

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

**COMPLAINT NO.672 OF 2022**

**01<sup>st</sup> Day of June, 2024**

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

M/s AERWA

...Complainant

Versus

1. Sri Hari Chella
2. Sri C. Venkat Prasanna
3. Sri Raju Yadav

...Respondents

The present matter filed by the Complainant herein came up for hearing on 29.06.2023, 01.11.2023, 28.12.2023, 30.01.2024 and 15.02.2024 before this Authority in the presence of the Counsel for Complainant Smt. C. Rakee Sridharan, Sri Vijay Kumar and Sri Sai Kumar, and Counsel for Respondents Nos.1 to 3, Sri Alluri Krishnam Raju, Sri D.A. Suryanarayana Raju, Sri Ramesh and Smt. P. Deepthi, 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 Respondents.

**Brief facts of the case:**

3. The Complainant submitted that on basis of Respondents' grand advertisement, special features and prospectus mentioning the project highlights, the members of the Complainant Association had approached the in "Aliens Elite" and purchased the apartments/semi-finished flats with super built-up area in different variances ranging from 746 square feet to 3200 square feet in Phase-1 and Phase -2 consisting of 12 and 3 blocks respectively, with 2 car parking by adhering to all terms and conditions of the Respondents.

4. That all the flat owners have contributed and paid @ Rs. 100 per square foot including the common area, which was included in the sale consideration, to the Developer towards the corpus fund, for the purpose of long-term maintenance of the complex.

5. That as per the respective Sale deed of each flat owner of the Complainant Association, the corpus fund will carry interest @10% per annum from the date of handing over the possession of all the flats in the complex and such interest earned on corpus fund shall be used for monthly maintenance and repairs, replacements etc for the maintenance of the building complex such as water maintenance, salaries for securities, stand-by DG power supply, electrical charges for common area lighting, water supply pump and lifts etc.

6. That the purchase of the said apartments/semi-finished flats happened between 2006 to 2011, a total of 321 flats, post which the maintenance was carried out by the Respondents for a period of 2 years from the interest accrued from the corpus collected at the time of purchasing, the semi-finished flats, post which the corpus fund shall be handed over to the association as per the respective sale deeds.

7. That, the total square feet is 5,09,235 and that the Respondents have collected the corpus @ 100 rupees at the time of sale consideration from each flat owner, the total corpus amount comes to Rs.5,09,23,500/- (Rupees Five Crores Nine Lakhs and Twenty-Three Thousand and Five Hundred Rupees Only).

8. The Complainant Association further submitted that all the flat owners paid the entire amount which includes the corpus fund and the said amount collected by the Respondents for the maintenance of "Aliens Elite". That all the flats were occupied by 2011 and continued for further years and as promised and agreed on the agreements by the Respondents the maintenance of "Aliens Elite" was not properly undertaken by the Respondents despite having collected the corpus and committing to utilizing the interest on the corpus amount.

9. That there was no transparency in maintaining records and bill books. Further, the Respondents started exploiting the funds of the members and the monthly maintenance amount for the huge community. Under these circumstances, the Complainant formed an association namely Aliens Elite Welfare Association before the office of registrar of societies, RR District under AP societies Act, 2001, Reg No. 609 of 2013 dated 02.05.2013 to settle the day-to-day maintenance issues for the residents of 'ALIENS ELITE'.

10. That several times appeals were made by the Complainant/Members of the Resident Welfare Association to the Respondents. A Management Committee was formed by the Residents and the said Management committee visited the Respondents' office several times. During the year (reference e- mails and messages) 25.03.2014, 06.04.2014, July 2015, August 2015 and September 2016. In addition

in the year 2018, several representations were made through the association and notices were sent to the Respondents demanding the refund of the Corpus Fund along with Interest but the Respondents informed that they shall repay the entire corpus with interest within 6 months. But the Respondents neither returned the said corpus amount nor addressed the day-to-day maintenance issues which cause great hardship to the complainant association to resolve the respective day-to-day activities and maintenance.

11. That the Respondents have kept all income-generating areas though the Complainant/flat owners have paid for these areas the Complainants did not receive the actual benefits of the commercial areas whereas the Respondents were collecting rents out of those complexes/shops.

12. At this juncture, even after repeated requests and emails, as the Respondents failed to respond, on 23.08.2019, the Complainant Association issued a legal notice (via email) claiming their rights and interest. That the Respondents promised that they will execute and register the said 1-acre Property situated at Tellapur in the name of the Complainant Association but ended in vain. On believing the Respondent's version an unsigned Memorandum of Understanding ("MOU") was executed between Respondents and Complainant/Aliens Elite Residential Association (AERWA) 2020 and as per the MOU, the Respondents agreed to refund the corpus fund.

13. That in addition, the Respondents collected an amount of Rs.55,00,000/- (Rupees Fifty-Five Lakhs Only) towards the Building Penalization Scheme, intentionally informed that the Respondents have paid Rs.64,93,481/- (Rupees Sixty Four Lakhs Ninety-Three Thousand and Four Hundred and Eighty-One Only)

(Through letter no. ALIENS/ELITE/02/2012 dated 30.12.2012) towards Building Penalization Scheme dated 30.12.2012 for the Aliens Elite project and incurred an additional sum of Rs.5,00,000/- (Rupees Five Lakhs Only) from the Complainant towards unofficial amount to consent department. That the Respondents paid Rs.30,00,000/- (Rupees Thirty Lakhs Only) towards water pipeline unofficial amount to consent department. Later, the Complainant came to understand that the Respondents committed fraud by collecting money for purposeless schemes which doesn't exist and misappropriating the corpus fund.

14. That even after the meetings and incomplete MOU, the Respondents breached the trust of the Complainant and told that the said property which the Respondents agreed to give was not the real one and again promised that the property will be constructed and handed over to the Complainant in three months. Neither the construction of the property was completed nor the amount given to the Complainant.

**Relief prayed for:**

15. Aggrieved by the conduct of the Respondents, the Complainant prayed for the following reliefs:

- a. *Direct the Respondent to deposit the Corpus fund a said sum of Rs.5,09,23,500/- (Rupees Five Crores Nine Lakhs and Twenty-Three Thousand Five Hundred Only) along with 18% from 2013 to 2022 till date (from the date of formation of the apartment) a said total sum of Rs 21,28,14,379/- (Rupees Twenty-One Crores Twenty-Eight Lakhs Fourteen Thousand Three Hundred and Seventy-Nine Only);*
- b. *Refund the Corpus Fund - Rs. 5,09,23,500/- (Rupees Five Crores Nine Lakhs and Twenty-Three Thousand Five Hundred Only) and interest thereon as below.*

- i. *Interest thereon or 2013-2019 years @ 18%- Rs 8,65,47,245/-*
  - ii. *Interest thereon for 2019-2022@18% - Rs. 7,11,70,804/-*
  - iii. *And Damages of 2% on total Corpus fund -Rs 41,72,830/-*
- c. *Total of Rs.21,28,14,379/- (Rupees Twenty-One Crores Twenty-Eight Lakhs Fourteen Thousand Three Hundred and Seventy-Nine Only) in favour of the Complainant/Aliens Elite Residents Welfare Association.*

**Reply by the Respondents:**

16. *Per contra*, vide Preliminary Reply dated 31.03.2023, the Respondents submitted that the powers conferred on the Hon'ble Authority can be exercised only when the Real Estate Project which is the subject matter of the complaint falls within the purview of the said Act and the Rules made thereunder. Further, this Authority is not vested with the jurisdiction to entertain any complaint from any of the flat purchasers of the project which is the subject matter of the present complaint as the said project was completed by 2011 and handed over the flats to the respective flat purchasers who are the members of the Complainant Association.

17. It was submitted that the Complainant Association admitted that all the flats are occupied in subject Residential project by 2011 and that an association named as ALIENS ELITE Welfare Association was registered by the flat owners vide Registration No.609 of 2013 dated 02.05.2013. Therefore, execution and completion of the project had taken place much prior to the Act coming into force.

18. It was further submitted that "ongoing project" is defined under Rule 2(j) as *a Project where development is going on and for which Occupancy Certificate or Completion Certificate has not been issued but excludes such Projects for which building permissions were approved prior to 01.01.2017 by the Competent Authorities*

*viz., UDAS / DTCP / Municipal Corporations / Municipalities / Nagar Panchayats / TSIIC as the case may be*". To the subject real estate project, the building permissions were approved by the authorities vide Lr.No. 12172/P4/Plg/HUDA/2005, dated 11.05.2006 and Proceeding No.G/77/BP/2338/2006-2007 dated 07.06.2006.

19. It was submitted that from the building permissions and the statements made in the complaint the project "Aliens Elite" does not even come within the scope of "ongoing project" in terms of definition of ongoing project vide Rule 2(j). Furthermore, the rules framed in exercise of power conferred under said Act also excluded the projects for which building permissions were accorded prior to 01.01.2017, and accordingly prayed to dismiss the Complaint on the ground of lack of jurisdiction.

20. When directed to file a detailed reply, while refuting all the contentions raised in the complaint as well as the Rejoinder filed by the Complainants, the Respondents vide Reply dated 15.02.2024, further submitted that the complaint is not in consonance with the Act and the Rules thereunder and hence is liable to be rejected. It was submitted that the amount alleged to have been with the Promoter as corpus fund is not to pay interest on the corpus fund much less the rate claimed by the Complainant. The members of the Complainant Association having failed to pay the maintenance charges for number of years have no right to demand the corpus fund and/or interest thereon without settling the amounts due and payable to the promoter together with interest thereon. That the complaint is lodged only to harass the Respondents despite admitting that the Respondents provided all the amenities and completed the project and handed over the flats by 2011 itself.

21. It was also submitted that the complaint is barred by limitation and the Authority is not vested with the powers to entertain the complaint which are stale and hopelessly time barred.

22. It was submitted that the project was not promoted/developed by Aliens Developers Pvt Ltd., however, by Aliens Group Infra Pvt. Ltd. The said company is a person as for the definition of Section 2 (zg) but not the Respondents No. 1 and 2 who are arrayed in their personal capacity as Respondents. That there is no agreement for payment of interest between the parties and the claim for interest is devoid of merits and cannot be granted. There is no breach of trust, negligence, cheating, deficiency in service committed by the Respondents as alleged by the Complainant.

23. Without prejudice to right of the Respondents, it was submitted that, it has maintained the project till the year 2013, even after completion of project and handing over of the flats to the respective purchasers. The expenses incurred were all paid by the Respondents towards monthly maintenance charges and the Complainant/ the flat purchasers have not settled the accounts of the expenditure incurred on the maintenance of the project including the PMC charges of the Respondents. The Corpus so collected eroded as it was used for the maintenance of the project as the amount collected and the monthly expenditure incurred on the maintenance was not adequate and sufficient to maintain the project.

24. The allegations that, the Complainant came to understand that the Respondents played fraud, by misappropriation of corpus fund, breach of trust, breach of contract, deficiency in service improper drainage system ceiling leakage, low-quality electrical wiring and plumbing, non-handover of car parking & and not



providing *manjeera* water not providing the occupation certificates etc, are all denied as baseless. The flats were handed over more than 13 years as on the date of complaint. The repairs required as a result of wear and tear need not be attended by the Promoter, and they have to be serviced by the occupants of the flats.

25. It was submitted that there is no dispute in regard to execution and completion of the project and all the flats are occupied by 2011 much prior to the Real Estate (Regulation and Development) Act 2016 came into force which is evident from the complaint itself that an association named as ALIENS ELITE Welfare Association has been registered by the flat owners vide Registration No 609 of 2013 dated 02.05.2013.

26. As regards relief sought, the Respondents submitted that the same is not maintainable under law and also in facts and unless and until the amounts liable to be paid towards project maintenance after arriving at the expenditure incurred exceeding the notional income on corpus fund, the question of payment of corpus fund is premature. The interest recorded in the sale deed as a notional income is only 10% but whereas the interest claimed is at 18% which is in violation of the terms of the sale deed. The complainant is not entitled for any damages since, the Respondents has not committed any breach of the obligations. Furthermore, the Authority has no powers to direct the Respondents to pay any amount as they are imaginary, speculative and without any basis.

27. The Respondents further submitted that there is no violation, breach, cheating, misappropriation and embezzlement of corpus fund by the Respondents as alleged by the complainant and RERA has no authority to entertain the complaint. Further, the judgements referred by the complainant are not applicable and there is

no cause of action that is continuing after enactment of the Act for the purpose of entertaining the complaint. The promoter has completed the project in all aspects.

28. Further, the Electricity Bill (June 2023) reflecting on the name of Aliens filed along with the rejoinder cannot be construed as proof of pending handover completion. The Association failed to get their name recorded in the place of the Promoter.

29. It was accordingly prayed to dismiss the complaint.

**Rejoinder by the Complainant:**

30. The Complainant filed a detailed Rejoinder dated 24.07.2023 to the Preliminary Reply dated 31.03.2023 filed by the Respondents and submitted that there has been a violation, breach, cheating, misappropriation and embezzlement of corpus fund by the Respondents and hence, this Authority is competent to hear the matter. It was submitted that RERA is retroactive (as deduced by the Hon'ble Supreme Court in "*Newtech Promoters and Developers Limited v. State of UP* ") in nature and thus has the authority to entertain the present complaint and Respondents cannot escape from their liability. It was also submitted that the Hon'ble Supreme Court also made it clear that RERA does not apply to the Projects already completed or to which the Completion certificate has been granted at the commencement of the Act.

31. It was added that in the present case the Project "Aliens Elite" has not been accorded completion certificate and hence Project is well within the jurisdiction of TS RERA. The construction of many amenities is still pending. This is conclusive evidence to consider that the subject matter as a continuing construction.

32. The Complainant, in its Rejoinder referred to two case laws titled “*The Shyam Sunder Sharma v. Ashiana Housing Corporation Limited*” before Delhi High Court, wherein, the Delhi High Court held that the Real Estate Regulatory Authority (RERA) can hear a dispute relating to a project that was completed before RERA came into force if the builder has failed to provide the promised amenities. That depending on the building permission date to determine the maintainability of the application in RERA is against the principles of natural justice.

33. It was submitted that the handover of the property to the Residents Welfare Association is not yet done, no corpus was refunded, no documents or completion certificates were handed over, hence Respondents are liable to complete the same. It was therefore prayed that this Authority is competent to entertain the present complaint as the Project falls within the purview of the Act under which the Authority is constituted to protect the interests of the Complainant Association.

**Observations and Directions of the Authority:**

34. Matter was heard at length, wherein the Complainants reiterated the contents of their Complaint and the Rejoinder to the Preliminary Reply and categorically prayed that the Respondents are obligated to refund the corpus amounts paid by the members of the Complainant Association under the provisions of the Act, 2016. It was also submitted that as the Respondents have failed to procure completion certificate in accordance with Section 3 and that therefore, the project is on-going and falls well within the jurisdiction of this Authority.

35. *Per contra*, the Respondents categorically submitted that Project procured competent authority permission way back in the year 2006 and completed the Project

in the year 2010 and was admittedly handed over to the members of the Complainant Association in the year 2011. It was submitted that Rule 2(1)(j), the definition of on-going project which stipulates that *on-going project is that where development is going on and for which Occupancy Certificate or Completion Certificate has not been issued but excludes such Projects for which building permissions were approved prior to 01.01.2017 by the Competent Authorities*. In accordance with the said definition, as the Project in question obtained permission in the year 2006, more specifically on 07.06.2006. That in view of the same, Project may not be an on-going project as per the Rules, 2017 and therefore, it cannot be construed that present matter falls within the jurisdiction of this Authority.

36. Admittedly, for the Project “Aliens Elite” building permissions were approved by the authorities vide Lr. No. 12172/P4/Plg/HUDA/2005, dated 11.05.2006 and Proceeding No. G/77/BP/2338/2006-2007 dated 07.06.2006. And further, admittedly, the members of the Complainant Association have been handed over their respective flats in the year 2011 and have been residing there for the last thirteen years as on today.

37. In a comprehensive understanding of Section 3, it is evident that Project for which completion certificate has not been obtained and is on-going as on the date of commencement of the Act, 2016, falls within the jurisdiction mandating the promoter to register the project with the Authority within three months of the commencement. In this regard, it is pertinent to note the definition of a “completion certificate” under the Act, 2016. A completion certificate is defined under Section 2(q) as *the completion certificate, or such other certificate, by whatever name called, issued by the competent authority certifying that the real estate project has been developed according to the*

*sanctioned plan, layout plan and specifications, as approved by the competent authority under the local laws.*

38. However, the said provision under Section 3 has to be read in accordance with the local laws prevalent at the time in order to ascertain whether the project in question were under obligation to obtain completion certificate or occupancy certificate. In this regard, it is pertinent to note that G.O.Ms. No.86, MA & UD Deptt. Dated 03.03.2006, which was subsequently amended by G.O.Ms. No.168 dated 07.04.2012, were issued by the then Government that governed Building Rules that were published in the Official Gazette on 04.03.2006, the date on which the said G.O. was made mandatory and applicable to all buildings henceforth.

39. The G.O.Ms. No.86 dated 03.03.2006 makes a mention of completion certificate in accordance with the definition of the same as mentioned *supra* but does not make it obligatory upon the promoter to obtain the same upon completion of the construction of the building. However, the said G.O. mandates procuring an occupancy certificate from the competent authority for all buildings before occupying the same. As the present project obtained building permission on 07.06.2006, therefore, ideally the promoter i.e., the Respondents were obligated to procure building permission as per the said Rules.

40. Now the question is whether the Respondent/Promoter has obtained a completion certificate and an occupancy certificate or not. Admittedly, the Respondent, despite this Authority repeatedly asking for producing the said document, has failed to do so stating that the project, having obtained permission in the year 2006, does not fall within the jurisdiction of this Authority.

41. To comprehend as to whether this Authority has jurisdiction over the present project for which permission was obtained in the year 2006, it is relevant to take note the judgment of the Hon'ble Supreme Court in *Newtech Promoters & Developers Pvt. Ltd. vs. State of U.P. & Ors.*, wherein, upon discussion as to whether the Act of 2016 is retrospective or retroactive in nature, the Hon'ble Apex Court held as under:

*“36. Looking to the scheme of the 2016 Act and Section 3 in particular of which a detailed discussion has been made, **all “ongoing projects” that commence prior to the Act and in respect to which completion certificate has not been issued are covered under the Act.** It manifests that the legislative intent is to make the Act applicable **not only to the projects which were yet to commence after the Act became operational but also to bring under its fold the ongoing projects and to protect from its inception the inter se rights of the stakeholders, including allottees/homebuyers, promoters and real estate agents while imposing certain duties and responsibilities on each of them and to regulate, administer and supervise the unregulated real estate sector within the fold of the real estate Authority.** (emphasis supplied)*

*37. The emphasis of Mr Kapil Sibal, learned Senior Counsel for the appellant is that the agreement of sale was executed in the year 2010-11 i.e. much before the coming into force of the Act and the present Act has retrospective application and registration of ongoing project under the Act would be in contravention to the contractual rights established between the promoter and allottee under the agreement for sale executed which is impermissible in law and further submits that Sections 13, 18(1), 19(4) of the 2016 Act to the extent of their retrospective application is in violation of Articles 14, 19(1)(g) of the Constitution of India.*

**38.** Mr Tushar Mehta, learned Solicitor General, on the other hand, submits that a bare perusal of the Objects and Reasons manifests that the Act does not take away the substantive jurisdiction, rather it protects the interest of homebuyers where project/possession is delayed and further submits that the scheme of the Act has retroactive application, which is permissible under the law.

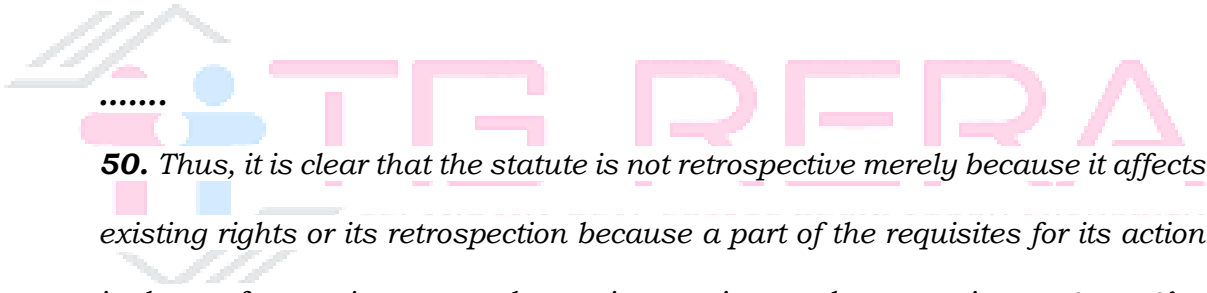
**39.** The learned counsel further submits that the keyword i.e. “ongoing on the date of the commencement of this Act” by necessary implication, ex facie and without any ambiguity, means and includes those projects which were ongoing and in cases where only issuance of completion certificate remained pending, the legislature intended that even those projects have to be registered under the Act. Therefore, the ambit of the Act is to bring all projects under its fold, provided that completion certificate has not been issued.

**40.** The clear and unambiguous language of the statute is retroactive in operation and by applying purposive interpretation rule of statutory construction, only one result is possible i.e. the legislature consciously enacted a retroactive statute to ensure sale of plot, apartment or building, real estate project is done in an efficient and transparent manner so that the interest of consumers in the real estate sector is protected by all means and Sections 13, 18(1) and 19(4) are all beneficial provisions for safeguarding the pecuniary interest of the consumers/allottees. In the given circumstances, if the Act is held prospective then the adjudicatory mechanism under Section 31 would not be available to any of the allottees for an ongoing project. Thus, it negates the contention of the

promoters regarding the contractual terms having an overriding effect over the retrospective applicability of the Act, even on facts of this case.

**41.** What the provision further emphasises is that **a promoter of a project which is not complete/sans completion certificate shall get the project registered under the Act but while getting the project registered, the promoter is under an obligation to prescribe fresh timelines for getting the remaining development work completed and from the scheme of the Act, we do not find that the first proviso to Section 3(1) in any manner is either violative of Articles 14 and 19(1)(g) of the Constitution of India.**

Parliament is always competent to enact any law affecting the antecedent events under its fold within the parameters of law.



**50.** Thus, it is clear that the statute is not retrospective merely because it affects existing rights or its retrospection because a part of the requisites for its action is drawn from a time antecedent to its passing, at the same time, **retroactive statute means a statute which creates a new obligation on transactions or considerations already passed or destroys or impairs vested rights.**

**51.** Parliament intended to bring within the fold of the statute the ongoing real estate projects in its wide amplitude used the term “converting and existing building or a part thereof into apartments” including every kind of developmental activity either existing or upcoming in future under Section 3(1) of the Act, the intention of the legislature by necessary implication and without any ambiguity is to include those projects which were ongoing and in cases where completion certificate has not been issued within fold of the Act.



*52. That even the terms of the agreement to sell or homebuyers agreement invariably indicate the intention of the developer that any subsequent legislation, rules and regulations, etc. issued by competent authorities will be binding on the parties. The clauses have imposed the applicability of subsequent legislations to be applicable and binding on the flat buyer/allottee and either of the parties, promoters/homebuyers or allottees, cannot shirk from their responsibilities/liabilities under the Act and implies their challenge to the violation of the provisions of the Act and it negates the contention advanced by the appellants regarding contractual terms having an overriding effect to the retrospective applicability of the Authority under the provisions of the Act which is completely misplaced and deserves rejection.*

**53. From the scheme of the 2016 Act, its application is retroactive in character and it can safely be observed that the projects already completed or to which the completion certificate has been granted are not under its fold and therefore, vested or accrued rights, if any, in no manner are affected. At the same time, it will apply after getting the ongoing projects and future projects registered under Section 3 to prospectively follow the mandate of the 2016 Act.”**

42. A bare reading of the said judgment, makes it explicitly clear that for projects where completion certificate is not obtained irrespective of the date of obtaining competent authority permission, falls within the ambit of the Act, 2016. It can further, be seen that the sale agreement, in the above-mentioned case, has been executed in the year 2010-11, however it has been held that the Act is retroactive in

nature, and non-obtaining of completion certificate by the promoter is a fit ground to bring the project within the jurisdiction of the Act, 2016.

43. This Authority has considered the contentions of both parties and has keenly observed that the Respondents have categorically not denied that no such corpus is pending to be paid. In fact, the Respondents pleaded that the members of the Complainant Association having failed to pay the maintenance charges for number of years have no right to demand the corpus fund and/or interest thereon without settling the amounts due and payable to the promoter together with interest thereon. They added that the corpus so collected was used for the maintenance of the project as the amount collected, and the monthly expenditure incurred on the maintenance was not adequate and sufficient to maintain the project.

44. In this regard, the Authority observes that the Respondents are merely trying to waive off their obligation and liability towards the members of the Complainant Association and not intending to return the corpus fund by portraying that the Project does not fall within the purview of the Authority. It is well established that maintenance charges are distinct from the corpus fund. Maintenance charges pertain to the costs associated with the upkeep of infrastructure, payment for utilities such as water and electricity, security, landscaping, staff salaries, and similar expenses. Conversely, the corpus fund is allocated for significant expenditures, including but not limited to, the acquisition and maintenance of equipment such as generators and sewage treatment plants, which are beyond the scope of routine maintenance charges.

45. For the sole alleged reason that the Complainant Association failed to pay the maintenance charges for number of years does not entitle the Respondent to usurp

the corpus fund paid by the members of the Complainant Association and not refund the same to their detriment and financial loss.

46. Therefore, in view of the foregoing observations, and in the peculiar circumstances of the case, which shall not be a precedent, as this is a beneficial legislation to protect the interests of the allottees, this Authority finds that the project falls within the jurisdiction of this Authority. Nevertheless, directing the Respondents to register the project at this stage would be futile, as no flats are available for sale and the members of the Complainant Association have been residing in the project premises for the last 13 years without any hindrance.

47. In view of the above, this Authority deems it appropriate to direct the Respondent to refund the corpus fund along with interest in accordance with the Rules, 2017, due to the Promoter's failure to comply with the obligations under the Act, 2016, and the Rules promulgated thereunder, as well as the obligations under the respective sale deed of the members of the Complainant Association. This Authority further opines that the Complainant Association would otherwise be left without any legal recourse to claim the corpus fund.

48. Consequently, the Respondents are jointly and severally liable to refund the corpus amounts of Rs.5,09,23,500/- (Rupees Five Crores Nine Lakhs and Twenty-Three Thousand Five Hundred Only) along with interest at the rate of 10.65% as per Rules, 2017 from the year 2013 till the date of actual payment, within 60 days to the Complainant Association failing which appropriate action will be initiated under Section 63 of the Act, 2016. Similarly, as contended by the Respondent, and not denied by the Complainant Association, the Complainant Association is hereby directed to pay the pending maintenance charges for the year 2011 to 2013 as

maintained by the Respondent along with interest of 10.65% as per Rules, 2017 within 60 days to the Respondent, failing which appropriate action will be initiated under Section 67 of the Act, 2016.

49. In lieu of the foregoing observations and directions, the present Complaint stands disposed of. No order as to costs.

50. 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) in accordance Section 44 of the Act, 2016.



**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**