

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

COMPLAINT NO.448 OF 2022

30th 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

Sri Nittala Srinivas

...Complainant

Versus

1. M/s Shivam Constructions & Developers
2. Ch. Sridhar
3. Smt. K. Latha Rani

...Respondents

The present matter filed by the Complainant herein came up for hearing on 14.09.2023, 12.10.2023 and 14.11.2023 before this Authority, in the presence of the Advocate, Sri Satyanarayana Murthy for the Complainant, and Sri Jagannatha Chary, Advocate on behalf of the Respondents, and upon hearing the arguments of both the parties, 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 submits that the Respondent Nos. 2 & 3 are the residents of Macha Bollarum as mentioned above and registered a firm 3074/2013 and

started constructing apartments and selling them to the interested persons. They printed a beautiful brochure mentioning particularly that the project is HMDA approved project and circulated among the people of the vicinity that they are constructing an apartment at IV phase at GSR Enclave Risala bazar. Besides they extended their business to Kamareddy, Sangareddy, and Siddipet areas and started constructions of apartments.

4. That the Complainant was attracted by the said brochure and therefore, the Complainant and the Respondent Nos.2 & 3 entered into an agreement for purchase and sale of Flat No. 201 at IV phase situated at GSR Enclave Risala Bazar, Macha Bollarum, adm. 1180+ Sq. Feet for a sale consideration of Rs. 30,00,000/- (Rs. Thirty Lakhs only).

5. That further, the Respondent No.2 requested the Complainant to pay an advance amount of Rs 10,00,000 (Rupees Ten Lakhs only) on 03.11.2018 as earnest money and acknowledged the receipt of the same. Respondent No.2 orally agreed to complete the construction within one and a half year (i.e., 18 Months) and deliver the possession of Flat No. 201 to the Complainant. In addition, the Respondent No.2 requested further amount saying that the construction work is going on and in need of money and obtained Rs. 3,00,000 twice (Rupees Three Lakhs only) i.e., on 20.05.2019 and 03.09.2019 respectively in total Rs. 16,00,000/- (Rupees Sixteen Lakhs only).

6. The Respondents assured the Complainant that they will deliver the flat. However, the Respondents stopped the construction work for the reasons best known to themselves. On 28.03.2022, the GHMC authorities came to the building

spot with their demolishing squad and started demolition work. On a petition filed by the Respondents, the demolition was halted.

7. Subsequently, the Complainant got issued a legal notice to the Respondent Nos.1 to 3 for refund of amount of Rs. 16,00,000/- (Rupees Sixteen Lakhs only) with an interest of 3% per month (36% per annum) with a compensation of Rs. 5,00,000/- (Rupees Five Lakhs only) towards mental agony caused by the Respondents to the Complainant. No response was given by the Respondent to such notice.

8. Thereafter, the Complainant and the Respondents entered into an Agreement where the Respondent agreed to repay the amounts within 2 (two) months and gave postdated cheques to the complainant, and the same was returned with the note "insufficient balance". Accordingly, the Complainant sought for refund of his monies paid to the Respondent along with interest.

B. Notice to the Respondent:

9. Accordingly, vide Notice dated 26.08.2023, served upon the Respondent, this Authority directed the Respondent to submit a reply in terms of Rule 34 (1) & (2) of the Rules, 2017 along with such other information with regard to the Project. However, no reply was received on behalf of the Respondent. Therefore, a Reminder Notice dated 27.09.2022 was also issued to the Respondents to submit its response, however, no action was taken by the Respondents. Further, Notice of hearing dated 14.09.2023 was also issued to both the parties, and both entered appearance on 12.10.2023.

10. On 12.10.2023, the Counsels for both Complainant and the Respondents appeared, and the Counsel for Respondents sought time to file reply. Therefore, matter was adjourned to 14.11.2023 thereby directing the Respondent to file its reply before the next date of hearing. The matter was called on 14.11.2023, however, Counsel for Respondent failed to enter appearance and the Complainant reiterated the contents of its Complaint.

C. Observations and Directions of the Authority:

11. This Authority has carefully perused the record which produced brochures used for promotion of its business, i.e., the present Project, receipts of the earnest money paid by the Complainant dated 03.11.2018, 20.05.2019, 03.09.2019, un-registered Agreement of Sale dated 03.02.2021, cheques issued by Sri C. Sridhar, the Promoter dated 25.06.2022, information furnished by the Deputy Commissioner under RTI, photos of the demolition squad and speaking order of the Deputy Commissioner dated 24.01.2023. A perusal of the documents prima facie supports the contentions raised by the Complainant.

12. In consideration of the facts and circumstances of the present case and of the documents produced by the Complainant, following directions are issued:

- a. Respondent is directed to refund the amounts paid by the Complainant i.e., Rs.16,00,000/- (Rupees Sixteen Lakhs Only) along with interest @ the rate of MCLR plus two percent as per Rule 15 of the Rules, 2017; and
- b. Respondent is directed to pay penalty of an amount of Rs. 8,44,550/- (Rupees Eight Lakhs Forty-Four Thousand Five Hundred and Fifty Only) as per Section 59 of the Act for promoting the sale of plots, entering into Agreements of Sale without RERA Registration and without even obtaining permission from GHMC for construction of the said project within 30 days

from the date of 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.

13. In lieu thereof, the present complaint stands disposed of. The parties are hereby informed that failure to comply with this Order shall attract Section 63 of the Act, 2016.

14. If aggrieved by this Order, the parties may approach the TS Real Estate Appellate Tribunal (vide G.O.Ms.No.8, Dt.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 the 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