

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

**COMPLAINT NO.462 OF 2022**

**1<sup>st</sup> Day of April, 2024**

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

Sri K. Srinivas

...Complainant

Versus

M/s Sri Sumanjali Projects Pvt. Ltd.

Rep. by its Managing Director,

Sri Rebela Kishore Kumar Reddy

...Respondent

The present matter filed by the Complainant herein came up for hearing on 14.09.2023, 19.10.2023 and 16.11.2023 before this Authority in the presence of Counsel for the Complainant, Sri Govind Rao, and none for the Respondent and upon hearing the arguments, this Authority passes the following **ORDER:**

2. The present Complaint has been filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") requesting appropriate action against the Respondent Builder.

**A. Brief facts of the case:**

3. The Complainant submitted that the Development agreement cum Irrevocable General Power of Attorney was executed by the Landowners in favour of the Respondent Builder vide document No.3589/2010 dated 29.07.2010 showing the share of flats to the Respondent. Further, a Supplementary Agreement was also executed in favour of the Respondent vide Document No.3502/2013, dated 29.07.2013 showing the share of flats to the Respondent. Basing on the above documents followed by the promises and assurances, the Complainant paid to the Respondent an amount of Rs.1,35,00,000/- (One Crore Thirty-Five Lakhs Only).

4. He submits that the Respondent completed the construction and obtained Occupancy Certificate on 25.07.2019 from GHMC. Though the Complainant has been pursuing with the Respondent for registration of sale deed of the flat that was promised by the Respondent, the Respondent repeatedly informed that registration of flats would be done after completion of the construction of flats. Even after obtaining Occupancy Certificate from GHMC on 25.07.2019, the Respondent is evading the registration of flat to the Complainant.

5. The Complainant's enquiries revealed that the Respondent has sold away the flats allotted to their share as developer and cheated the Complainant by not executing sale deed of flat allotted to the developer's share even after receiving the complete sale consideration of Rs.1.35 crores. In their reply notice, the Respondent has admitted the receipt of Rs.1.35 crores from the applicant herein, but to escape from the liability came up with a false and concocted story.

**B. Relief sought:**

6. In lieu thereof, the Complainant prays to:

- a. *Direct the Respondent to pay Rs. 1.35 Crores with interest at 12% from the date of receipt of each payment till realization in full.*
- b. *Direct the respondents to pay compensation of Rs. 35,000/- per month from 25.07.2019 the date on which GHMC has issued Occupancy Certificate to the respondents.*
- c. *Direct the respondents to pay Rs. 10,00,000/- for causing mental disturbances to the applicant herein.*

**C. Reply on behalf of the Respondent:**

7. Vide Reply dated 31.12.2022, the Respondent preliminarily submitted that the complaint lodged by Sri K. Srinivas does not fall within the scope or purview of Real Estate (Regulation and Development) Act, 2016 and Telangana Real Estate (Regulation and Development) Rules, 2017.

8. From a perusal of the supplementary agreement, it is clear that building permissions for the Project being "Trends at Sumanjali" (hereinafter referred to as the Project) were granted vide permit No.23919/HO/CZ/Cir-10-2013 dt.22.05.2013. Though Occupancy Certificate was obtained by the Developer in the year 2019 as stated by the Complainant, since the building permissions were obtained in the year 2013 itself, the above project is not an ongoing project as contemplated under Rule 2 of Telangana Real Estate (Regulation and Development) Rules, 2017 and as such this Authority has no jurisdiction to entertain the complaint.

9. It was also submitted by the Respondent that in the Reply notice issued by the Respondent to the Complainant for legal notice dated 02.09.2021, the Respondent stated that there was no privity of contract between the Respondent and the Complainant and that neither the Respondent offered to sell any flat at any

point of time nor the Complainant agreed to purchase any flat from the Respondent as claimed by the Complainant. He submitted that there was no privity of contract between us and the complainant and that neither he offered to sell any flat to the Complainant at any point of time nor the complainant agreed to purchase any flat from the Respondent. That the above amounts were transferred by the complainant to the account of M / s Sri Sumanjali Projects Pvt. Ltd. pursuant to and at the behest of one M. Ravinder, who is one of the landowners, with whom, it appears, the complainant negotiated with regard to purchase of a flat in the said project.

10. He submitted that as per a re-adjustment process between the Respondent and Sri M. Ravinder, the said M. Ravinder informed the Respondent that the complainant would be transferring amounts to the Respondent in respect of a flat that fell to his share in the re-adjustment and requested the Respondent to forward the sale consideration amount to him. Accordingly, the Respondent forwarded the entire amount of Rs.1.35 crores received from the complainant to M. Ravinder. Thus, if there exists any agreement of sale in favour of the complainant, it is between the Complainant and Sri M. Ravinder.

11. He also informed this Authority that the Complainant has also approached the Telangana State Consumer Commission vide Case No.34 of 2022 seeking the same reliefs. He accordingly prayed to dismiss the matter.

12. The Complainant also filed a Rejoinder dated 06.04.2023 to the said Reply dated 31.12.2022 reiterating the contents of his Complaint and further stated that as alleged by the Respondent that the present project is not on-going project as per Rule 2(j) of the Rules, 2017 is false and incorrect.

**D. Observations and Directions of the Authority:**

13. The matter was heard finally on 16.11.2023, wherein the Complainant reiterated the contents of his Complaint. Respondent, upon Notice was absent. As pointed out by the Respondent in its Reply dated 31.12.2022, the Building Permission was issued by the Competent Authority in the year 2013 and the Occupancy Certificate in 2019.

14. In this regard, it is pertinent to note that Section 3(2) of the Act stipulates that *“Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required— (b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act”*. Therefore, as the Respondent Builder, admittedly, obtained the Occupancy Certificate on 25.07.2019, i.e., after the commencement of this Act, as per Section 3(2), the registration of the Project before this Authority is mandatory.

15. In line of the above, as it is well settled law that Act prevails over Rules, therefore the Respondent is hereby directed to register the Project – “Trends at Sumanjali” with this Authority within 30 days of the receipt of this Order. As the Respondent failed to register the Project with this Authority, while exercising its powers under Section 59, this Authority imposes a penalty of Rs.12,78,500/- (Rupees Twelve Lakhs Seventy-Eight Thousand and Five Hundred Only) on the Respondent for abject violation of Section 3 as has been discussed above. The Respondent is directed to pay the penalty within 30 days from the date of the receipt of this Order in favour of TS RERA FUNDS through Demand Draft or online payment to A/c No.50100595798191, HDFC Bank, IFSC Code: HDFC0007036, failing which appropriate action under Section 63 will be initiated against the Respondent.

16. Now, as regards plea of the Complainant with regard to refund of Rs.1.35 Crores with interest from the Respondent Builder is concerned, this Authority

observes that except Indian Bank account statement showing payment of Rs.1,00,00,000/- (Rupees one Crore Only) vide Cheque No. 661333 dt. 07.10.2013 and Rs.20,00,000/- (Rupees Twenty Lakhs Only) vide Cheque No.661337 dt. 19.11.2013 and Kotak Mahindra Bank statement showing payment of Rs.15,00,000/- (Rupees Fifteen Lakhs Only) vide Cheque No.802685 dt.26.10.2013, the Complainant has failed to file any other relevant document more specifically in the nature of an Agreement of Sale entered into between the Complainant and the Respondent Builder to prove an allottee-developer relationship. In the absence of such supporting documents, it is not possible to state whether the amounts were transferred for the purpose of purchase of a flat or for any other purpose. As this Authority does not have jurisdiction to enter into the validity of the said transaction in the absence of a registered document filed by the Complainant along with the Complaint as has been discussed above, the Complainant is directed to approach appropriate forum for adjudication of the same.

17. It is reiterated that mere filing of bank statements showing transfer of monies to the Respondent Builder does not establish that there has been a purchase of a flat in the Project between the Complainant and the Respondent Builder, more specifically in the absence of an Agreement of Sale. As a result, the Complainant is directed to approach the appropriate forum for reliefs prayed before this Authority as dispute between the parties is purely of civil nature. The matter is hereby disposed of.

Sd/-

Sd/-

Sd/-

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**Sri K. Srinivasa Rao,**  
Hon'ble Member,  
TS RERA

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**Sri Laxmi Narayana Jannu,**  
Hon'ble Member,  
TS RERA

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**Dr. N. Satyanarayana, IAS (Retd.),**  
Hon'ble Chairperson,  
TS RERA