

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

Complaint No.63 of 2024

30th Day of September 2024

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

ORDER (Dr. N. Satyanarayana, Hon'ble Chairperson):

Sri Jena Santosh Kumar

...Complainant

Versus

M/s KVR Constructions
rep. by Sri K. Venkat Reddy

...Respondent

The captioned matter filed by the Complainant above-named came up for hearing on 18.06.2024, 23.07.2024, 14.08.2024 and 09.09.2024 before this Authority in the presence of the Complainant in person and none for the Respondent, and 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 reliefs against the Respondent.

Brief facts of the case:

3. The Complainant submitted that he purchased plot No.39 in Srikanth Enclave situated in Sy. No.246/1, 246/2, 247, 248, 268/1 & 268/2 in Yadarpally East

Villagem Keesara Mandal, Medchal-Malkajgiri District. That the layout is approved vide Permit No.000058/LO/Plg/HMDA/2023 dated 20.03.2023 with 108 plots over an extent of 34,827 sq. mts. Further, Complainant entered into Agreement of Sale dated 22.02.2024 for purchase of the said plot for a total sale consideration of Rs.36,78,400/- (Rupees Thirty-Six Lakhs Seventy-Eight Thousand Four Hundred Only) and paid Rs.1,00,000/- (Rupees One Lakh Only) as advance amount towards such purchase. That subsequently, the Complainant learnt that Project is not registered with this Authority and sought to withdraw. He prays to direct the Respondent to register the Project "Srikanth Enclave" before this Authority and take appropriate action against the Respondent.

Reply on behalf of the Respondent:

4. It was submitted that the complaint is not maintainable in law in as much as the person by name Santosh Kumar Jena, who lodged the Complaint is only an agreement holder under an Agreement of Sale dt.22.03.2024 which is only an executory contract conferring no title or possession on the said person to lodge the said Complaint, the allegations of which are contrary to the terms and conditions as agreed under the Agreement of Sale and in order to escape from the obligation of paying the balance sale consideration as agreed by him, the said person had come up with the above said Complaint with all false and untenable allegations.

5. It was submitted that a perusal of the terms and conditions of the Agreement of Sale dt.22.03.2024 categorically show that the furnishing of any RERA permission on the part of the Respondent is not part and parcel of any of the terms and conditions as alleged by the Complainant. That the Complainant before entering into the Agreement of Sale conducted all sorts of enquires including the HMDA approved layout plan and then only proceeded in entering into the Agreement of Sale

dt.22.03.2024 by paying only meagre amount of Rs.1,00,000/- (Rupees One Lakh Only) towards advance sale consideration and agreed to pay the balance sale consideration within (30) days from the date of Agreement of Sale and when Respondent insisted for payment of the balance sale consideration, the Complainant got issued legal notice dt. 18.04.2024 with all false and untenable allegations. The said legal notice was suitably replied by way of reply notice dt.29.04.2024.

6. It was submitted that the Respondent was under the impression that in respect of the layouts which are issued by the HMDA, permission from this Authority is not required project covered under the said layout is only in respect of open plots measuring different sizes each but not exceeding 500 sq. mtrs and no construction activity of any Apartments or Villas is the subject matter of the said development. It goes without saying even the HMDA at the time of scrutiny of its application for grant of layout from the said authority had not insisted for furnishing of any permission from this Authority as such Respondent was under *bona fide* impression that it may not be a mandatory requirement from this Authority.

7. It was also submitted that if at all the Complainant is aggrieved by the violation of the terms and conditions of the Agreement of Sale dt.22.03.2024, then it is for him to approach the competent Civil Court but he cannot ventilate his grievance before this Authority and still if this Authority comes to conclusion that the said project requires registration, then Respondent is ready to abide by the provisions of the Act, Rules and Regulations.

Observations and Directions of the Authority:

8. The matter was heard, however, despite filing a reply, the Respondent failed to appear before this Authority. Even though his reply is taken on record, since the

Respondent failed to enter appearance, the Respondent was set *ex-parte* on 14.08.2024.

9. The main grievance of the Complainant lies in directing the Respondent to register the Project which has been reiterated by him on several hearings conducted by this Authority. To the show cause notice issued on behalf of this Authority as to why penalty should not be imposed for non-registration of the Project “Srikanth Enclave”, the Respondent mainly submitted that the Respondent was not aware about registration of the project for plots with the HMDA Layout permit as there was no construction of any apartment or villas. However, such an argument is not tenable as it is well established law that not knowing the law is not an excuse. Merely assuming that the layout permit granted by the competent authority does not require registration from this Authority is impermissible.

10. Section 2(zn) defines "real estate project" *as the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto.* And when such definition includes “plots” as in the Respondent’s Project, the Respondent ought to have registered the project in accordance with Section 3 & 4 of the Act, 2016.

11. Therefore, vide its powers under Sections 37 and 38 of the Act, 2016, this Authority directs the Respondent as under:

- i. This Authority deems it fit to impose penalty vide its powers under Section 38 read with Sections 59 & 60 of Rs.5,55,890/- (Rupees Five Lakhs Fifty-Five Thousand Eight Hundred and Ninety Only) for violation of Sections 3 & 4 of the Act, 2016 i.e., for non-registration of the Project “Srikanth Enclave” payable within 30 days in favour of TG RERA FUNDS through Demand Draft or online payment to A/c No.50100595798191, HDFC Bank, IFSC Code: HDFC0007036, failing which appropriate action under Section 63 of the Act, 2016 shall be initiated against the Respondent.
- ii. The Respondent is also directed to take necessary steps for seeking registration of the Project “Srikanth Enclave” within a period of 15 (fifteen) days before offering for sale any plots in the said Project and shall not be entitled till that time to advertise, book, sell or offer for sale or invite persons to purchase in any manner any plot in the said Project, failing which the Respondent shall be liable for penalty under Sections 63 and 59 of the Act, 2016.

12. In line with the above directions, present complaint is disposed of.

13. If aggrieved by this Order, the parties may approach the Telangana Real Estate Appellate Tribunal in accordance with Section 44 of the Act, 2016.

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