

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

COMPLAINT NO.07 OF 2024

8th Day of November 2024

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

Sri Suresh Babu Rajoli

...Complainant

Versus

1. Hari Naidu Alugubilli,
President of Mayfair Visista Villa Owners
Mutually Aided Co-op. Maintenance Society Ltd.
2. Sri T. Srinivas Rao,
President of Mayfair Mutually Aided Co-op.
Housing Society Ltd.
3. M/s Greenmark Developers
Through its authorised representative

...Respondents

The present matter filed by the Complainant herein came up for hearing on 21.03.2024, 18.04.2024, 02.05.2024, 13.06.2024, 25.06.2024, 08.08.2024 before this Authority in the presence of Complainant in person and Respondent No.1 in person along with its Counsel, Sri Rajendra Mantha, Counsel for Respondent No.2, Sri Katta Laxmi Prasad and Ms. Katta Sravya and none for Respondent No.3 despite service of notice who has been set *ex-parte* vide order dated 25.06.2024 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”) seeking appropriate relief(s) against the Respondents.

Brief facts of the case:

3. It was submitted by the Complainant that he booked a Villa via the Housing Cooperative Society model in BHEL Mayfair Villas in April 2018 and was allotted Villa No.376 in May 2022 and the same was registered in favour of the Complainant in November 2022.

4. It was further submitted that the Respondent No.1 was not giving possession of its Villa No.376, BHEL Mayfair Villas situated at Sheriguda, Kondakal Village, Shankarpally Mandal, Ranga Reddy Dist., - 501203. That the Respondent No.1 Society is not handing over the Villa and was asking the Complainant to pay penalty of Rs.5685/- (Rupees Five Thousand Six Hundred and Eighty Five Only) towards Late Fee (Penalty) for Maintenance, Corpus Fund, Electricity Meter for which they have never sent the Complainant any notice in any of the form such as registered post, email, phone, SMS.

5. It was submitted that the Villa booking was made with the Respondent No.2 Society led by President Mr. T. Srinivas Rao however after registration the society members formed another housing society in the name of Maintenance and Corpus collection called (Mayfair Visista Villa Owners Mutually Aided Cooperative Maintenance Society Limited which is now led by President Hari Naidu Alugubilli, i.e., Respondent No.1 herein.

6. That the new Society i.e., Respondent No.1 Society, forcefully took over control from the Old society (BHEL Mayfair), i.e., Respondent No.2 Society, and started to

handover the Villas and continue the Project activities which was actually supposed to be performed by Old Society (BHEL Mayfair). That the Old Society (BHEL Mayfair) i.e., Respondent No.2 Society has also transferred the Maintenance and Corpus amount to the New society (Mayfair Visista) i.e., Respondent No.1 Society as well.

7. It was submitted that the Complainant had paid all the construction instalments in full & none of the basic amenities like electricity (power), drinking water, and club house are ready as on date. Despite the Project being in an incomplete & unliveable condition, the Respondent No.1 Society is demanding all the members (678 Villas) to pay the Corpus Fund [Rs.2,00,000/- (Rupees Two Lakhs Only)], Maintenance with GST [Rs.2,71,000/- (Rupees Two Lakhs Seventy-One Thousand Only)] and Electricity Meter [Rs.30,000/- (Rupees Thirty Thousand Only)] charges totalling to about Rs.5,01,400/- (Rupees Five Lakhs One Thousand and Four Hundred Only).

8. That the Complainant paid full amount towards Corpus Fund, Maintenance and Electricity Meter charges totalling about Rs.5,01,400 (Rupees Five Lakhs One Thousand and Four Hundred Only) on 18th November 2023 after the Complainant came to know that the maintenance agreement was signed on 14th November 2023. That even after clearing all the dues towards Corpus Fund, Maintenance and Electricity Meter charges, the Respondent No.1 Society has denied to Handover my Villa Keys, instead they have imposed Penalty Charges of Rs.5,685 as late fee for which they have never sent any Notice.

9. That the Respondent No.1 Society had not provided the GST receipts for maintenance, standard receipts for corpus and electricity meter so far. Also, the

electricity meter charges of Rs.30,000/- (Rupees Thirty Thousand Only) is being charged over and above the initial agreed charges.

10. It was submitted that the Complainant is staying in a rented flat paying a rent of Rs. 52000/- (Rupees Fifty-Two Thousand Only) per month and same time he is losing a rental income from the Villa which is estimated around Rs.50,000/- (Rupees Fifty Thousand Only) per month. All of the above is because of the delay in handover and possession of Villa.

11. Apart from this, the Complainant raised the following inconveniences:

i. Unwarranted Charges to Members during a Re-Sale of the property:

- The society first gave a letter to the SRO Shankarpally to not allow registration without NOC from the society
- Next the society is asking to pay Rs.50,000/- from the members as transfer charges during a resale without which they will not issue a NOC which is Impacting registration of the buyer.

ii. Change of Project Name (Branding) from BHEL Mayfair Villas to Mayfair Visista Villas:

- The current society "Mayfair Visista Villa Owners Mutually Aided Cooperative Maintenance Society Limited," is in the process of changing the Project Branding from "BHEL Mayfair Villas" to "Mayfair Visista Villas" without any concurrence from the residents, nor it is legally right. As per our Registered Sale Deed dated November 2022 the project is named as "BHEL Mayfair Villas" and now the society is trying to misuse the powers and trying to rebrand the Venture Name to "Mayfair Visista Villas".

iii. Exorbitant Charges for Membership into the New Society:

- Complainant has already paid Rs.1300 towards Membership and Share Capital to the previous society however the new society is again charging Rs.2000 (Rs. 1000 for Membership and Rs.1000 for Share Capital).
- iv. Unfair Election Process and Dynamic Notices being issued to Members without any discussion in the GBM and without any amendment in Byelaws:
- Instead of migrating all members from previous society to the new society, new society has started to again enroll members to the New Society.
 - Also, the New Society (Mayfair Visista) didn't allow all the members (678 Members) for election Instead they allowed only 208 members who enrolled themselves to the New Society to nominate or vote towards the election.

Relief sought:

12. Accordingly, the Complainant prayed for the following:

- i. *Provide my Villa Keys immediately and complete handover formalities; and*
- ii. *Provide MyGate Access; and*
- iii. *Provide Compensation of Rs. 13,00,000 (Rupees Thirteen Lakhs) plus (Rs.50000(Fifty Thousand) per month on further delay) towards delay in Handover and possession of my Villa, incomplete project work, full maintenance charged without completion of the project, lost rental income per month from the Villa, rent incurred due to unavailability of Villa, harassment, defamation, legal charges and expenses incurred, stress & agony I have gone through so far.*

Impleadment Applications:

13. During the course of hearing, the Complainant filed an application for impleadment bearing I.A. No.29/2024 of Respondent No.2. As Respondent No.2 executed the sale deed in favour of the Complainant, this Authority deemed it appropriate to implead the said party as Respondent No.2. Respondent No.2 filed its counter in the impleadment application bearing I.A. No.29/2024 filed by the Complainant which, he submitted, to be taken as counter in the main matter as well. Therefore, submissions made in the counter for I.A. No.29/2024 are being considered as counter to the main complaint.

14. The Complainant also filed another impleadment application bearing I.A. No.58/2024 to implead Respondent No.3, however, despite service of notice, the said Respondent neither appeared nor filed any affidavit. Therefore, he has been set *ex-parte* vide Order dated 25.06.2024 and has been impleaded as Respondent No.3 in the present proceedings.

Reply by Respondent No.1 dated 18.04.2024:

15. The Respondent No.1 filed its reply and submitted that the present complaint is not maintainable either under law or on the facts of the case. It was submitted that the Complainant made the Respondent in personal capacity and there is no privity of contract between the Complainant and the Respondent to sell any villa as alleged in the complaint. Even the maintenance society does not have any title to offer any of the villas to any person including the complainant herein. The complainant made the wrong person as party to the complaint with a view to harass and as such the present complaint is not maintainable.

16. It was submitted that the Respondent No.1 does not know about booking of villa via housing society model in BHEL Mayfair Villas in April, 2018 and allotment of Villa no.376 in May, 2022 and it was registered in November, 2022 in favour of the Complainant herein. The Complainant herein did not pay sale consideration to the maintenance society. That it was alleged by the Complainant that the Society (Mayfair Visista Villa Owners Mutually Aided Cooperative Maintenance Society Ltd) is not giving possession of Villa No.376, is no way concerned by the Maintenance Society. The Maintenance Society is taking care of maintenance of the community named as "Mayfair Visista Villa Owners Mutually Aided Cooperative Maintenance Society Limited (Regd. No. TS/RRD/ MACS/2023- 53/FOW & M), Kondakal, R.R.District". The Maintenance Society is formed by the villa owners, who purchased the villas from the housing society called "BHEL MAYFAIR Mutually Aided Cooperative Housing Society Limited". The Maintenance Society is only looking after maintenance issues of the community. Whereas the Housing Society is to provide villas to its members. So, it is the look-after of the housing society about registration of villas, handing over the possession of the villas and related issues. Hence, the Maintenance Society or the Respondent individually has nothing to do with giving possession of the alleged villa to the Complainant herein.

17. It was submitted that the Complainant is mixing the issues relating to the Housing Society and Maintenance Society. With regards to the issues relating to the Housing Society, viz. handing over physical possession of villa, handing over the keys of villa etc, let the complainant approach the housing society. The Respondent No.1 has nothing to do with such issues. Whereas the Complainant is not a member of the Maintenance society and as such he is not entitled to question any issues relating to maintenance society.

18. It was submitted that the Maintenance Society has every right to collect corpus fund, maintenance charges and other related amounts from the villa owners. The Housing Society has decided to appoint M/s. Livesmart Property Management Services for maintenance of community for three (3) years and fixed one-time advance payment of Rs.2,71,000/- towards advance maintenance charges. The Housing Society also demanded to pay Rs.2,00,000/- towards corpus fund and Rs.30,000/- towards Electrical Meter charges, totalling to Rs.5,01,000/- payable by each villa owner within stipulated time. If any villa owner pays the corpus fund and maintenance charges with a delay, the penalties will be imposed on the villa owner. The maintenance charges are payable by the villa owners to the service provider in advance. Accordingly, the Complainant and other villa owners have paid the said total amount of Rs.5,01,000/- to the housing society or to the developer in time. After formation of Maintenance Society, the Housing Society transferred corpus fund to the maintenance society as per the procedures.

19. It was submitted that the Housing Society is still in existence and still 46 villas have to be registered in favour of the purchasers either by the housing Society or by the landowner-cum-developer. The Complainant has approached the wrong person, and the Respondent No.1 is no way concerned to give possession of the alleged villa to the Complainant. The other issues raised relating to the maintenance and other issues are not required to answer, as the present complaint itself is not maintainable. The complainant is not the member of maintenance society and the maintenance society is not answerable to the complainant and as such the present complaint deserves to be rejected with heavy costs.

Rejoinder dated 02.05.2024 to Counter dated 18.04.2024:

20. The Complainant filed a rejoinder to the Counter dated 18.04.2024 filed by Respondent No.1 and submitted that the present complaint has been registered since there was no law maintained by the Respondent No.1 and the fellow association committee members hence the need for a complaint arose after giving 2 months of response time.

21. He added that in good faith and with right intention the Complainant had sent at least 8 (eight) reminders to the President of the maintenance society via email, phone, in person discussion along with a Legal Notice to handover the keys and solve the issue in an amicable manner for 4 months from November 2023 to February 2024. After several attempts, the Complainant could not receive a proper resolution from either the President or the maintenance society.

22. He submitted that he had no intention to harass the respondent. The respondent has become a party on his/their own deed after forcefully taking control of the handover process from the housing society without the project being completed. It is the Respondent No.1 and the team of committee members who are directly handling the payments related to maintenance and only when the payments are cleared, they are initiating the handover procedure via email and providing the keys to Villa Owners. So, at this juncture the Respondent No.1 is clearly shying away from his/their responsibility and trying to delay the handover process and blaming the housing society and myself as the owner of the Villa for the last 6 months.

23. It was submitted that the Respondent No.1 is clearly aware of all the details of the Villa owners who purchased Villa in the Project. The Respondent No.1 does contain a Full sheet of Sale/Conveyance Deed details with the Document

Registration Numbers along with the Villa Owner Name, Villa Owner Number. That the Complainant hasn't paid any sale consideration to the Maintenance Society however it is the same maintenance society who is now standing as a barrier and creating unnecessary confusion to the Villa Owners by taking control of the handover process.

24. It was further submitted that the Respondent No.1 is making an attempt to deviate from the current issue and blame someone else for their mistakes and delay in handover. The Respondent No.1 who is part of the so- called Maintenance Society have sent the Complainant an email that they cannot handover my Villa Keys until the Complainant pays them the penalty for delay in paying the charges towards Corpus, Maintenance and Electricity. The email has been sent from their official email ID (mayfairvisista@gmail.com). The email clearly says that the Respondent No.1 himself along with the team has asked the Complainant to pay the penalty without which they cannot provide the Villa Keys.

25. That the Respondent No.1 along with few other committee members have started Handing over/ Possession of the Villas since 21 June 2023 to members after they have taken the control from the Housing Society. This was a planned action by the Maintenance Society to which they are now denying the responsibility and very boldly and cleverly pushing the onus to Housing Society. If the Housing society is supposed to Handover the Villa's to Members, not sure why are the Maintenance society is claiming and actually Handing over the Villas to members since 21 June 2023. About 500-600 Villas have been handed over by the Maintenance Society after receiving the payment from members towards Corpus, Maintenance and Electricity. Also, the said Maintenance society is supposed to onboard all existing members of the Housing Society to the Maintenance Society however they created a procedure to

pay another sum of money for gaining membership to the new society which is causing inconvenience to members and now they are using the same excuse to shy away from their responsibilities.

26. It was submitted that it is implied that any member is liable to pay the amount towards Corpus, Maintenance and Electricity to the Maintenance Society. However, this task applies and stands valid when the Builder has completed the Project in full Construction, Amenities, electricity all other basic needs are available to the members. Penalties can be and should be imposed when all the above basic amenities and project are marked complete. However, in the present case the project is still under progress and is not complete and the Maintenance Society is unlawfully charging and forcing the members to pay the Maintenance amount and demanding penalties if there is a delay towards payment. The Respondent themselves agreed that the Housing Society has transferred the Corpus fund and Maintenance amount to the Maintenance society once the Maintenance Society started collecting amount and started Handing Over of the Villas. The society also has shared a notice that they are handing over the Villas along with the builder and there is evidence in the form of email to me and a payment notice to all members.

27. That the Maintenance agreement itself was signed by the society on 14th November 2023 by the society with the third-party provider however it was effective back dated on 1st September 2023 which is unfair to Start the maintenance when the project itself is not completed fully but they are charging Full Maintenance to all members. The society should have charged Interim maintenance when the project is half complete.

28. That however, in good faith, the Complainant paid full amount towards Corpus Fund, Maintenance and Electricity Meter charges totalling about Rs.5,01,400/- (Rupees Five Lakhs One Thousand and Four Hundred only) on 18th November 2023 after Complainant learnt that the Maintenance agreement was signed on 14th November 2023.

29. That even after clearing all the dues towards Corpus Fund, Maintenance and Electricity Meter charges the society has Denied to Handover my Villa Keys, instead they have imposed Penalty Charges of Rs.5,685/- (Rupees Five Thousand Six Hundred and Eighty Five Only) as late fee for which they have never sent me any Notice in any of the following forms - Registered Post, Email, Phone, SMS. The Complainant submitted that these penalty charges are not legitimate charges since the Project itself is not in liveable situation with no basic amenities like Electricity, Drinking Water, Club House. Adding to these, the maintenance agreement was signed on 14th November 2023 which makes no reason of levying the charges without 100% work completion.

30. It was submitted that following issues have arisen:

- a. Changing the project name and branding from BHEL Mayfair to Mayfair Visista without any approval from the Governing Authority (IGRS, HMDA, General Body etc.) which is causing confusion to bankers to refinance the Project with multiple project names and no ratification.
- b. Charging Exorbitant Fees (Rs.50,000) for any Re-Sale of the property which is not approved by the General Body and not applicable in Telangana.

- c. Unwarranted charges for Membership into the Maintenance society when members should be automatically absorbed from the housing society.
- d. Unfair Election Process and Dynamic Notices being issued to Members without any discussion and approval in the GBM and without any amendment in the Byelaws.

I.A. No.56/2024 filed by Respondent No.1 for vacation of interim directions:

31. Considering the preliminary submissions made in respect of handover of the possession of villa, for the reasons stated in the Interim Order dated 04.05.2024, this Authority directed the Respondent No.1 to handover the possession i.e., handover the keys of the villa to the Complainant.

32. Subsequently, Respondent No.1 filed an Application bearing I.A. No.56/2024 seeking vacation of interim order submitting that Complainant has filed complaint without making the societies as parties, but made the Presidents of the respective societies in their personal capacity as parties, which is not maintainable.

33. It was submitted that the Respondent No.1 is not a society and is a party-in-person. Any orders passed against the individuals are not binding on the societies. Moreover, the Respondent No.1 or the Maintenance Society do not come under the purview RERA and as such this Authority lacks the jurisdiction to adjudicate the present matter. There is no privity of contract between Respondent No.1 and the Complainant herein or with the Maintenance-Society.

34. It was further submitted that the payment of maintenance charges are different from registration of villas and giving physical possession of the villas and

its keys. Respondent No.1 or the Maintenance Society are no way concern with the villa keys of any one including the Complainant herein. The villa owners invited the managing committee members of the Maintenance Society while taking possession of villas and its keys and also for housewarming ceremonies and the villa owners took photographs with us and the same cannot become the basis for Orders dated 04.05.2024. The Respondent No.2 seems to have misguided this Authority and informed that the Maintenance Society is holding the villa keys, which is not true and the Respondent No.2 herein shall be put to strict proof of the same.

35. It was submitted that payment of penalties for delay in remittance of maintenance charges & Corpus Fund is no way connected to the handover of Villa Keys. The complainant should have approached M/s. BHEL MAYFAIR Mutually Aided Cooperative Housing Society Ltd (hereinafter called as 'Housing Society') for his villa keys. The Maintenance Society appointed maintenance agency M/s. Livesmart Property Management Services on 01.10.2023 and since then the present committee is following up the activities of maintenance agency appointed by the Housing Society. So, the Maintenance Society is no way concern with the handover keys to the complainant or to any one. It is learnt that the housing society has to register about 46 villas to the members and they have been dragging to register the villas. The Housing Society is not taking care of any thing, except spending the members amounts lavishly without showing any accounts.

36. That sister of the complainant took her villa keys recently and thereafter approached the Maintenance Society and became member. The Complainant should have asked her sister from where she took the villa keys. It is crystal clear that the Complainant with hand in glove with the Respondent No.2 filed the present complaint, as the members of Housing Society vexed with the attitude of the

Respondent No.2 in not giving the physical possession of the villas to the owners and failed to provide the amenities as promised, registered Respondent No.1 as society for maintenance purposes. So far, the Respondent No.2 or the Housing Society have not handed over any original title deeds of our villa project to Maintenance Society inspite of several demands. Still the residents do not have electrical power supply to the villas. The 2nd Respondent and the housing society appointed Project Management Consultants (PMS) and spent huge amounts for them and the said PMC is puppet in the hands of the Respondent No.2 and did not choose to provide basic amenities. That the Respondent No.2 is working as AD in electrical department and has good knowledge on the Electrical issues and knowing fully ignored to follow-up to provide the basic amenities including electrical power to the project. Despite several complaints to the Cooperative department and also to this RERA office, there was no solution. Under these circumstances, Respondent No.1 floated owners association, which is Maintenance Society.

37. That the Complainant sent mail on 15.05.2024 and also letter dated 20.05.2024 to the Maintenance Society by attaching Interim Order passed in case Complaint No:7/2024, dt.04.05.2024. The Maintenance Society duly replied to him by bringing the facts once again, vide reply dated 01.06.2024 and informed the complaint to approach the Respondent No.2 herein, Housing Society and Greenmark Properties.

38. It was submitted that this Authority passed interim order dated 04.05.2024 only based on the statement made by the Respondent No.2 herein as mentioned in the para no.9 of the Order dated 04.05.2024 and the said statement is untrue and amounts to perjury and the Respondent No.2 shall be put to strict proof of the same.

Thus, he prayed to modify, vary or set aside the orders dated 04.05.2024 passed by this Authority in the interest of justice.

Reply to I.A. No.56/2024 filed by Respondent No.1 by Complainant:

39. It was submitted that the Respondent No.1 is clearly marked to the President of the society and not party in person. The Maintenance society has forcefully taken care over control from the housing society, and they have started handover of villas which means they are automatically under the purview of RERA.

40. It was submitted that Respondent No.1 itself shared a newsletter and in person email evidence mentioning that once the maintenance amount is paid to them, they will work with the builder to provide the keys which means they are directly controlling the handover of villa and the villa keys respectively.

41. It was submitted that after forcefully taking over the control of villa handover process from the Housing Society, the Maintenance society themselves have become the sole owners of Villa Handover process. The President and the committee members are clearly demonstrating an act of perjury even after seeing enough evidence and are deliberately trying to deviate from their responsibilities. It has been 8 months now and the maintenance society has not been able to provide GST receipts of the payment made by Complainant towards Maintenance, Corpus Fund and Electricity and they are asking for penalty which is unreasonable.

42. It is implied that any member is liable to pay the amount towards Corpus, Maintenance and Electricity to the Maintenance Society. However, this demand stands valid when the Builder has completed the Project in full including Amenities, electricity all other basic needs are available to the members. Penalties can be and

should be imposed when all the above basic amenities and project are marked complete. However, in our case the project is still under progress and is not complete and the Maintenance Society is unlawfully charging and forcing the members to pay the Maintenance amount and demanding penalties even after the full payment is made. The Respondent No.1 themselves agreed that the Housing Society has transferred the Corpus fund and Maintenance amount to the Maintenance society once the Maintenance Society started collecting amount and started Handing Over of the Villas. The society also has shared a notice that they are handing over the Villas along with the builder and there is evidence in the form of email sent to the Complainant and a payment notice to all members.

43. That even after Clearing all the dues towards Corpus Fund, Maintenance and Electricity Meter charges the society has Denied to Handover my Villa Keys, instead they have imposed Penalty Charges of Rs.5,685 as late fee for which they have never sent me any Notice in any of the following forms - Registered Post, Email, Phone, SMS. That these penalty charges are not legitimate charges since the Project itself is not in liveable situation with no basic amenities like Electricity, Drinking Water, Club House. Adding to these the maintenance agreement was signed on 14th November 2023 which makes no reason of levying the charges without 100% work completion.

44. The Respondent No.1 in the capacity of a President and the Committee members should have asked Respondent No.3 to provide the keys since Complainant already cleared all the dues. Therefore, he prayed to disregard the false reply and claims made by the Respondent No.1 and strictly take action against the Respondent No.1 and penalize him/them for violating all the RERA norms and applicable Project/Society Rules and regulations.

Counter on behalf of Respondent No.2:

45. It was submitted by Respondent No.2 that the application to implead and the complaint thereby is devoid of merits as the Complainant is well aware that the handing over of the Villa and also handing over of the keys and other amenities are all in the domain of the Respondent No. 1 i.e., Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited.

46. It was submitted that the Complainant having filed documentary proof making assertion also and that the Complainant has paid the entire Corpus Fund, Maintenance Fund and Electricity Charges to Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited and having substantiated the same by documentary evidence cannot claim that he is not entitled for being subjected to the rules and regulations of the said Society and under the pretext claiming that the demand of late fee of Rs.5,685/- (Rupees Five Thousand Six Hundred and Eighty Five Only) is illegal and that he was denied with handing over villa keys until the penalty is paid is not within the domain of this Respondent.

47. It was submitted that as per the Complaint, the Complainant has initiated the proceedings only on one Respondent M/s. Hari Naidu Alugubilli, President, Mayfair Visista Villa Owners Mutually Aided Cooperative Maintenance Society Ltd. therefore also the said complaint is not maintainable as it is against the President of the Society and admittedly not against Mayfair Visista Villa Owners Mutually Aided Cooperative Maintenance Society Ltd. per se. Further, the claim is in respect of Villa No.376 purchased from the Respondent No.2 i.e., M/s BHEL Mayfair Mutually Aided Cooperative Housing Society of which the Complainant is also a member and the said Society through the builders Greenmark Properties represented by its authorized partner/person, had completed the construction in every respect and

registered the Villa also in favour of the complainant. That the Complainant booked a Villa in April, 2018 and was allotted Villa No.376 in May, 2022 and the said villa was also registered in accordance with law in November, 2022 and therefore the role of the M/s.BHEL Mayfair Mutually Aided Cooperative Housing Society is concluded and there is no cause of action in what-so-ever respect surviving against the said Respondent No.2.

48. That M/s. BHEL Mayfair Mutually Aided Cooperative Housing Society represented by its president T. Srinivas Rao was in control of the role to hand over the Villa only till 17.07.2023 when all the members of the M/s.BHEL Mayfair Mutually Aided Cooperative Housing Society had conducted a General Body meeting on 10.09.2023 and all the members decide to proceed with the newly formed Maintenance Society Ltd and it had taken over the entire management of the handing over the villas keys etc. and activities of the maintenance, and controlling the funds etc., and therefore the Respondent No.2 has handed over the accounts relating to corpus fund of each member, maintenance amount collected from the members till the date of handover i.e. 12.08.2023 and also the amounts collected towards electricity meter. That the entire accounts and management was handed over to the Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited and the said resolution was passed with the active participation of the Complainant also as its member in both the Societies and therefore the Complainant cannot plead ignorance.

49. It was further submitted that M/s BHEL Mayfair Mutually Aided Co-operative Housing Society Limited objective is as follows: "*The objective of the Society is to provide housing facility to its members by raising funds from the members through self-help*". "*The object of the society is to provide plots, houses to its members,*

maintenance of dwelling houses, club houses and other assets of the Society, providing amenities to its members". Therefore, the provisions Act of 2016 or rules thereunder are not applicable to the Respondent No.2. Further, as Mayfair Visista Villa Owners Mutually Aided Co- operative Maintenance Society Limited came into existence on being registered with the Government of Telangana Co-Operative Department on 17.07.2023 and the First General Body Meeting was held on 10.09.2023 even though they were actively involved/working in the background since 2018.

50. It was submitted that the task undertaken by the said Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited as per their Newsletter is as follows:

- a. We are currently working on several tasks, including:*
- b. Power Connectivity to the villas (Application has been submitted to TSSPDCL);*
- c. Collaborating with the Builder to speed up the completion of amenities and pending works, including cleaning villas & and fixing leakages;*
- d. Drafting of the Maintenance agreement with 'Livsmart Property Management Services' (Greenmark Developers Sister Company);*
- e. Communicating with BHEL MACHS to transfer pending amounts and documentation about the venture;*
- f. Working to complete the Membership Drive to the new society & to soon issue ID cards to Paid Members of the OWA;*
- g. Collection of Maintenance and corpus funds to enable us to drive maintenance and other activities.*
- h. We are proud to announce that since the inception of Mayfair Visista OWA, within two months, we have handed over 300+Villas and collected Maintenance and Corpus amounts. This shows the Trust and unity you*

have shown toward OWA and we strive to do nothing but the best for our homes.

51. It was submitted that M/s BHEL Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited has superseded the M/s BHEL Mayfair Mutually Aided Co-operative Housing Society Limited and taken over the responsibility except for it to arrange for the Sale Deed to be executed by the Greenmark Properties and the balance of its responsibilities i.e., handing over the villas including dealing with the aspects relating to collection of corpus fund, maintenance fund, and electricity fund, and dealing with the entire aspects of the balance works pending with the Builder i.e., "Power Connectivity to the villas (Application has been submitted to TSSPDCL); Collaborating with the Builder to speed up the completion of amenities and pending works, including cleaning villas & and fixing leakages; is taken over by M/s BHEL Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance

52. It was also expressly submitted that handing over/villa keys handing over, is being done by the M/s BHEL Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited after receiving the amounts towards Corpus Fund, Maintenance Fund and Electricity Fund and the said Society issues a mail to Greenmark Properties to handover the keys and the said Greenmark Properties has been handing over the keys only on the assurance of the Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited. That in some cases the said Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited and M/s Greenmark properties have handed-over the villas and keys without there being any registration of Sale Deed which itself shows the collusion and illegal activities being performed in collaboration with each other.

Facts on behalf of the Respondent No.2:

53. That the Complainant is a member of BHEL Mayfair Mutually Aided Co-operative Housing Society Limited on the basis of the Certificate issued dated 29.04.2018 and with Admission No. 042. That vide letter dated 26.07.2022, the Complainant was informed that the allotment letters are being issued for individual members and on submission of the said documents necessary Sale Deeds will be executed. In continuation of the said allotment, the said Society issued an Admission and Allotment/Commitment letter dated 02.08.2018.

54. That the M/s BHEL Mayfair Mutually Aided Co-operative Housing Society Limited executed a registered Sale Deed in favour of the Complainant and thereafter delivered possession. Therefore, in view of the subsequent developments and coming into existence of Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited, the said Respondent No. 1 Society in consonance with M/s Greenmark Properties had to follow up with the completion and handing over of the villa to the purchaser and also to take all other aspects regarding collection of corpus fund, maintenance fund and electricity fund and also to follow up with the Builder, M/s Greenmark Properties to complete the balance works.

55. That the only remaining responsibility of this society, i.e., M/s BHEL Mayfair Mutually Aided Co-operative Housing Society Limited is to get the builder to execute the sale deed in respect of the balance villas for which the Sale Deed has not been executed and it is not out of place to mention that the said M/s Greenmark Properties has to complete the construction and make ready the execution of the Sale Deed on the confirmation of the Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited of having collected all the necessary funds and there being no dues. The Society, i.e., M/s BHEL Mayfair Mutually Aided Co-operative

Housing Society Limited has to only join the execution of the Sale Deed as consenting party. After following up with M/s Greenmark Properties, execution of Sale Deed was made in respect of 17 villas on one occasion and 10 villas on another occasion and still the balance 33 villas Sale Deed has to be executed by M/s Greenmark Properties and the M/s Greenmark Properties is in fact registered with Telangana Real Estate Regulatory Authority in respect of the said Project and the Certificate dated 13.03.2019 with Registration No. P02400000159.

56. That the Complainant being a member of the Society i.e., BHEL Mayfair Mutually Aided Co-operative Housing Society Limited, had become a member of another society started by the owners being Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited referred to as Mayfair Visista OWA was officially registered with Government of Telangana Co-Operative Department on 17.07.2023 and had become operational from 10.09.2023 and further the said Society had not only taken over the entire funds towards Corpus Fund Maintenance Fund and General Fund and from there onwards was solely and wholly responsible for the handing over of the Villas to the purchasers.

57. It was submitted that as per document dated 21.07.2023, the said Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited had also issued a notice to all the members directing them to deposit Corpus, Maintenance and General Fund, in the designated Bank Accounts of the said society. The said letter further reiterates "*Villa keys handing over process*". After the amount credited to the specified account, OWA team will co-ordinate with M/s Greenmark Team for the villa keys handover process and will inform when the villa is ready for handover.

58. It is the case of the Complainant that he has paid the amounts towards Corpus Fund, Maintenance Fund and Electricity charges to the designated accounts mentioned by the Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited and the same is not in dispute. Therefore, it is to be followed by the procedure laid down as per the letter mentioned above and at the cost of repetition, i.e., letter dated 21.07.2023.

59. It was submitted that a case between the Complainant and the Mayfair Visista Villa Owners Mutually Aided Co-operative Society Limited and Greenmark Team and the present roaming litigation has been initiated by the Complainant questioning the demand made by the Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited for a sum of Rs.5,685/- (Rupees Five Thousand Six Hundred and Eighty Five Only) on the basis of the mail dated: 21.11.2023 at 12:24. The same is issued by Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited to the Complainant calling upon him having verified the payments made on account of Corpus, Maintenance and Power and on the basis of the rules and regulations of the registered society i.e., Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited whereby the Complainant i.e., member had agreed to be subjected to the said payment schedules and late fee payable on outstanding and therefore also this proposed Respondent No.2 has nothing to do in the present facts and circumstances.

60. It was further submitted that there is the communication between the Complainant and Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited that the possession will be delivered by Greenmark Team. The E-mail correspondence establishes that the payment of the amounts were to be made on or before 21.10.2023, whereas the payments were made by the

Complainant on 18.11.2023, and therefore the outstanding late fee penalty was to be charged @ 2%. The E-mail dated 25.12.2023 at 19:35 of the Complainant reiterates that the Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited has not initiated the process of handing over the keys and calls upon the Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited which is withholding the villa keys after full payment is made for incomplete project.

61. It was further submitted that the Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited on coming into existence has taken over the key handing over process and thereby having a control on the handing over the possession and further has entered into maintenance agreement with Livesmart PMS from 01.09.2023, and has initiated the payment and the said Livesmart PMS is nothing but a sister concern of the Greenmark Properties and therefore the entire process of controlling the entitlements of the owners is within the Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited, Livesmart PMS and Greenmark who are all in hand-in-glove and playing havoc with the entire entitlements of the members.

62. That even before 22.07.2023 the said Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited (Reg. No: TS/RRD/MACS/2023-53/FOW & M) had taken upon itself the entire responsibility and stepped into the shoes of the proposed Respondent No. 2 and even as of 12.08.2023 the entire funds were transferred and as per the Newsletter of the Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited of September 2023, the Respondent No.2 has no role to play and the subsequent events are also suppressed with deliberate intentions to misguide the Authority.

63. It was submitted that the entire management of the maintenance, etc. is the sole responsibility of Mayfair Visista Villa Owners Mutually Aided Cooperative Maintenance Society Ltd. represented by its President Hari Naidu Alugubilli. It is further a case of the complainant that he has paid sum of Rs.2,00,000/- (Rupees Two Lakhs Only) towards Corpus Fund; Rs.2,71,000/- (Rupees Two Lakhs Seventy One Thousand) towards maintenance with GST and Rs.30,000/- (Rupees Thirty Thousand Only) towards electricity meter totaling to an amount of Rs.5,01,400/- (Rupees Five Lakhs One Thousand Four Hundred Only) to the very Society i.e. Mayfair Visista Villa Owners. That the total amount paid is also in custody of the respondent Mayfair Visista Villa Owners Mutually Aided Cooperative Maintenance Society Ltd. and therefore the Respondent No.2 only has to confirm the same and also to produce the documents which is also available with the said respondent Society.

64. That from the date of the handing over the role and responsibilities of having control on the Builder and collecting the Corpus Fund, Maintenance Fund and Electrical Fund, the said responsibility of handing over the villa keys has also been taken up by the said Mayfair Visista Villa Owners Mutually Aided Co-operative Maintenance Society Limited and Greenmark Properties. The very handing over of the villa keys is being handled by Mayfair Visista Villa Owners Mutually Aided Cooperative Maintenance Society Limited and on its approval and confirmation the villa keys are being handed over by Greenmark Properties represented by its authorised person. That the very photographs and the video is the evidentiary proof of the same; further the procedure of exchange of mails etc. is also substantial proof for the Hon'ble Regulatory Authority to consider and appreciate.

Points for consideration:

65. In consideration of the rival contentions, the following points arise for adjudication before this Authority:

- I. Whether Complainant is liable for relief as prayed for? If yes, to what extent?
 - i. *Provide my Villa Keys immediately and complete handover formalities; and*
 - ii. *Provide MyGate Access; and*
 - iii. *Provide Compensation of Rs. 13,00,000 (Rupees Thirteen Lakhs) plus (Rs.50000(Fifty Thousand) per month on further delay) towards delay in Handover and possession of my Villa, incomplete project work, full maintenance charged without completion of the project, lost rental income per month from the Villa, rent incurred due to unavailability of Villa, harassment, defamation, legal charges and expenses incurred, stress & agony suffered.*

Discussion:

66. From the record, it can be seen that Respondent No.3, i.e., M/s Greenmark Developers has registered the project “Mayfair BHEL” before RERA vide Rgn. No. P02400000159, therefore, in accordance with the provisions of the Act, 2016, Respondent No.3 is the promoter of the project. Any issue that arises out of the project on behalf of the allottee is the complete responsibility of the promoter of the project i.e., Respondent No.3.

67. Admittedly, Respondent No.2 executed a registered sale deed in November 2022 in favour of the Complainant thereby conveying Villa No.376 in the Project. And as per Section 11(4)(f) read with Section 17(1) of the Act, 2016, it is the duty of the promoter to handover the possession of the plot, apartment or building, as the case

may be, to the allottees as and when the registered conveyance deed is executed. Section 17(1) is reproduced hereunder for reference:

17. (1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment or building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws.

68. Therefore, the promoter as per provisions of the Act, 2016, i.e., Respondent No.3 and the person who executed the sale deed in favour of the Complaint, i.e., Respondent No.2 had the obligation to handover possession of the unit registered in its favour as and when the conveyance deed was executed.

69. However, Respondent No.2 submitted that all responsibilities of the Mayfair Mutually Aided Co-op. Housing Society Ltd. had been transferred to the Mayfair Visista Villa Owners Mutually Aided Co-op. Maintenance Society Ltd. represented by Respondent No.1 herein and that it is the said Respondent No.1 that is undertaking all activities in relation to the handover of possession of the villas in the project. In support of its contention, the Respondent No.2 produced photographs of the handover process and handover letter exchanged between them. *Per contra*, the Respondent No.1 refutes the said contentions and submitted that they are merely a maintenance society that is not concerned with handover of the possession of villas. To counter this specific contention of Respondent No.1, the Complainant produced

an e-mail admittedly issued by the Mayfair Visista Villa Owners Mutually Aided Co-op. Maintenance Society Ltd. represented by Respondent No.1 wherein, the said Respondent No.1 stated that possession of the villa shall be handed over subject to clearance of the penalty fees payable by the Complainant.

70. Section 19 which stipulates the rights and obligations of an allottee, clearly stipulate as under:

(6) Every allottee, who has entered into an agreement for sale to take an apartment, plot or building as the case may be, under section 13, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any.

(7) The allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount or charges to be paid under sub-section (6). (emphasis supplied)

71. A bare perusal of the said provision makes it abundantly clear that it shall be the duty of every allottee to pay such maintenance as may be charged from time to time upon him and if there is any delay in payment, the allottee is liable to pay interest on such dues. The Respondent No.1 is admittedly the President of the Mayfair Visista Villa Owners Mutually Aided Co-op. Maintenance Society Ltd., and he being a mere president cannot be considered as promoter within the meaning of Section 2(zk) of the Act, 2016. This Authority is of the considered opinion that any dispute that arises between the maintenance society and the allottee is not subject matter jurisdiction before this Authority beyond the scope of RERA. Having said that,

the Authority would be concerned about the attempts of Respondent Nos.1 & 2 which would directly jeopardise the rights of the allottees/Complainant herein in taking over possession. This is a serious breach and a matter of concern and attempts to frustrate the very essence of this legislation, i.e., to ensure that allottees receive their promised premises. Needless to say that this Authority will take serious view of any attempts to frustrate the objective of this legislation in which present relief is part of. The object and purpose of the Act, 2016 is confined to safeguarding the rights and obligations of allottees and promoters.

72. The Respondent No.1 submitted that the maintenance charges are payable by the villa owners to the service provider in advance whereas the Complainant submitted that since the construction of the amenities block is incomplete and provision of essential services is not provided, he is not entitled to pay any maintenance. As mentioned earlier, this Authority is not inclined to intervene in the *inter-se* disputes between the maintenance society and the allottee, which does not have subject matter jurisdiction under the provisions of the Act, 2016, however, if the allottee is a defaulter in payment of maintenance amounts, he is liable for payment of penalty in accordance with Section 19(7) of the Act, 2016. At the cost of repetition, the maintenance society is not a promoter and neither does the Act, 2016 stipulate anything with respect to the rights or obligations of a maintenance society as against an allottee.

73. Therefore, this Authority holds not to intervene in maintenance-related disputes arising from disagreements between the allottee and the maintenance society who is not a promoter under the provisions of the Act, 2016 and parties may approach appropriate forum for settlement of those disputes. Further, this Authority holds that mere non-payment of penalty fees due to delayed maintenance payments

does not justify depriving an allottee of the rightful possession of a villa purchased long ago. Withholding possession solely on this basis is inequitable, unreasonable, and unjust. While an allottee who defaults or delays in paying maintenance fees must comply with the rules and regulations of the maintenance society as previously agreed, such non-compliance on its own does not nullify the allottee's right to take possession of their property. This right is secured under Section 11(4)(f) in conjunction with Section 17, as referenced above.

74. *Inter-se* disputes between the Respondents cannot embroil the legitimate allottee i.e., the Complainant into suffering. As held earlier, the promoter i.e., Respondent No.3, the person who executed sale deed, i.e., Respondent No.2 and the person to whom all the responsibilities of the Mayfair Mutually Aided Co-op. Housing Society Ltd. have been transferred to, i.e., Mayfair Visista Villa Owners Mutually Aided Co-op. Maintenance Society Ltd. represented by Respondent No.1 are jointly and severally liable for handing over of the possession of the villa No.376 to the Complainant with immediate effect, subject to clearance of maintenance dues, if any, as have been imposed in accordance with the due process of law.

Directions of the Authority:

75. In accordance with the discussions above, the following directions are issued:

- i. With respect to relief (i), the Respondents are jointly and severally liable and hereby directed to handover possession of the Villa No.376 to the Complainant within 15 (fifteen) days, subject to satisfying Section 19(7) of the Act, 2016 by the allottee i.e., the Complainant herein, failing which the said Respondents shall be liable for penalty in accordance with Section 63 of the Act, 2016; and

- ii. With respect to relief (ii), Complainant is directed to approach appropriate forum/respondents for the same; and
- iii. With respect to relief (iii), the Complainant to approach the Adjudicating Officer for which appropriate application has to be filed in Form N as per provisions of the Act, 2016 for the purpose of determination and computation of compensation. It has come to the knowledge of the Authority that an application has already been preferred by the complainant to this extent.

76. In light of the above directions, the present complaint is disposed of. Applications thereof are also disposed of. No order as to costs.

 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
 TELANGANA REAL ESTATE REGULATORY AUTHORITY		