

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

COMPLAINT NO.360 OF 2021

30th Day of October, 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 Nalla Malla Reddy

...Complainant

Versus

1. M/s Bhupal Granites (P) Ltd.
2. Sri Ch. Santosh Raja
3. Smt. Manisha Yadav
4. Sri Madhu Vardhan Yadav
5. Hyderabad Metropolitan Development Authority
6. The Sub-registrar, Narapally SRO

...Respondents

The present matter filed by the Complainant herein came up for hearing on 29.08.2023, 13.09.2023 and 19.10.2023 before this Authority in the presence of Sri Laxminarsiah, Counsel for the Complainant, and Sri Kiran Kumar, CA for Respondent No.1 and 2 and none appeared for Respondent Nos.2-6, 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").

A. Facts of the Complaint:

3. The facts of the case, in brief, are that Sri Chintapanti Ramaiah was the sole and absolute and possessor of the entire extent of land in distinct Survey No's. 721 (part) and Survey No. 722 (part) of Koremulla Village, Ghatkesar Mandal, R.R

District totally admeasuring around 11 Acres 6 Guntas. Sri Chintapanti Ramaiah died intestate leaving behind four sons namely 1] Chintapanti Maliaiah, 2] Chintapanti Yellaiah, 3] Chintapanti Pochaiah and 4] Chintapanti Sattaiah, and the Complainant was advised that, they had orally partitioned the entire land bearing distinct Survey No's. 721 and 722 whereby, each, brother was allotted to his exclusive extent of 4 Acres 14 Guntas each. These four sons of Sri Chintapanti Ramamaih also expired leaving behind their individual legal heirs.

4. The Legal heirs of these four sons, Chintapanti Maliaiah, Chintapanti Yellaiah, Chintapanti Pochaiah and Chintapanti Sattaiah sold an extent of 1 Acre 15 Guntas of land in Revenue Survey No. 721 (part) of Koremulla Village to the Complainant vide a Sale Deed dated 23.02.2005, duly registered as Document No. 1062/2005.

5. The Legal Heirs of these four sons, Chintapanti Maliaiah, Chintapanti Yellaiah, Chintapanti Pochaiah and Chintapanti Sattaiah as mentioned above, sold an extent of 11 Acre 6 Guntas of land in Revenue Survey No. 721 (part) of Village to Sri. B. Raghothan Reddy and 2 others vide a Sale Deed dated. 12.05.2006, duly registered as Document No. 8134/2006. The said B. Raghothan Reddy and 2 others executed a Registered A.G.P.A Deed dated 31.12.2009 in respect of the aforesaid land for consideration in favour of N. Srinivas Reddy and another and the said N. Sreenivas Reddy and another in turn executed four registered conveyance deeds dated 26.07.2017, 26.07.2016, 04.08.2017 and 11.08.2017 in respect of the entire aforesaid land whereby, the Complainant acquired absolute ownership and possession qua the entire scheduled land.

6. Complainant submitted that the father of the Respondent No.2 herein was claiming rival title and ownership rights qua a portion of the aforesaid land by virtue of an agreement of sale dated 05.02.1986 for an extent of 11 Acres and also by virtue of a registered sale deed dated 09.11.1990 (Document No. 1054/2000) i.e., the scheduled land admeasuring a separate extent of around 3 Acres 23 Guntas alleged to have been executed by the Chintapanti family members and their Legal Heirs and their G.P.A Holder. Regarding this, there are rival Original Suits filed by both the Complainant as well as the Respondent No.2 herein. He submitted that subsequently, the Respondent No.3 & 5 acquired the land through registered sale deed dated. 13.04.2018 (Document No. 4169/2018) and the same is illegal. Further, the Respondent Nos.3 & 4 jointly made an application to the HMDA i.e., the Respondent No.5 herein and accordingly permission was granted vide Proceeding No.6130/GTKR/P1g/ HMDA/2018 dated 02.11.2018 for construction of a Five (5) storied building having a built-up area of around 45,000 Square Feet.

7. The Complainant has raised several allegations as to the illegality of the above-mentioned registered documents as well as the obtaining of permission from the competent authority by the Respondent Nos. 3 & 4. However, these specific details are not subject matter of jurisdiction before this Authority, hence no findings are being made on the said subject.

8. The main contention of the Complainant is that the Complainant instituted a Civil Suit bearing OS No.04/2021 before Sr. Civil Judge, Ranga Reddy District seeking certain reliefs. He has also filed a separate Writ Petition bearing No.9557/2021 before the Hon'ble High Court for the State of Telangana at Hyderabad seeking cancellation of the building permission dated 02.11.2018 granted in favour of the Respondents which is pending adjudication.

B. Relief sought:

9. In light of the circumstances above, the Complainant prays as under:
- a) *Direct the Respondent Nos.2, 3 & 4 to obtain mandatory registration of the housing project being undertaken on the land bearing revenue Survey Nos.721 & 722 of Koremulla Village, Chatkesar Mandal, R.R. District totally admeasuring around 3,500 sq yds under Section 4 of the RE & RD Act, 2016.*
 - b) *Direct the Respondent Nos.2, 3 & 4 to disclose the factum of the dispute relating to the title and possession in respect of subject land arising out of the Civil Suit bearing OS No.71/2018 pending adjudication before Addl. District Judge, Ranga Reddy District.*
 - c) *Direct the Respondent Nos.2, 3 & 4 to disclose the factum of the dispute relating to the title and possession and validity of the HMDA Permission dated 02.11.2018 in respect of the subject land arising out of Civil Suit bearing OS No.504/2021 pending adjudication before Sr. Civil Judge, Ranga Reddy District and also of Writ Petition No.9557/2021 pending before the Hon'ble High Court of Telangana at Hyderabad in the application for registration.*
 - d) *Costs of the subject proceedings be awarded.*
 - e) *Such further or, other reliefs as this Hon'ble Authority may deem fit and proper in the circumstances of the case.*

C. Reply on behalf of the Respondent No.2, 3 & 4:

10. *Per contra*, the Respondent No.2 also representing Respondent No.1 and Respondent Nos.3 & 4 filed two separate Replies on 12.08.2021 and submitted that Respondent Nos.3 & 4 are the absolute owner of the property admeasuring 824.00 Sq Yds of land in Plot Nos. 399, 400, 411 and 412 in Sy No. 721 part situated at

Korremula Village, Ghatkesar Mandal, Ranga Reddy District and whereas the Respondent No.2 is the absolute owner of the property admeasuring 2276.00 sq yds of land in Plot Nos. 398, 413, 468, 470 and 471 in Sy. No.721 part.

11. The said property i.e., 824.00 Sq Yds of land in Plot Nos. 399, 400, 411 and 412 in Sy No. 721 part was purchased by the Kadire Susheela and others by virtue of a Sale Deed dated 03.07.2000 bearing Document No.2120 of 2000 from Respondent No.1 herein. Respondent No.1 purchased the said property by virtue of a Sale Deed dated 09.11.1990 bearing Document No.1054 of 2000 form the Ch Yellamaiah S/o Ramaiah, Ch Mallaiah S / o Ramaiah and Ch Pochaiah S/o Ramaiah represented and executed by their Registered GPA Holder Ch Sathaiah S/o Ramaiah with GPA document Dated 18.10.1985 bearing Document No. 158 of 1985.

12. The predecessor Bhupal Granites Mines Private Limited, Kadire Susheela and Other and we are in the possession of the above-mentioned property from 09.11.1990 to till date. Respondents, with an intention to construct the flats in the above-mentioned property, had obtained the NALA conversion orders from RDO and filed an application before the HMDA authority for building permission on 30.08.2018.

13. In the meanwhile, the Complainant filed a Civil Suit vide O.S. No. 71 of 2018 claiming that he is a rightful owner of the above-mentioned property by virtue of sale deed bearing Document No 1062 of 2005 Dated 23.02.2005, 3373 of 2017 dated 26.07.2017, 3371 of 2017 dated 26.07.2017, 3708 of 2017 dated 04.08.2017 and 4014 of 2017 dated 11.08.2017 executed by the legal heirs of Ch Yellamaiah S/o Ramaiah, Ch Mallaiah S/o Ramaiah, Ch Pochaiah S/o Ramaiah and Ch

Sathaiah S/o Ramaiah. He claims that the purchase made by Respondent No.1 by virtue of Sale Deed dated 09.11.1990 bearing Document No. 1054 of 2000 executed by the GPA Holder will be invalid as the GPA document bearing No. 158 of 1985 was revoked by the document bearing No. 215 of 1987 dated 17.06.1987, and the dispute regarding the same is thus pending by way of Original Suits as mentioned above.

14. They further submitted that Complainant also filed a complaint to HMDA to not to grant a building permission, but thereafter as per the Respondent, the HMDA after hearing the arguments granted the building permission vide file No. 014623/GHT/R1/U6/HMDA/30082018 Dated 30.03.2021 concluding that the building permission shall in no way confers the ownership rights. Accordingly, They stated that they would disclose the ongoing status of the OS (Original Suit) and the pending Writ Petition in their application to this Authority and requested for the case to be closed.

D. Rejoinder by the Complainant:

15. The Complainant also filed a Rejoinder on 04.04.2022 reiterating the contents of his Complaint and also submitted that as per the Section 4 of the RE & RD Act, 2016 mandates that a real estate developer should obtain registration of it's project with the Regulatory Authority amongst other obligations of the promoter under the Act such as obligations under Section 4(2)(l)(A), (B), (C) and (D), Section 11, 13, 14, etc. He, therefore, requested the stringent enforcement of the above-mentioned provisions, which should be applied rigorously to the Respondents.

16. The Complainant also submitted as under:

“However, the implementation of the RERA Act Telangana State is virtually a RACKET as the Real Estate Regulatory Authority is merely registering the project and proceeding to ensure that the Builder violates virtually each and every provision (supra) and carries on business as usual by violating virtually each and every provision of the RERA and Act and Rules.”

17. In this context, we must convey to the Complainant that their unsubstantiated allegations of fraudulent practices and undue leniency towards builders, made without adequate research or factual basis, are not permissible and are strongly condemned. It is crucial to emphasize that it is both inaccurate and improper to assert that this Authority is involved in such activities. We wish to clarify that this Authority maintains a stringent and meticulous process for project registration, wherein every document undergoes thorough examination before a registration certificate is granted.

C. Hearing Conducted:

18. That the matter was called for hearing on 29.08.2023, 13.09.2023 and 19.10.2023 and the CA of Respondent Nos. 1 & 2 submitted that the project is registered before this Authority vide Registration No.P02200003542 for the Project titled “Jewel Apartments” by Jewel Developers for which Respondent No.2 is the Partner. Further, after perusing the Online Application dated 04.09.2021 for registration made by the Respondent Nos.1 & 2, it is seen that he has disclosed the pendency of Civil Suit No.71/2018 pending adjudication before Ranga Reddy District Courts, however did not disclose the pendency of Writ Petition No.9557/2021, despite order dated 15.04.2021 being passed wherein the Hon’ble High Court ordered that any construction made by the unofficial respondent i.e., the Respondent No.2 herein shall be subject to the result of the said writ petition. It

is clear that the Order dated 15.04.2021 was passed prior to making of the Application of registration before this Authority, hence the Respondent Nos.1 & 2 were well aware of the directions given by the Hon'ble High Court in Writ Petition No.9557/2021.

D. Observations and Directions of the Authority:

19. That being the scenario, it was imperative for the Respondent No.2 to have disclosed the pendency of the Writ Petition No.9557/2021 as well as the Order dated 15.04.2021 passed in the said writ petition. Therefore, it is construed that the Respondent Nos.2, 3 & 4 are in violation of Rule 3(1)(e), 14(1)(a)(iii), 14(1)(d)(ii)(D) of the Rules, 2017 and this Authority deems it fit to impose penalty on the Respondent Nos.1 & 2, who have made the Application for registration before this Authority, as pending litigation under Writ Petition No.9557/2021 was not disclosed before this Authority in its application for registration. Therefore, this Authority, while exercising its powers under Section 61 of Act, 2016 and imposes a penalty of Rs. 7,32,500/- (Rupees Seven Lakhs Thirty-Two Thousand and Five Hundred Only) payable by Respondent Nos.2, 3 & 4 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.

20. The Respondent Nos.1 & 2 are also directed to update the status of Writ Petition No.9557/2021 and Order dated 15.04.2021 passed in the said writ petition within 15 days from the receipt of this Order, failing which appropriate action shall be taken as per the Act, 2016.

21. In accordance with the foregoing, the Respondents are hereby apprised that the Respondents shall be liable to compensate the allottees in the Project in light of Section 18(2) which stipulates that *the promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed, and that the claim for compensation shall not be barred by limitation.*

22. In lieu thereof, the present complaint stands disposed of. The parties are hereby informed that non-compliance of the present Order shall attract penalty under Section 63 of the Act, 2016.

23. 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