provision read with Section 31 of the Act. The explanation never said the person excludes an individual in view of the combined reading of Section 31 along with Section 2(zg) of the Act.

48. The Complainant further contends that the Complainant is not a promoter as defined under the Act. There is no provision in the entire Act, 2016 and rules framed thereunder, disentitling a promoter to file a complaint against another promoter. The word promoter does not exclude a person or individual. Therefore, a promoter can as well be treated as aggrieved person, who can file a complaint against another promoter, since there is no bar for a promoter to file a complaint against another promoter (vide Section 2 (zk) (i) of the Act, 2016).

49. It is stated that the Respondents misconceived the provisions and misinterpreted the provisions of the Act, for the reasons that there is no word spelled as “Co-Promoter” in the entire Act, 2016 and the Rules, 2017. Respondent No.3, who submitted applications to this authority for obtaining certificate under Documents No.18 and 19, has given a list of promoters/landowners. In the said list, nowhere the name of the Complainant is mentioned either as a promoter or as a landowner and now Respondent No.3 cannot fall back and claim that the Complainant is a promoter or co-promoter. Thus, Respondent No.3 is stopped under Section 115 of Evidence Act from taking such stand. Further, under Section 79 of Act, there is a bar of Civil Court Jurisdiction and if the jurisdiction of Civil Court is excluded and exclusive jurisdiction is granted to a specific court or tribunal as a matter of public policy, then such a dispute could not be capable of resolution by Arbitration. At last, the complainant prays to allow the complaint.

50. The complaint was originally filed in 2020 and after considering the facts of the case, vide Order dated 20.11.2020, the Authority disposed of the complaint holding as under:

*“Whereas Section 31(1) of the Real Estate (Regulation & Development) Act, 2016 states that any aggrieved person may file a complaint with the Authority or the Adjudicating Officer in contravention of the Provisions of the Act, Rules & Regulations and the ‘Person’ shall include association of allottees or any voluntary consumer association registered under any law.*

*In this case, it is clear that the complainant is not an aggrieved persons to file a complaint as he is one of the promoter (land owner) which is evident from the complaint filed by himself, i.e., Boyenpally Sri Jayavardhan.*

*Therefore, in exercise of the powers conferred under Rule 2(i) of the Rules, 2017, the complaint is disposed of as Not Maintainable in terms of Section 31 (1) of the Act.”*

51. As the matter stood thus, the aggrieved complainant approached the Hon’ble High Court of Telangana at Hyderabad vide Writ Petition No.16206 of 2020, before passing of the above order, and vide Final Order dated 28.12.2020, the Hon’ble High Court directed this Authority to hear the matter afresh re-numbering it as “Complaint No.2 of 2020”.

52. Since the matter was being heard afresh, a Notice 09.01.2021 was issued to the Complainant and the Respondents to attend the hearing before the Authority. The said Notice was challenged and vide final common order dated 27.03.2023 passed in W.P.No.2694 of 2021 and W.P.No.13898 of 2022, the Hon’ble High Court directed as under:

*“After careful consideration of the matter and without expressing any opinion on the merits of the matter with regard to the development agreement or the terms and conditions mentioned therein and the*

*entitlement of the petitioner to his share as claimed in the development agreement and also the rights and liabilities of respondent Nos.7 and 8, this Court deems it appropriate to dispose of the writ petitions directing the RERA authority to consider the pending applications within two(2) months in accordance with the provisions of the RERA Act and the rules made thereunder and till the disposal of the applications submitted by the petitioner, there shall not be any further transactions over the subject property in any manner.*

*With the above directions, these writ petitions are disposed of.*

*There shall be no order as to costs.”*

53. Aggrieved by the order in Writ Petition No.13898/2022 dated 27.03.2023, the Complainant/Appellant has preferred Writ Appeal No.584/2023. Later, Their Lordships of the Hon'ble Division Bench of the High Court disposed of the Writ Appeal No.584/2023 vide Order dated 19.08.2023 observing that the Real Estate Regulatory Authority has been constituted and the Complainant/Appellant represented that nothing survives for adjudication in the Writ Appeal.

54. In lieu thereof, hearings were conducted on 03.08.2023, 19.08.2023 and 24.08.2023. Both the Complainant and Respondent Nos.2 and 3 through their respective Counsel appeared and learned Counsel for both parties made elaborate submissions and order was reserved.

55. When the Authority has gone through the record in order to prepare order, it is noticed that notice to respondent No.1 was not served, and Respondent No.1 did not appear and participate in the proceedings of the case. As such, this Authority

*suo motu* reopened the case and notices were issued to the parties and the Counsel for Respondent No.2 and 3 filed *Vakalathnama* on behalf of Respondent No.1 and submitted that no counter on behalf of Respondent No.1.

56. Heard learned Counsel for the complainant and learned Counsel for respondent Nos.1 to 3. Document Nos.1 to 26 on behalf of complainant (including documents filed in the Rejoinder dated 18.01.2021) and Document Nos.1 to 5 on behalf of Respondent No.3 and none for Respondent Nos.1 & 2 have been relied in support of their respective contentions.

57. Now the points that arise for determination on the basis of rival contentions of the parties in the case are as under:

- 1) Whether the Complainant is an “aggrieved person” in terms of Section 31 of the Act?
- 2) Whether Respondent No.3, applicant before this Authority, has violated the provisions of the Act?
- 3) Whether the Complainant is entitled for the reliefs claimed?

**58. POINT No.1:**

The admitted facts are that respondent No.1 and his father late P. Nagabhushanam are owners of part of the land under development. Respondent No.1 along with his late father and others alleged to have entered into Agreement of Sale dt.14.12.2007 in favour of the complainant agreeing to sell an extent of 8000 Sq.yards in Sy.Nos.105 to 109 and 111 to 114 of Hafeezpet village for total consideration of Rs.1,60,00,000/- (Rupees One Crore Sixty Lakhs Only). Later, the Complainant, Respondent No.1 and Respondent No.2 entered into two Registered Development Agreements-cum-General Power of Attorneys dt.20.06.2008 and



under these documents, the complainant gave an extent of 3055.50 Sq. yards of land out of land agreed to be purchased by him for development to respondent No.2.

59. Further, two Registered Supplementary Development Agreements-cum-General Power of Attorneys dt.09.01.2013 were executed between the complainant and Respondent No.2 for some modifications in respect of above-mentioned Development Agreements-cum-General Power of Attorneys bearing Document Nos.4940/2008 and 4941/2008 Document No.2 and 3 respectively.

60. Subsequently, two Registered Second Supplementary Agreements dt.30.08.2014 were executed between the Complainant and Respondent No.2 wherein the super built-up area to be allotted to the complainant with Flat numbers and other information in detail towards his share in connection to above mentioned Development Agreements-cum-General Power of Attorney and Supplementary Development Agreement-cum-General Power of Attorney is mentioned.

61. Respondent No.2 has also issued 2 (two) allotment letters in favour of complainant, wherein the details of flats allotted to the complainant are mentioned.

62. Respondent No.2 entered into certain agreements for development with abutting landowners in the year 2008. The 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. Respondent No.2 along with Respondent No.3 also entered into the registered deed of Assignments-cum-

Development Agreements-cum-General Power of Attorneys with abutting landowners in the year 2019, wherein the super built-up area entitled to respective landowners in proportionate to the extent of their land is mentioned.

63. Respondent No.1 and the complainant entered into two other registered Agreements of Sale-cum-General Power of Attorneys dt.06.02.2020 and the complainant agreed to cancel the earlier agreements between him and respondent Nos.1 and 2. But, according to complainant, since the agreed condition was not fulfilled, he did not execute the cancellation deed.

64. The complainant on the basis of above said Registered Agreements of Sale-cum-General Power of Attorneys has also executed sale deeds in favour of third parties in respect of flats in the month of February 2020.

65. The complainant has raised several pleas in support of his contentions. The case of the complainant mainly rests on the prime document, i.e., un-registered agreement of sale dt.14.12.2007 executed by Respondent No.1 and his late father for sale of 8000 Sq.yards of land. Out of this, the complainant gave part of said land, i.e., 3055.50 Sq.yards of land to Respondent No.2/Developer and executed along with respondent No.2 Registered Development Agreements-cum-General Power of Attorneys bearing Document Nos.4940/2008 and 4941/2008, both dt.20.06.2008 for development.

66. Learned Counsel for the complainant contended and mentioned in rejoinder that agreement of sale in the State of Andhra Pradesh is compulsorily registerable with effect from 01.12.2012 as Section 17 (1) (f) of Registration Act is amended not prior to that date. According to him, there is no legal infirmity in relying on said

agreement of sale dt.14.12.2007. Learned Counsel contends that the said Agreement of Sale is culminated in subsequent Registered Development Agreements-cum-General Power of Attorneys dt.20.06.2008, to which Respondent No.2 is a party. Therefore, the complainant is entitled for the reliefs sought.

67. *Per contra*, learned Counsel for Respondent Nos.2 and 3 contended that the agreement of sale Dated 14-12-2007 is unregistered one and complainant did not get regular registered sale deed through Respondent No.1 and his father as per contents of agreement of sale and as such no title passed in favour of the Complainant. Further, the agreement of sale being unregistered, is hit by the provisions of Section 17 (1) (g) of the Registration Act and as such, it is of no help to the Complainant. In support of his contentions, learned Counsel placed reliance on a decision of Hon'ble Supreme Court in **Suraj Lamp Industries Pvt.Ltd., v. State of Haryana.**

68. This Authority has considered the submissions advanced on behalf of both parties.

69. The observations of the Hon'ble Supreme Court in **P.V.Anvar vs. P.K.Basheer & others** vide judgment dt.18.09.2014, are very relevant and important for the legal question involved. Their Lordships of Hon'ble Supreme Court, while considering the nature and manner of admission of *electronic records* in evidence, observed *inter alia*, in the very first Para of the judgment, as under:

*“Construction by pleadings, proof by evidence; proof only by relevant and admissible evidence. Genuineness, veracity or reliability of the evidence is seen by the court only after the stage of relevancy and admissibility. These are some of the first principles of evidence”*

70. In **Suraj Lamp Industries Pvt.Ltd., v. State of Haryana** relied by learned Counsel on behalf of respondent Nos.2 and 3, Hon'ble Supreme Court held that *sale transactions carried 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. Their Lordships also observed that the transactions of the nature of GPA Sales or Sale Agreement/GPA/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.* It is also 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 an immovable property. It is further held that such transactions cannot be relied upon or made the basis for mutation in municipal or revenue records. At last, Hon'ble Supreme Court reiterated that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance.

71. On a careful consideration of the contentions on behalf of both parties, it has to be said that this Authority is bound to follow the settled proposition of law laid down in said **Suraj Lamp Industries Pvt.Ltd's case.** Therefore, and in view of provisions under Section 17 (1) (g) of Registration Act, this Authority has no hesitation to hold that the said contention advanced on behalf of complainant has no force and there is considerable force in the contention advanced on behalf of Respondent Nos.2 and 3. Accordingly, it is held that the Agreement of Sale dt.14.12.2007 relied on by the complainant does not establish the right of the Complainant as the owner of the property and therefore the rights flowing, if any, in pursuance of the alleged agreements entered into between the Complainant and

the Respondent Nos. 1 & 2 are to be established and proved in a court of law but same does not confer any right to seek relief under the Real Estate (Regulation and Development) Act, 2016.

72. Now, this being the basis, whether the Complainant can be classified as an “aggrieved person” under the Act to maintain the complaint before the Authority?

73. It is the contention of the Complainant that under Section 31 (1) of the Act, *any aggrieved person may file a complaint before the Authority or the Adjudicating Officer, as the case may be, for any violation or contravention of the provisions of the Act or the Rules against any Promoter, Allottee or Real Estate Agent, as the case may be.* Learned Counsel for the complainant contended that the definition of a ‘person’ is given in Section 2 (zg) (i) of the Act as an individual. It is, therefore, the contention of learned Counsel that the complainant is entitled to file present complaint against the respondents, more particularly, against Respondent No.3 for violating and contravening the provisions of the Act and Rules.

74. On the other hand, learned Counsel for Respondent Nos.2 and 3 contended that the complainant, who is claiming to be a land owner, will not be a consumer or allottee within the definition of the Act. The Act clearly provides regulations of disputes only when allottee files a case/complaint alleging violation or obligation on the part of the Promoter or a Real Estate Agent. It is also contended that from the nature of allegations in the complaint, it is crystal clear that the complainant is aggrieved by the actions of the previous developer (Respondent No.2), who is not a Promoter in the present Project and Respondent No.1. According to learned Counsel, Respondent No.3/present developer has no obligation or direct relation to the complainant and that there is no privity of contract between complainant

and Respondent No.3. Therefore, this Authority has no jurisdiction to decide the dispute in the complaint and the complainant does not fall within the definition of an *aggrieved person* to maintain the complaint.

75. This Authority has considered the contentions advanced on behalf of both the parties.

76. In the light of provisions in Section 31 and definition of “person” in Section 2 (zg) of the Act and facts of the present case, it has to be considered whether the complainant can be treated as “aggrieved person” to maintain complaint before the Authority.

77. This Authority has held for reasons recorded *supra* that the unregistered agreement of sale dt.14.12.2007 relied by the Complainant is not valid enabling the complainant to enter into subsequent different transactions in the present case. When such is the conclusion, the question arises as to whether the Complainant gets any right under other subsequent documents executed after execution of agreement of sale dt.14.12.2007 between the parties. The answer to such question would be in negative.

78. It is pertinent to note that when the Complainant has no right to enter into any other transactions on the basis of execution of agreement of sale dt.14.12.2007 the same being not valid, the contention of the Complainant that his right as alleged has been infringed on account of alleged acts of Respondent Nos.1 to 3 is not tenable under law. When the Complainant doesn't get any title or title does not pass on the basis of agreement of sale dt.14.12.2007 and in light of Section 54 of the Transfer of Property Act, 1882, it has to be held that the

Complainant cannot be termed as an “*aggrieved person*”. No doubt, the definition of ‘person’ includes an individual. It doesn’t mean that every individual will have right over a disputed subject matter. If an individual has legal right over a disputed subject matter and his such right is violated or infringed or affected, then only he will have right to question such act and, in such circumstances, he can be termed as “*aggrieved person*”.

79. In the light of aforesaid reasons, this Authority has no hesitation to hold that the Complainant cannot be termed as an “aggrieved person” as referred in Section 31 of the Act and as such he cannot maintain present complaint before this Authority. The Point is accordingly answered against the Complainant and in favour of the Respondents.

**80. POINT No.2:**

Learned Counsel for the Complainant has referred to the various contentions referred in the complaint and contended that Respondent No.3 has failed to furnish the required particulars as per Section 4 read with Rule 3 of the Act and Rules. It is also the contention of learned Counsel that Respondent No.3 has also violated the provisions of Sections 7 (a), 11 (1) (f) and 15 (1) of the Act. Therefore, it is the contention of the learned Counsel that the registration granted to Respondent No.3 has to be revoked and Respondent No.3 should be imposed penalty in accordance with the provisions of the Act and Rules.

81. On the other hand, learned Counsel for Respondent No.3 has contended that the contentions of the complainant are false. According to learned Counsel, the Complainant has no *locus standi* to file present complaint and the dispute as

alleged by the Complainant is mainly between the Complainant and Respondent Nos.1 and 2. At last, learned Counsel prays to reject the said contentions advanced on behalf of the Complainant.

82. Before going to consider the rival contentions of the parties on the question of contraventions alleged to have been committed by Respondent No.3, it is just and appropriate to refer to the relevant provisions of the Act and Rules.

83. Section 4 (2) (l) (A) and (B) and (m) of the Act reads as under:

*(2) "The promoter shall enclose the following documents along with the application referred to in sub-section (1) namely:--"*

.....

*(l) a declaration, supported by an affidavit, which shall be signed by the promoter or any person authorized by the promoter, stating:--*

*(A) That he has a legal title to the land on which the development is proposed along with legally valid document with authentication of such title, if such land is owned by another person;*

*(B) That the land is free from all encumbrances, or as the case may be details of the encumbrances on such land including any rights, title, interest or name of any party in or over such land along with details;*

.....

*(m) Such other information and documents as may be prescribed.*

Section 7 (1) (a) of the Act reads as under:

*"The Authority may, on receipt of a complaint or suo motu in this behalf or on the recommendation of the competent authority, revoke the registration granted under section 5, after being satisfied that--*

*(a) The promoter makes default in doing anything required by or under this Act or the rules or the regulations made thereunder"*



84. Section 11 (1) (f) of the Act reads as under:

**11. Functions and duties of promoter:- (1)** *The promoter shall, upon receiving his Login Id and password under clause (a) of sub-section (1) or under sub-section (2) of section 5, as the case may be, create his web page on the website of the Authority and enter all details of the proposed project as provided under sub-section (2) of section 4, in all the fields as provided, for public viewing, including--*

.....

*(f) such other information and documents as may be specified by the regulations made by the Authority.”*

85. Section 15(1) of the Act, reads as under:

**15. Obligations of promoter in case of transfer of a real estate project to a third party:--**

*(1)“The promoter shall not transfer or assign his majority rights and liabilities in respect of a real estate project to a third party without obtaining prior written consent from two-third allottees, except the promoter, and without the prior written approval of the Authority.”*

86. Rule 3 of the Rules relates to information and documents to be furnished by promoter for registration of real estate project, whereas Rule 4 of the Rules speak about disclosure by promoters of on-going projects and according to the Complainant, Respondent No.3 has also violated Rules 3 and 4 of the Rules.

87. To consider said rival contentions on the question of contraventions in the light of said provisions in the Act and Rules, it is necessary to refer the documents which are alleged to have been not revealed by Respondent No.3 while making application before the Authority for registration i.e., the Agreement of Sale dt. 14.12.2007, two Development Agreements-cum-GPA both dated 20.06.2008,

Supplementary Development Agreements-cum-GPA on 09.01.2013 and Second Supplementary Development Agreements-cum-GPA on 30.08.2014.

88. The Development Agreement-cum-Irrevocable GPA dt.22.01.2020 executed by Respondent No.1 in favour of Respondent No.3. Similarly, one Development Agreement-cum-Irrevocable GPA dt.22.01.2020 is executed by Respondent No.1 in favour of Respondent No.3, wherein specific units coming to the share of Respondent No.1 is referred for an extent of 7309 Sq. yards of land.

89. Later, Respondent No.1 has executed Agreement of Sale-cum-GPA in favour of complainant vide document No.2992/2020 dt.06.02.2020, whereunder, the Complainant was given six (6) units, i.e., six (6) flats total admeasuring 11130 Sq. ft in lieu of agreemental rights of the Complainant. Here, there is no mention as to whether the reference to agreemental rights of Complainant is to first agreement of sale or subsequent agreements between Respondent No.1 and the Complainant. Similarly, Respondent No.1 has executed in favour of Complainant another agreement of sale-cum-GPA dt.6.2.2020 vide document No.3324/2020, whereunder the Complainant is given 10 units, i.e., 10 flats total admeasuring 16615 Sq. ft in lieu of agreemental rights of the Complainant. Here also, there is no specific mention as to whether the reference to agreemental rights of Complainant is to the rights under the first Agreement of Sale or subsequent agreements between Respondent No.1 and the Complainant. It is to be noted that whatever Respondent No.1 gave under these Agreements of Sale-cum-GPA to the Complainant, it was out of what he got under agreements dt.22.01.2020. In these documents, it is mentioned that the vendor herein (Respondent No.1) hereby agrees and undertakes to sell/transfer/convey the residential flats mentioned in

the schedule property herewith in favour of purchaser (Complainant) without demanding any sale consideration from the purchaser herein since the purchaser herein is holding agreemental rights in respect of part of the land entrusted by the vendor (Respondent No.1) herein for development. In Agreement of sale-cum-GPA dt.6.2.2020 vide document No.2992/2020, there is mention that *“Whereas in pursuant to earlier development agreement-cum-Genereal Power of Attorney vide document No.4941/2008 dt.20.06.2008 and Supplementary Development Agreement No.1270/2013 dt.09.01.2013 and No.10745/2014, dt.30.08.2014 executed for residential Flats were allotted in favour of the vendee (Complainant herein), since no development and construction of apartment Complex was undertaken by the earlier Developer, viz., Sri Ram Projects Limited, the parties have mutually agreed to cancel the supplementary agreements pursuant to cancellation of said development agreements ”*. Similarly, in agreement of sale-cum-GPA document No.3324/2020 dt.06.02.2020, there is a mention that *“Whereas in pursuant to earlier Development Agreement-cum-Genereal Power of Attorney vide Document No.4940/2008 dt.20.06.2008 and supplementary development agreement document No.1271/2013 dt.09.01.2013 and document No.10744/2014 dt.30.08.2014 executed for residential Flats were allotted in favour of the vendee (Complainant herein), since no development and construction of apartment Complex was undertaken by the earlier Developer, viz., Sri Ram Projects Limited, the parties have mutually agreed to cancel the supplementary agreements pursuant to cancellation of said development agreements ”*

90. Now it has to be seen whether Respondent No.3 while making application for Registration of Project before the Authority has complied the provisions of Section

3 and 4 read with Rule 3 of the Act and Rules. The violations, if any, need to be considered on the basis of the application made for the registration of the Project, which falls under subject matter jurisdiction before this Authority. The promoter is required to make an application enclosing the documents referred to in sub section (2) of Section 4 of the Act. The details of the Complaint disclose that there was no agreement between Complainant and the Respondent No.3 who is the applicant before this Authority, at any time nor any correspondence between them. The promoter i.e., the Respondent No.3 herein has submitted an application on the basis of its agreement with the landowners who hold a title to the subject land as per the statement of encumbrance vide No.45819572 filed by the promoter on 12.02.2020 updated from 15.10.1980 to 11.02.2020 for the "Vasavi Lake City West" and "Vasavi Lake City East".

91. Respondent No.1, his father agreed and others to sell 8000 Sq. yards of land under Agreement of sale dt.14.12.2007 in favour of the Complainant. Later, several transactions referred above took place between the parties. Admittedly, agreement of sale dt.14.12.2007 does not confer title in favour of the Complainant as owner of the property in light of Section 54 of the Transfer of Property Act, 1882.

92. It is the grievance of the Complainant that the Complainant had right over the land agreed to be purchased under said agreement of sale dt.14.12.2007 and on the basis of such agreement subsequent documents executed between the Complainant and Respondent Nos.1 and 2. As such, Respondent No.3 ought to have revealed said material documents revealing the right of the Complainant over the part of the land to be developed, which Respondent No.3 failed. Therefore,

Respondent No.3 has violated the provisions of Section 4 read with Rules 3 and 4 of the Rules.

93. On the other hand, it is the case of Respondent No.2 and 3, that it is the Complainant, who knocked the door of this Authority seeking relief, but he failed to reveal about material document Nos.2992/2020 and 3324/2020 dt.06.02.2020 executed by Respondent No.1 in favour of the Complainant. According to Respondent No.2 and 3, the Complainant has suppressed the said material documents and facts mentioned therein. Further, Respondent No.2 and 3 contended that the transactions under agreement of sale dt.14.12.2007 and subsequent transactions, specially under document Nos.2992/2020 and 3324/2020 dt.06.02.2020, are between Respondent No.1 and the Complainant. It is their further contention that in the light of document Nos. 2992/2020 and 3324/2020 dt.06.02.2020, the Complainant cannot allege anything against Respondent Nos.2 and 3 and whatever right, if the Complainant intends to claim under those documents, he has to claim such right only against Respondent No.1, inasmuch as Respondent No.1 agreed to give flats from the project to be developed from out of the share of Respondent No.1 to the Complainant. Therefore, the Complainant had no absolute title over the subject matter of the project for which Respondent No.3 got registration from the Authority. Learned Counsel for Respondent No.3 contends that in such circumstances, it was not incumbent on the part of Respondent No.3 to reveal about said documents in the application made for registration and as such, the contention of the Complainant that Respondent No.3 has contravened the provisions of the Act and Rules doesn't hold any water.

94. On consideration of said contentions advanced on behalf of both the parties, it has to be said that the Complainant did not reveal about said two material documents, viz., document Nos.2992/2020 and 3324/2020 dt.06.02.2020 in the complaint before the Authority. The said fact has come to light only when Respondent Nos.2 and 3 have pleaded in their counter. As observed above, the Complainant did not get regular sale deed executed on the basis of agreement of sale dt.14.12.2007, and the agreement of sale does not confer absolute title upon the said lands in terms of Section 54 of the Transfer of Property Act, 1882. Therefore, the details of the Development Agreements entered into by Respondent No.2 except those which are referred to in the agreement between Respondent Nos. 1, 2 & 3, cannot be treated as documents which are required to be submitted along with the project registration application. As per the details furnished by the Complainant, the agreements entered into between Complainant and the Respondent No.1 are not forming part of the Development agreement between Respondent Nos. 1, 2 and 3. Therefore, there is no violation on part of the Respondent No.3 i.e., the promoter at the time of making the application before this Authority. Further, the complainant traces its rights from the Agreement of Sale entered into on 14.12.2007 with Respondent No.1, his late father and others which is admittedly not a registered document. And in terms of Section 54 of the Transfer of Property Act, 1882, the title of the land has not passed on to the Complainant since it is not a registered document. Therefore, there is no violation on part of the respondent No.3 promoter in terms of Section 4(2)(l)(A) and (B) of the Act.

95. The Complainant further alleges that Respondent No.3 has contravened the provisions of Section 7(a), 11 (1) (f) and 15 (1) of the Act. The contentions advanced by the Complainant in regard to violation of these provisions of the Act are untenable, as he failed to prove his contention in regard to violations of provisions of Section 4 read with Rules 3 and 4 of the Act and Rules as discussed above.

96. For the foregoing reasons, the conclusion that emerges on Point No.2 is that the Complainant failed to satisfy the Authority that Respondent No.3 has violated the provisions of the Act and Rules as alleged. The Point is accordingly answered against the Complainant.

**97. POINT No.3:**

In view of findings on Point Nos.1 & 2, the Complainant is not entitled for the reliefs claimed.

98. In the result, the complaint is dismissed. However, the parties are directed to bear their own costs.

99. If aggrieved by this Order, the parties may approach Telangana State Real Estate Appellate Tribunal (vide G.O.Ms.No.8, Dated 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 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**

## **Appendix of Evidence**

### **Documents on behalf of the Complainant:**

<b>Sr. No.</b>	<b>Description</b>
1.	Copy of the Agreement of sale, dated: 14.12.2007
2.	Copy of the Registered Development Agreement-cum-General power of attorney, bearing document No 4940/2008, dated: 20.06.2008
3.	Copy of the Registered Development Agreement-cum-General power of attorney, bearing document No. 4941/2008, dated: 20.06.2008
4.	Copy of the Supplementary Development Agreement-our- General Power of Attorney, bearing document No. 1270/2013, dated: 09.01.2013
5.	Copy of the Supplementary Development Agreement-cum General Power of Attorney, bearing document No. 1271/2013, dated: 09.01.2013
6.	Copy of the Second Supplementary Agreement, bearing document No. 10744/2014, dated: 30.08.2014
7.	Copy of the Second Supplementary Agreement, bearing document No. 10745/2014, dated: 30.08.2014
8.	Copy of the Allotment Letter issued by the respondent No. 2
9.	Copy of the Allotment Letter issued by the respondent No. 2
10.	Copy of the Deed of Assignment-cum-Development Agreement-cum-General Power of Attorney, dated: 04.07.2019.
11.	Copy of the Notice, dated: 01.02.2020.
12.	Copy of the Notice, dated: 10.06.2020
13.	Returned envelope of the Respondent No. 1.
14.	Document showing receipt of notice by respondent No. 2.
15.	Document showing receipt of notice by respondent No. 3.
16.	Building permit order by GHMC given to the respondent No. 2, dated: 07.02.2020, for East side of the project



17.	Building permit order by GHMC given to the respondent No. 2, dated: 07.02.2020, for West side of the project.
18.	RERA application submitted by the respondent No. 3 for East side of the project.
19.	RERA application submitted by the respondent No. 3 for West side of the project.
20.	Copy of Form-B, submitted by the respondent No. 3 to RERA
21.	Copy of the Agreement of Sale-cum-General Power of Attorney bearing Document No.2992/2020 dated 06.02.2020
22.	Copy of the Agreement of Sale-cum-General Power of Attorney bearing Document No.3324/2020 dated 06.02.2020
23.	Copy of Development Agreement-cum-Irrevocable General Power of Attorney bearing Document No.989/2020 dated 22.01.2020
24.	Copy of Development Agreement-cum-Irrevocable General Power of Attorney bearing Document No.990/2020 dated 22.01.2020
25.	Copy of the RERA Certificate issued to the Respondent No.3 in respect of Vasavi S Lake City East dated 20.03.2020
26.	Copy of the RERA Certificate issued to the Respondent No.3 in respect of Vasavi S Lake City West dated 20.03.2020

**Documents on behalf of Respondent Nos.1 & 2:**

Nil.

**Documents on behalf of Respondent No.3:**

<b>Sr. No.</b>	<b>Description</b>
1.	Copy of Agreement of Sale-CUM-GPA bearing Document No.3324/2020 dated 06.02.2020
2.	Copy of Agreement of Sale-CUM-GPA bearing Document No.2992/2020 dated 06.02.2020

3.	Copy of Reply to Legal Notice issued by Respondent No.2 (M/s Srisairam Projects Ltd.) dated 31.07.2020
4.	Copy of Legal Notice issued by Respondent No.2 (M/s Srisairam Projects Ltd.) dated 05.10.2020
5.	Copy of Legal Notice issued by Respondent No.2 (M/s Srisairam Projects Ltd.) dated 05.10.2020

**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**

