

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

COMPLAINT NO.1400 OF 2023

20th day of April, 2024

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

Chandrashekar Laxmi Sudha
Laxmi Sudha Bhaskabhatla

...Complainants

Versus

M/s Empire Meadows
Smt. Gayatri Rao Dalapathi
Nagender Rao Venkata Krishna Dalapathi
Kasireddy Pandu Ranga Reddy

...Respondents

The present matter filed by the Complainant herein came up for final hearing on 20.02.2024 before this Authority in the presence of Complainant present in person along with association members and Sai Kiran Administrative Executive of the Respondent company on behalf of the Respondent and upon hearing the arguments of the parties, this Authority passes the following **ORDER:**

2. The present Complaint has been filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RE(R&D) Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") seeking directions from this Authority to take action against the Respondent.

A. Brief Facts on behalf of the complainant:

3. That the complainants are residents of Empire Meadows apartments, situated at Survey no. 166, Sai Anurag colony, Ganesh Nagar, next to Chaitanya IIT, Ameenpur, Sangareddy District, Hyderabad – 502032.

4. That they entered into an agreement with Mr. Kasireddy Pandu Ranga Reddy (hereinafter referred to as the landlord) on 14.02.2020 to purchase the residential 3 BHK flat with an extent of 1590 sq.ft based on the building approvals, floor plans from HMDA, and after duly verifying the same on the RERA website from M/s Empire Meadows for Rs. 66,95,000/-. The same has been registered as a semi-finished flat with the sub-registrar of properties, Sangareddy vide sale deed no. 23798/2020 for the amount of Rs. 1908,000. The sale consideration is an all-inclusive price of Rs. 66,95,000/-. As per the agreement and registered sale, they have paid the full sale consideration amount. As per the agreement, they have paid Rs. 30,000/- towards the corpus fund to M/s Empire Meadows after the registration of the said flat.

5. That the project started more than 12 years before, and still, some of the blocks, including the amenities block, are still in the construction phase. They are not sure about the project completion date. As per the RERA website, the project was supposed to be completed by the end of 2022. There are pending works with respect to my flat, and we have been following up with the builder Mr. Nagendra and the landlord and his staff, but there has been no proper response and progress yet.

6. The drainage lines are also not constructed for the new blocks such as Block F, G, and H, but the builder allowed residents to occupy the flats without drainage line connections to the municipality drainage. The drainage water was pushed through a motor engine by M/s Empire Meadows staff to the adjacent vacant land. The drainage water stagnated in the adjacent land, which created a lot of issues for our health due to mosquitoes and stench. Many of the residents have kids and elders. We have reported the same to Mr. Nagendra and his staff many times for the last few months, but it was not resolved, and the same has been reported to the Municipal Commissioner, Ameenpur, for necessary action. The Municipality, Ameenpur, and the said authorities issued multiple notices to the Respondent's office on the same subject matter, and later, municipal authorities handed over the motors from F block.

7. That the builder had allotted car parking slots after many months of follow-up from the residents, and the allocation was not clear on the size, and it is not uniform in terms of size to all the residents. The lines drawn on the parking lots are not valid as per your staff, and the new parking lines to be drawn as per the allotment plan have not been shared with us even after demand.

8. That as per the updates from RERA, the total construction of all the blocks, including amenities blocks, was to be completed by 2022, but still, it is not completed, and a lot of construction is in progress, which is causing a lot of pollution to us, resulting in health issues due to dust and noise from the construction vehicles and workers. This is to demand the builder to provide the estimated completion of the project with the approvals from the respective authorities, permissions, and any modifications with respect to the master plan, etc.

9. That as per the sale deed, we need to pay maintenance as per sq.ft from the date of delivery of possession as per Point no. 9 of the terms and conditions in the sale deed. We have requested the builder many times for the last few years to provide clarity on what basis he has been collecting Rs. 1.50 per sq.ft as maintenance, and many are providing to the residents as per the sale deed, for which the residents never got any response, neither from Empire Meadows nor his staff. Now, as per the RERA approvals, the amenities block is under construction, and they are not aware of the approved plan. They have requested and demanded the builder and landlord many times but they denied showing the approved plan. They have approached HMDA and Ameenpur municipality for the amenities block approval plan. But the builder managed them not to share the copies. They have come to know that the builder and the landlord are trying to sell out some of the floors without any information to the residents. The amenities block is for the residents, and the builder/landlord has no right to sell any part of it.

10. That they got a notification from the builder's office via mygate app to pay the pending maintenance. They have inquired and discussed with the builder's staff several times, but none of them provided clarity, and the staff

were rude and not cooperating with residents where they have issues in flat maintenance. This is a deficiency of service for which the builder and landlord are jointly liable for prosecution. The residents are deprived of their rights to enjoy the facilities mentioned in the sale deed. The builder's office or security or mygate app has no provision to raise a complaint or a physical register maintenance complaint or raise an issue related to flat/apartment maintenance. Mygate app is a one-way communication from the builder to the residents, which is not correct and acceptable. Provide a list of services that your company provided as per the sale deed, which you are responsible for, and the residents are entitled to.

11. That the water supply to the wash flush tanks is directly from the drainage lines, and the quality of water received in washrooms is hazardous and has caused health issues. As per RERA records, provisions are created to set up STP plans to recycle the wastewater. The same water is supplying to the flush tanks without cycling, which has caused health issues to the residents. The cleaning has been done inefficiently, and no perfumes or acids used before supply the recycled after from the STP to flush tanks. Due to the drainage water supply to the flush tanks, the residents are spending a lot of amount to get it cleaned multiple times. The same has been informed to the builder and his staff many times over the phone, WhatsApp, but no response and no improvement over a few years. Most of the day, there is no water supply to the flush tanks, and we need to use the buckets to fill and flush the tanks, which is difficult and almost impossible for kids and elderly people who stay in the flat.

12. That as per the Respondent website, brochure, and as per the sale agreements, the apartment is a gated community that provides security to the residents. Security should verify both entry and exit points for all, including residents, to ensure the security is taken care of. But there is no security to the residents as the security is not verifying the identity of the visitors, and everyone is allowed without any permissions, including guests, salesmen, delivery teams, cabs, and other transport vehicles, etc. The main gate barriers

are not available for the last few years, and many of us haven't seen it from the day we occupy the flat. This is an issue of extreme safety concern.

13. That there is no clarity on the Clubhouse on the plan and the time period to complete the same. As per the HMDA approvals, the building has to be completed by the end of 2022, and it is not completed yet. They have paid the sale consideration, which includes the gated community facilities, such as children's park, swimming pool, clubhouse, rock gardens, etc. No transparency with respect to the detailed plan for the clubhouse has been shared even after several years of delays and changed plans of the clubhouse.

14. That they have observed that there are a lot of changes in the project website on the facilities and amenities block. When they were purchasing the flat, rock gardens were part of the amenities and approved plan, and now no rock gardens were present on the project website. They need clarity as it impacts the undivided land share of each resident as per the sale deed.

15. That at the time of purchasing the flat, we have communicated and evidenced that there are 7 bores for all the blocks, including further constructions, but it is observed that there are 2 bores functioning, and the remaining are not in working condition, and both builder and staff denied to answer on this subject. 2 bores are not enough for 560 flats. If this situation continues by the end of construction, they will end up in a critical situation. The Respondent needs to provide the detailed status and the points of water bores on the premises and the plan of action for non-working water bores.

16. That the children's play area is almost damaged, and kids are facing a lot of difficulties to use the play area, which needs immediate attention to repair and replace whenever applicable. The swimming pool is not in working condition since years. We have purchased residential flats by paying premium charges with an intention to provide facilities.

17. That the surroundings of the blocks and Empire Meadows apartment are not maintained with basic hygiene. The drainage lines and rainwater lines are in an open state, and the water is logging everywhere due to which there are a lot of mosquitoes spreading and causing health issues. The roads inside

the apartment are damaged too. Most of the common areas are not covered with surveillance cameras too.

18. That there are wall cracks in many of the flats from the date of occupying the flats. Some of the residents have been following up with the landlord, but none of them were responding to the issue. This is to bring to your notice that they have been sending an email to the builder on a daily basis to come for a meeting with residents to discuss the pending works and the status of the project. But he did not respond to us, and he is sending a notification through mygate to pay the maintenance charges else will initiate steps to recover the maintenance amount from residents.

19. That we requested the builder to share the expenditure details, but denied the same. As most of the blocks are occupied, the builder to initiate the society registration and hand over the maintenance along with books of accounts to safeguard the interest of residents.

20. The Respondents are jointly liable to provide the quality amenities and the gated community amenities as per the sale deed and provide detailed clarifications against each point mentioned above.

21. That we are entitled to full facilities as per the sale deed and the commitments by both landlord and the builder. Requesting authorities to look into the issue and take necessary actions to protect their rights.

B. Relief(s) sought:

22. The Complainants sought for the following relief:

- i. The land area adjacent to the upcoming clubhouse within the allocated land should be handed over in a usable condition without any dispute.
- ii. Disclose the amenities block approved construction plan.
- iii. Damages of Rs. 10,00,000/- for the delay in construction and handing over the amenities as we are deprived of them after we paid the full sale consideration. Presently, this land area is completely unusable with huge uneven rocks located at a height of 30-40 ft from the ground level.

As per the meeting held between the builder and residents dated 22.04.2023, the builder intends to leave the land area as such, which is not useful at all. In order to make it usable for various community events, the rocks need to be removed else this would incur a huge cost in the future and legal implications.

- iv. Provide an adequate number of bores to ensure uninterrupted water supply for 560 flats of Empire Meadows. Initially, there were 7 bores, but currently, only 2 of them are running and the remaining 5 bores are not functional. The number of flats has increased from 300 to 550 + flats in recent years, and insufficient bores have caused a water crisis impacting the basic quality of life of every resident.
- v. The entire premises must be free from all structural and operational defects at the time of handover. Post-handover support for a minimum of 1 year.
- vi. Deck slab leakages and an inefficient drainage system cause water logging in the entire cellar parking, leading to mosquito spread and trouble to residents. These leakages and seepage have also damaged the basic structure which eventually will reduce the lifespan of the building. The quality of recycled water used in the washroom is hazardous, and germs are observed frequently. This problem has been prevailing since the beginning, and the builder failed to address this issue. Rainwater harvesting has not existed since inception.
- vii. The security gate at the main entry does not have the proper barrier to stop and inquire for the residents or visitors, which results in unauthorized entry of visitors.

C. Interim Relief:

23. The complainants prayed for following interim relief:

- i. Put a stay on any further sale of flats by the builder and landowner.
- ii. Put a status quo on the maintenance services to protect the interest of the resident/owner of the building.

- iii. To direct the builder to complete all common amenities and facilities as promised in the sale deed.

D. Respondent Reply:

24. In their response dated 23.12.2023, the Respondent stated that the construction of the amenities block was delayed due to a status quo ordered by the Hon'ble High Court in writ petitions No. 6520/2018 & 11925/2019 for the State of Telangana. The stay was lifted in April 2022, following which they commenced and completed the construction of the amenities block. Additionally, residents have started utilizing the facilities.

25. Additional reply dated 05.01.2024, further, clarifying the grievance of the complainant that the petitioner flat was not purchased from the company and there has been no financial transaction between both the parties and there is no question of any refund of his amount from the Respondent.

26. That the respondent in his previous reply has already stated about the delay in the construction of the amenities block and the same is completed in all aspects and are in process of handing over the same to the association in due course and large amount of maintenance amounts are due from the allottees and the issue is being addressed amicably to resolve with the residents.

E. Rejoinder filed by complainant:

27. The plaintiffs entered into an agreement of sale with M/s. Empire Meadows on 14th February 2020, and the semi-finished flat (E1-G2) was registered on 5th October 2020.

28. The plaintiffs discovered a dispute regarding the title on which the Empire Meadows project was developed and sold. According to the Real Estate (Regulation and Development) Act, 2016, development transactions cannot occur when there is a title dispute. M/s. Empire Meadows and its promoters are jointly liable to compensate under section 18(2) for not disclosing this dispute at the time of agreement and registration.

29. Contrary to the defendant's claim, the amenities block construction is not completed. There are inadequate facilities provided, notably in the gym, which lacks sufficient equipment for 560 families. Moreover, the quality of materials used in the amenities block is substandard.

30. The swimming pool is unfinished, contrary to the defendant's claim. There is no usable pool for kids, and the construction is not completed.

31. The plaintiffs assert that there are unresolved disputes, particularly regarding a portion of land (A.C 7-14 quanta) with the temple land. This information was allegedly concealed by M/s. Empire Meadows, potentially leading to future disputes.

32. M/s. Empire Meadows constructed five shops on the first floor without disclosing them. Any attempt to sell these shops without proper authorization would render such transactions null and void.

33. There have been multiple undisclosed changes to the project's master plan, leading to confusion and potential misrepresentation during the sale transactions.

34. Construction delays have occurred, extending beyond the stipulated timeframes set by HMDA and Ameenpur municipality sanction orders.

35. The gated community lacks proper security measures, and hygiene issues such as open drainage and inadequate wastewater recycling pose health risks to residents.

36. Internal roads within the community are damaged, and repairs have not been adequately addressed by the defendant.

37. The plaintiffs request authority to intervene and ensure that their rights, as outlined in the sale deed and agreements, are protected.

38. They seek compensation for damages, resolution of disputes, completion of construction work, provision of promised amenities, and adherence to quality standards.

F. Hearing Conducted:

39. On the 21st of November 2023, a hearing was scheduled, during which the Complainant appeared in person, and no representative appeared on behalf of the Respondent. The Complainant submitted to the authority that they presently occupy the flat. It was asserted that the Respondent has deviated from the sanctioned plan. Additionally, it was highlighted that there are a total of 540 flats, of which 400 are already occupied. Despite this, the Respondent has failed to complete the construction, as the amenities are yet to be finalized.

40. On December 27, 2023, the complainant was present, however, no representative on behalf of the respondent was present. The complainant was accompanied by three to four residents of the concerned project, all of whom asserted that the respondent has not yet completed the amenities work. Additionally, there have been deviations from the sanctioned plan, and no allottees were informed about these discrepancies. In response to the proceedings, the Authority directed the association to file a separate complaint, as the present complaint does not adequately address the concerns raised by the association.

41. On 10.01.2024, the Respondent reiterated the submissions made in his written reply submitted to this Authority on 05.01.2023. It was further stated that there are a total of 540 flats, out of which 380 are occupied. With regard to STP cleaning, the Respondents are already working on it. Furthermore, as the complainant has purchased the flat from the landowner, he shall seek a refund from him. Hence, the Authority directed to issue a fresh notice to the landowner, which shall be served by the complainant, and submit the acknowledgment to the Authority.

42. On February 16, 2024, the Respondent submitted a letter stating that most of the residents have not paid their monthly maintenance dues despite our repeated reminders. The Respondents are yet to receive more than 2 crores in maintenance dues, and all these complainants are defaulters of their significant maintenance amounts, with all pending infrastructural civil works

being consequential to their defaults. The Respondents have provided a detailed list of defaulters and reiterated that they have been sending individual intimations from time to time to all the residents, mentioning the overdue amounts through individual emails/MyGate app, but all attempts to draw their attention have been in vain.

43. Furthermore, the resident association was not formed unanimously and not under the supervision of the builder; even the term of the purported existing association has been completed. The builder is always ready to call for fresh elections of the residents to enable them to establish proper bylaws and regulations. No defaulters can exercise their rights to elect or contest the elections until all maintenance dues are paid up to date, and their demand is not legitimate.

44. They will be completing all the small infrastructure pending related issues within a period of 45-60 days with proper cooperation from the inmates/purchasers, subject to payment of their maintenance amount to the builder. Requesting, this Hon'ble Authority to give appropriate orders asking for the residents to make the overdue amount payment to the Respondent.

G. Findings:

45. The Authority notes that the complainants/association have contended for the allocation of the land adjacent to the forthcoming clubhouse. Furthermore, it observes that the present condition of said land renders it unusable due to the presence of uneven large rocks. However, the Authority is of the opinion that the Respondent can transform the rocky terrain, which constitutes part of the layout open space, into an aesthetically pleasing landscape. This viewpoint was also agreed with by the Respondent during the hearing. Consequently, the Respondent/Builder is directed to develop the rocky area into a landscaped area and deliver it to the association.

46. Additionally, the association contended that the amenities block is inaccessible to the allottees of the concerned project. However, the Authority has observed that according to the sale deed executed between the allottees and the landowner/builder, the sale consideration collected from the allottees

encompasses a semi-finished 3BHK flat, covered car parking, along with the cost of undivided share of 70.14 sq. yards of land, a clubhouse with basic facilities, lifts, backup generators for lifts and common areas only, provision for treated groundwater and Municipal water. Consequently, the Respondent/Developer is obligated to hand over the amenity block to the association, and hereby, the Respondent is also entitled to collect any outstanding maintenance dues along with interest for delayed payment.

47. Furthermore, the association has brought to the attention of this Authority the existence of a small temple with direct access for local villagers of the area. The Authority opines that a separate entrance can be facilitated by the builder for the local residents in such a manner that it does not disrupt the peace of the residents of the concerned project.

48. The residents have further asserted that the Respondent has failed to address deck slab leakages and an inefficient drainage system, resulting in water logging throughout the cellar parking area. The Respondent is reminded that as per section 14(3) of the RE(R&D) Act, in the event of structural defects or any other defects in workmanship, quality, provision of services, or any other obligations of the promoter as per the sale agreement, it is the duty of the promoter to rectify such defects. Section 14(3) reads as follows: Section 14: Adherence to sanctioned plans and project specifications by the promoter. (3) In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of the promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.

48. Thus, the authority finds that as per section 14(3) of the RE(R&D) Act, the promoter is obliged to rectify any such structural defects or quality of services as claimed by the Complainants/association.

49. Similarly, the complainant association has raised concerns regarding the Sewage Treatment Plant (STP), which has led to hazardous quality of recycled water used in washrooms. As per section 14(3) mentioned above, the Respondent is liable to rectify the STP immediately, a stance which was agreed upon by the Respondent during the hearing subject to the payment of maintenance dues.

50. Consequently, all provisions concerning the STP plan, generator, drainage and sewerage pipelines must be rectified by the Respondent Builder. Similarly, rainwater harvesting must be provided in accordance with section 14(3) of the RE(R&D) Act.

51. The Respondent/Builder is hereby directed to conduct new elections for the formation of the association of allottees, in the presence of both parties

H. Directions of the Authority:

52. Accordingly, the authority hereby issues this order and establishes the following directives under Section 37 of the Act to ensure compliance with the obligations imposed upon the promoter within 60 days from the date of the receipt of this order as delegated to the authority under Section 34(f):

1. The Respondent is instructed to develop the rocky area with landscape.
2. The Respondent must promptly finalize all pending tasks related to the amenity block and transfer its possession to the association.
3. The Respondent shall facilitate a separate entry for local residents to access the temple, ensuring without disturbing peace to allottees of the concerned project.
4. The Respondent is responsible for rectifying any deck slab leakages and addressing issues with the project's drainage system.
5. The Sewage Treatment Plant (STP) provision must be operational subject to the payment of maintenance dues with interest.
6. Implementation of rainwater harvesting measures is required.

7. The Respondent shall conduct fresh elections for the formation of association of allottees.

53. The residents of the project are obligated to cover maintenance expenses. The Respondent is hereby empowered to collect maintenance fees from the allottees of the project, along with any accrued interest on outstanding dues, in the event of default by the allottees. Any outstanding dues can be resolved through mutual agreement.

54. In lieu of the above-mentioned directions, the present complaint stands disposed of. Upon the failure of the Respondent Builder to comply with the present Order, appropriate action, including imposition of a penalty, will be taken as per provisions under Section 63 of the Act, 2016.

55. 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) as per Section 44 of the Act, 2016.

Sd/-
Sri. K. Srinivas Rao,
Hon'ble Member
TS RERA

Sd/-
Sri. Laxmi NaryanaJannu,
Hon'ble Member
TS RERA

Sd/-
Dr. N. Satyanarayana, IAS (Retd.),
Hon'ble Chairperson
TS RERA