

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

COMPLAINT NO.124 OF 2024

14th Day of January 2025

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

1. Sri Silveri Pradeep Kumar
 2. Sri Muntimadugu Mahesh Kumar
- ...Complainants

Versus

M/s Bhuvanteza Infra Projects Pvt. Ltd.
Represented through its Authorised Representatives,
Sri Chekka Subramanyam and Smt. Chekka Bhagyalakshmi ...Respondent

The present matter filed by the Complainant herein came up for hearing on 27.08.2024 and 18.09.2024 before this Authority in the presence of Complainant in person and none appeared on behalf of the Respondent despite service of notice, and therefore he was set *ex-parte* on 18.09.2024, and after hearing the Complainant, this Authority passes the following

ORDER:

2. The present Complaint has been filed by the Complainant under Section 31 of the Real Estate (Regulation & 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”) seeking appropriate relief(s) against the Respondent.

Brief facts of the case:

3. The Complainants submitted that on 04.08.2021, the Respondent executed an Agreement of Sale with the Complainant for the purchase of Flat No. G-15, D Block, in the project “Happy Homes Phase-2,” located in Shamirpet Village, Telangana. The flat measures 1280 sq. ft., and the possession was promised by December 2023. The Complainants further submitted that the construction of the Project had been significantly delayed, and subsequently, the Respondent canceled the Project due to issues with government permissions.

4. The Complainants were asked to transfer to Happy Homes Phase-1, where flats were smaller in size (1220 sq. ft.), and they were asked to pay an additional Rs.5,00,000/- (Rupees Five Lakhs Only) for the new flat. Despite several attempts by the Complainants to communicate with the Respondent about the delay, the Respondent either did not respond or gave vague replies. They also submitted that the delay in possession has caused financial and psychological strain on the complainant due to the burden of paying both rent and home loan EMIs. The Respondent had committed to pay rent to the complainant from January 2024 if the project was not completed by December 2023, but no rent has been paid so far.

5. The Complainants raised concerns that the funds raised from new buyers may be diverted to other projects, contributing to the delay in completion of their project. Further, about the validity of the Sale Agreement and fears that the land may have been transferred to third parties or that the project land may be sold to other buyers. The Complainants also expressed concerns regarding irregularities in obtaining necessary certifications, such as the HMDA approval and RERA registration, for other blocks. Despite full payment, the Respondent has not yet registered the property in the Complainants’ name, further adding to their distress.

6. The Complainants also submitted that a section of the land has been registered in the names of flat buyers who paid the full price to the

Respondent and registration has been completed for members of the Happy Homes – 2 and Happy Homes – 1 projects. Further, there are civil & criminal cases involving the land, which the respondent has shown us but has not disclosed or referenced in any agreements.

Reliefs sought:

7. Aggrieved by the acts of the Respondent, the Complainants pray for the following:

- i. *Refund with Interest: Refund the amount paid along with interest if the respondent fails to complete the project within the stipulated time.*
- ii. *Rectification of Defects: Rectify any defects in the construction as per the agreed specifications.*

Points for consideration

8. Following issues sprout for consideration by the Authority:

- I. Whether the Respondent has violated Sections 3 & 4 by not registering the Project – “Happy Homes Phase - 2” with this Authority? If yes, whether the Respondent is liable for penalty?
- II. Whether the Complainants are entitled to the reliefs as prayed for? If yes, to what extent?

Observations of the Authority

Point I

9. As per the Agreement of Sale dated 04.08.2021, the Respondent is the agreement holder for the below mentioned properties situated Shamirpet Village, Shamirpet Mandal, Medchal – Malkajgiri District, Telangana:

- i. Agricultural land admeasuring Ac.0.29 Gnts in Survey No.689/A;
- ii. Agricultural land admeasuring Ac.1.10 Gnts in Survey No.679/B/1;
- iii. Agricultural land admeasuring Ac.0.365 in Survey No.677/A/1/1 and Ac.1.0300 Gnts in Survey No.679/A/1/1/1, total extent Ac.1.3925 Gnts;
- iv. Agricultural land admeasuring Ac.3.00 Gnts in Survey No.679/A/2;
- v. Agricultural land admeasuring Ac.1.03 Gnts in Survey No.679/A/1/2 and Ac.0.3625 Gnts in Survey No.677/A/2, total extent Ac.1.3925 Gnts; and

- vi. Agricultural land admeasuring Ac.1.03 Gnts in Survey No.679/A/1/2 and Ac.0.3650 Gnts in Survey No.677/A/1/2, total extent Ac.1.3950 Gnts

10. It is also clear that the Respondent sought to develop the project on the above-mentioned land which, altogether, is more than Ac.6.00 Gnts., being more than 500 sq. mtrs. And therefore, falling within the jurisdiction of this Authority in accordance with Section 3 of the Act, 2016 which provides that *“No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act.”*

11. Therefore, before the Respondent executed this Agreement of Sale dated 04.08.2021 with the Complainant, he ought to have first registered the project with this Authority, as otherwise, it constitutes grave violation of Sections 3 & 4, thereby attracting penalty under Sections 59 & 60 of the Act, 2016.

12. As per records, it is apparent that the Respondent failed to register the Project – “Happy Homes Phase – 2”, or even apply for registration for the said project, which attracts penalty under Sections 3 & 4 of the Act, 2016. And therefore, Point I is held in affirmative, and the Respondent is liable for penalty for non-registration of the Project “Happy Homes Phase – 2” under which the Respondent executed agreement of sale with the Complainants.

Point II

13. As far as reliefs prayed by the Complainants are concerned, the Agreement of Sale dated 04.08.2021 makes it abundantly clear that the Respondent intended to sell Flat No.G15, D Block in Happy Homes – Phase 2 to the Complainants, but despite multiple reminders by the Complainant and even after payment of Rs.5,00,000/- (Rupees Five Lakhs Only) out of the total sale consideration of Rs.21,76,000/- (Rupees Twenty-One Lakhs Seventy-Six Thousand Only), the Respondent failed to deliver the flat for reasons best

known to him putting the Complainant in lurch. No explanation or reply or representation on behalf of the Respondent in this regard had been forthcoming, despite service of notice by the Complainants, and therefore, this Authority set the Respondent *ex-parte* on 18.09.2024.

14. Section 18 categorically stipulates that “*If the promoter fails to complete or is unable to give possession of an apartment, plot or building,—*

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.”

15. In the facts and circumstances of the present case, the Respondent failed to handover the possession of apartment in accordance with the terms of the agreement for sale, despite several reminders and requests from the Complainants, and the Complainants, are therefore, rightfully entitled to the refunds of their amounts. Therefore, Point II is answered in affirmative, and this Authority deems it fit to direct the Respondent to refund the entire amount paid by the Complainants in accordance with Section 18 of the Act, 2016.

Directions of the Authority:

16. Therefore, vide its powers under Sections 37 and 38, this Authority issues the following directions to the Respondent:

- i. For violation of Sections 3 and 4 i.e., for non-registration of the project – “Happy Homes Phase-2”, the Respondent is liable for penalty under Sections 59 and 60 respectively, therefore, the Respondent is directed to pay penalty of Rs. 11,55,000/- (Rupee

Eleven Lakhs Fifty-Five Thousand Only) payable within 30 days in favour of TGRERA FUND through a Demand Draft or online payment to A/c No. 50100595798191, HDFC Bank, IFSC Code: HDFC0007036;

- ii. The Respondent is directed to refund the entire amount of Rs.5,00,000/- (Rupees Five Lakhs Only) along with interest at the rate of 11.05% per annum (SBI MCLR of 9.05% + 2%) from the date of the agreement of sale i.e., from 04.08.2021 till the date of actual refund in accordance with Rule 15 of the Rules, 2017 within 30 (thirty) days to the Complainants;
- iii. The Respondent hereby is also directed to take steps to file an application for registration of the Project – “Happy Homes Phase 2” before this Authority in accordance with Section 4 of the Act, 2016 and the Rules thereunder with immediate effect and till the registration is granted by this Authority, the Respondent shall, strictly, not advertise, market, book, sell or offer for sale, or invite person/s to purchase in any manner any units of the said project, “Happy Homes Phase 2”.
- iv. Failing to comply with above said directions by the Respondent shall attract penalty in accordance with Section 63 of the Act, 2016.

17. As a result, the complaint is disposed of.

Sd/-
Sri K. Srinivasa Rao,
Hon'ble Member,
TG RERA

Sd/-
Sri Laxmi Narayana Jannu,
Hon'ble Member,
TG RERA

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