

**BEFORE THE ADJUDICATING OFFICER,
TELANGANA REAL ESTATE REGULATORY AUTHORITY,
HYDERABAD.**

Dated, this, the 27th day of FEBRUARY, 2025.

Present:– Sri Syed Lateef–ur Rahman,
Adjudicating Officer.

COMPLAINT No.33/2024/TG RERA

Between:

Sri Surepalli Rahul S/o Sri S.Chandra Mohan, R/o S.No.5–854,
Plot No.121, Izzath Nagar, Serilingampally Mandal, Ranga
Reddy.

...Complainant.

and

M/s.EVK Projects Pvt.Ltd., rep., by its Managing
Director Sri Guntupalli Srinivasa Rao, 246, Vaksparl Road,
78, Jubilee Hills, Hyderabad 500 033.

.....Respondent.

This complaint came up for hearing before me on 10.02.2025 in the presence of the Authorized person on behalf of the complainant and the Respondent remained *ex parte*, upon hearing the argument on behalf of the complainant and having stood over for consideration till this day, the following order is passed:

ORDER

The present complaint has been filed u/s 31 of Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the Act') read with Rule 35 of the

Telangana State Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as 'the Rules') by the complainant against the Respondent for award of compensation.

CASE OF THE COMPLAINANT:

2(a). The factual matrix as gathered from the complaint reveals that the respondent started a venture and informed the complainant that the land would be developed by making plots and HMDA approval would be obtained for the Layout. With such promise, the respondent made a pre-launch offer to the complainant and others for sale of the plots in land bearing Sy.No.670/P, at Pedda Amberpet (Kalan) village, Abdullapurmet Mandal, Ranga Reddy District. On such offer, the complainant decided to purchase one plot bearing plot No.34 admeasuring 202 Sq.Yards at the rate of Rs.17,500/- (Rs.Seventeen Thousand and Five hundred only) per Sq.yard and the total sale consideration being Rs.35,35,000/-(Rupees Thirty Five Lakhs and Thirty Five Thousand only). Initially, the complainant made payment of Rs.10,000/- (Rupees Ten Thousand only) under receipt dt.08.06.2021 to the respondent. Later, the complainant has also paid an amount of Rs.4,90,000/- (Rs.Four Lakhs and Ninety Thousand only) under another receipt dt.11.06.2021. Thereafter, the complainant made further payment of Rs.4,00,000/- (Rupees Four Lakhs only) on 16.06.2021 under receipt and on the same day, the respondent executed an Agreement of Sale acknowledging total

receipt of Rs.9,00,000/- (Rupees Nine Lakhs only) from the complainant and a time limit of 45 days was fixed for remaining payment of sale consideration and execution of sale deed. But the respondent has failed to develop the land, got the Layout approved from HMDA and thus, played fraud with the complainant and others. The complainant made several attempts to contact the respondent and get the plot registered after necessary development, but in vain. At last, the complainant got issued legal notice dt.21.12.2023 to the respondent expressing concern in the matter and that the complainant paid the said amount with great difficulty by availing housing loan and at last requested for return of advance amount paid by him. There was no response from the respondent. Having concluded that the respondent has played fraud and made the complainant to suffer physically and mentally, the complainant at last filed a case before the Real Estate Regulatory Authority for refund of amount paid and also filed the present case for compensation. The complainant prays to award compensation of Rs.4,00,000/- under different heads.

3. Notice was issued to the respondent by Registered Post and with Acknowledgment Due, which was returned un-served as 'addressee left'. Again a fresh notice was issued by registered post with acknowledgment due, which was served on the respondent. The respondent on next date of hearing, as endorsed on

the docket, remained absent and there was no representation. Therefore, the respondent has been set *ex parte*.

4. When the case posted for *ex parte* evidence, father of the complainant appeared as the complainant gave an authorisation letter in his favour to prosecute the case. Father of the complainant requested to mark documents filed in support of the case and accordingly, Exs.A1 to A8 have been marked on behalf of complainant.

5. Heard the father of the complainant.

6. Now the Point for consideration is whether the complainant is entitled for compensation and if so, to what amount?

7. POINT:

A reference to the case of the complainant while referring to the contents of the complaint has been made supra. In support of his case, the complainant got marked Exs.A1 to A8. Ex.A1 is Agreement of Sale dt.16.06.2021 executed by the respondent in favour of the complainant. Exs.A2 to A4 are the receipts dt.08.05.2021, 08.06.2021 and 16.06.2021 for payment of Rs.10,000/-(Rs.Ten Thousand only); Rs.4,90,000/- (Rs.Four Lakhs and Ninety Thousand only); and Rs.4,00,000/- (Rupees Four Lakhs only) by the complainant to the respondent. Ex.A5 is copy of broucher of the respondent with regard to the Project in question. Ex.A6 is office copy of notice issued

by the complainant dt.21.12.2023. Ex.A7 is the copy of Authorization given by the complainant in favour of his father to prosecute this case and Ex.A8 is copy of order passed by RERA authority in Complaint No.222/2024 filed by the complainant. A perusal of these documents prima facie supports the case of the complainant. As noted supra, it is the respondent, who offered to sell the plot and later made the complainant to suffer. Such act of the respondent is highly objectionable and against the law. The respondent having agreed to sell the plot and received amounts and executed documents as above is under obligation to answer the claim of the complainant. The respondent on issuance of notice failed to appear and contest the claim inspite of the fact that the notice was served on him. In these facts and circumstances, it has to be held that the complainant is entitled for compensation.

8. Now the question is as to for how much compensation the complainant is entitled. The complainant has claimed an amount of Rs.4,00,000/- (Rs.Four Lakhs only) as compensation, viz., Rs.2,00,000/- (Rs.Two Lakhs only) towards mental harassment; Rs.1,00,000/- (Rupees One Lakh only) towards loss of income and Rs.1,00,000/- (Rupees One Lakh only) towards Court/Legal/Travel/other miscellaneous expenses.

9. In view of said conclusion that the complainant is entitled for compensation, it has to be noted that the compensation has to be granted under the heads pecuniary and non-pecuniary. Though compensation has not been defined under the Act, Section 72 of the Act speaks about factors to be taken into consideration while adjudicating the question of compensation, which reads as under:

“Sec.72. Factors to be taken into account by the Adjudicating Officer:– *While adjudging the quantum of compensation or interest, as the case may be, under Section 71, the adjudicating officer shall have due regard to the following factors, namely:–*

- (a) *the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
- (b) *the amount of loss caused as a result of the default;*
- (c) *the repetitive nature of the default;*
- (d) *such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.”*

10. For determining the compensation to be granted to the complainants for loss or injury due to non-delivery of possession on time, there is Authority of the Hon’ble Apex Court in “M/s. Fortune Infrastructure (now known as M/s.Hicon Infrastructure) and another vs. Trevor D’Lima and others, Civil Appeal No.(s) 3533–3534 of 2017 decided on 12.03.2018, wherein it is held :

“No hard and fast rule can be laid down, however, a few examples would be where an allotment is made, price is received/paid, but possession is not given within the period set out in the brochure. The Commission/Forum would then need to determine the loss. Loss could be determined on basis of loss of rent which could have been earned if possession was given and the premises let out or if the consumer had to stay in rented premises, then on the basis of rent actually paid by him. Along with recompensing the loss, the Commission/Forum may also compensate for harassment/injury, both mental and physical.”

In the aforesaid case, the Hon'ble Apex Court laid down the principle for entitlement of the compensation due to loss or injury and its scope in cases where the promoter of real estate failed to complete the project and defaulted in handing over its possession.

11. As noted supra, the complainant has claimed compensation under various heads. Admittedly, the complainant agreed to purchase the plot for Rs.35,35,000/- (Rupees Thirty Five Lakhs and Thirty Five Thousand only) and out of said sale consideration, he has paid Rs.9,00,000/- (Rupees Nine Lakhs only). The respondent having agreed to sell the plot by taking necessary approval from HMDA by preparing Layout, has failed to do so. Thus, the respondent under wrong promise played fraud against the complainant. In our Indian society, persons would be interested to own a house for the self occupation of their family by investing their hard saving amounts

with great difficulties. When such persons are cheated, their families will be ruined in the hands of such culprits like the respondent. The persons so affected will not again make an attempt to invest their earnings and thus there is every likelihood of their family depriving to have their own house. When they suffered with such harassment, it is very difficult to assess the mental agony suffered by such family. In the instant case, the complainant has paid Rs.9,00,000/- (Rs.Nine Lakhs only) and the same is retained by the respondent without preparing Layout after developing the land and getting it approved. Even the said amount of Rs.9,00,000/- (Rupees Nine Lakhs only) for an average family like the complainant cannot be termed as “meagre” amount. The complainant has claimed Rs.4,00,000/- (Rupees Four Lakhs only) under said three heads. The complainant claimed compensation for mental agony, loss of income and Court/Legal/Travel/Miscellaneous expenses. Having regard to all these facts and circumstances, this Authority is of the considered view that grant of compensation of Rs.80,000/- (Rupees Eighty Thousand only) towards mental agony; Rs.20,000/- (Rupees Twenty Thousand only) towards loss of income, affect on carrier, permissions etc; and Rs.20,000/- (Rupees Twenty Thousand only) towards legal expenses etc would meet the ends of justice. The Point is accordingly answered in favour of the complainant and against the respondent.

12. In view of finding on Point No.1, the complainant is entitled for following compensation under different heads:

Sl.No.	Head(s)	Amount (in Rupees)
1	Compensation towards loss of income on working days due to visits by the complainant to get the plot registered and to request to make development as promised.	20,000-00
1	Compensation towards mental agony.	80,000-00
3	Compensation towards legal expenses	20,000-00
	TOTAL	1,20,000-00

(Rupees One Lakh and Twenty Thousand only). The Point is accordingly answered in favour of complainant and against the respondent.

13. In the result, the respondent is directed to pay an amount of Rs.1,20,000/- (Rs.One Lakh and Twenty Thousand only) towards compensation within (60) days from the date of this Order, failing which, Respondent shall be liable to pay interest at the rate of 10% per annum (highest MCLR rate of 8% plus 2% i.e., 10% per annum) as per Rule 15 of the Rules from the date of complaint till realization. The complaint is partly allowed accordingly.

Typed to my dictation, corrected and pronounced by me in open Court on this, the 27th day of FEBRUARY, 2025.

ADJUDICATING OFFICER,
TG RERA: HYDERABAD.

WITNESSES EXAMINED**None****Exhibits marked for complainant:**

Ex.A1	Dt.16.06.2021	Copy of Agreement of Sale.
Ex.A2	Dt.08.05.2021	Receipt for payment of Rs.10,000/- issued by respondent company.
Ex.A3	Dt.08.06.2021	Receipt for payment of Rs.4,90,000/- issued by respondent company.
Ex.A4	Dt.16.06.2021	Receipt for payment of Rs.4,00,000/- issued by respondent company.
Ex.A5	Dt.NIL	Ex.A5 is copy of broucher of the respondent with regard to the Project in question.
Ex.A6	Dt.21.12.2023	Ex.A6 is office copy of notice issued by the complainant dt.21.12.2023.
Ex.A7	Dt.NIL	Ex.A7 is the copy of Authorization given by the complainant in favour of his father to prosecute this case.
Ex.A8	Dt.10.09.2024	Copy of order passed by RERA authority in Complaint No.222/2024 filed by the complainant.

Exhibits marked for Respondents**NIL (Respondents ex parte)**

**ADJUDICATING OFFICER,
TG RERA: HYDERABAD.**

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