

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

COMPLAINT NO.100 OF 2024

30th Day of October 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 (Sri J. Laximanarayana, Hon'ble Member):

Smt. G. Swetha

...Complainant

Versus

M/s Sensation Vijetha Infra Developers
Represented by its Authorised Signatory,
Mr. C. Vishnu Vardhan Rao

...Respondent

The present matter filed by the Complainant herein came up for hearing on 31.07.2024, 27.08.2024 and 18.09.2024 before this Authority in the presence of Complainant in person, and Authorized Representatives of Respondent and after hearing the arguments, this Authority passes the following order:

2. The present Complaint has been filed by the Complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 read with Rule (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 against the Respondent.

Brief facts on behalf of the Complainant

3. It was submitted that the Respondent executed Memorandum of Understanding ("MOU") dated 07.03.2020 towards purchase of Unit No.12 of 250 sq.ft. commercial space in Sensation Vijeta Mall. It was submitted that the Respondent has not started construction till date and failed to complete the project in time. That as per the MOU, the Respondent has to return total amount to the Complainant along with 15% interest in case of failure for completing the project in time.

4. That she lost confidence in the Respondent, and therefore seeks to withdraw from the project and prays to direct the Respondent to return ₹10,00,000/- (Rupees Ten Lakhs Only) with interest from 7th March 2020.

Reply on behalf of the Respondent:

4. Respondent filed Reply on 01.08.2024 submitting that the Complainant had invested in commercial space admeasuring 250 sq.ft. in the proposed project situated at Narpally and had paid an amount of Rs.10,00,000/- (Rupees Ten Lakhs Only) and accordingly, the Respondent had issued MOU dated 07.03.2020 in favour of the Complainant. That due to misunderstandings disputes between the partners of the Respondent firm, the project could not take off and subsequently disputes have aroused between the landowners and the Respondent hearin and case is pending before City Civil Court, Hyderabad, hence project is shelved and permission procedures have not been completed.

5. It was submitted that the Respondent is willing to return the amount to the tune of Rs.10,00,000/- (Rupees Ten Lakhs Only) paid by the Complainant along with interest as directed by this Authority within 60 days from the date as directed by the Authority.

Observations and directions of the Authority:

6. The matter was called for hearing, wherein the Complainant appeared and reiterated the contents of her Complaint. The Complainant also submitted that the Complainant paid a total of Rs.13,50,000/- (Rupees Thirteen Lakhs Fifty-Thousand Only) wherein, Rs.10,00,000/- (Rupees Ten Lakhs Only) was paid via bank transactions and remaining Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand Only) via cash, to which, despite several reminders, the Respondent did not give any receipt. In support of this contention, she submitted a Memo dated 18.09.2024 in which she submitted a Whatsapp Chat conversation in which a photograph is annexed to the chat by a person named 'Gp sensation' showing 'investment' made by Guduru Swetha as Rs.13,50,000/- (Rupees Thirteen Lakhs Fifty-Thousand Only). However, a thorough examination of the record does not sufficiently establish that a transaction of Rs.13,50,000/- (Rupees Thirteen Lakhs Fifty Thousand Only) took place, as the Respondent, in neither his written nor oral submissions, has claimed to have received the said amount.

7. The Complainant also submitted that the Respondent agreed to having received such cash amount during the hearing before this Authority, however there was no such admission of receipt of cash amounts by the Respondent before this Authority. Therefore, in the absence of any authenticated receipts and

without any clear or unequivocal admission on the part of the Respondent, regarding the remaining Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand Only) allegedly paid in cash by the Complainant, this Authority cannot delve into the intricacies of unsubstantiated transactions between the parties herein. It was the duty of the Complainant to have obtained, a receipt, else any written approved document for the entire amount paid on her behalf. Lacking sufficient proof, it cannot be established that the Complainant made the payment in cash, nor that the Respondent received it, more so as nothing has been submitted by the Respondent in this regard in its counter.

7. The Respondent, as submitted in its Reply, filed a Memo dated 24.09.2024 that Respondent, by way of RTGS has transferred Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand Only) to the Complainant and has duly attached receipts of such payment made. In the said Memo, it was also submitted that remaining amounts of Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand Only) shall be paid shortly. This Authority has taken cognizance of the said Memo dated 24.09.2024.

7. While perusing the material on record, it has come to the notice of this Authority that the Respondent, admittedly, has not procured any permissions or registration from this Authority before executing the Memorandum of Understanding dated 07.03.2020 in favour of the Complainant in abject violation of Sections 3 and 4 of the Act, 2016, which clearly states that clearly stipulates that *no promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority.* This

attracts penalty under Sections 59 and 60, respectively, of the Act, 2016. This is also evident as no details of competent authority approval mentioned in the MOU.

8. This Authority, deems it fit, vide its powers under Section 37 read with Section 18, to direct the Respondent to refund the remaining amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) along with interest at the rate of 10.85% in accordance with Rule 15 of the Rules, 2017 from the date of the Memorandum of Understanding i.e., 07.03.2020 till the date of payment of the balance amounts.

9. In light of the above discussion, this Authority deems it appropriate, vide its powers under Sections 37 and 38 read with Sections 18 and 59(1) to issue the following directions:

- a. As agreed by the Respondent during the course of hearing, the Respondent is hereby directed to refund the remaining amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) along with interest on the total amount of Rs.10,00,000/- (Rupees Ten Lakhs Only) at the rate of 10.85% in accordance with Rule 15 of the Rules, 2017 from the date of the Memorandum of Understanding i.e., 07.03.2020 till the date of payment of the balance amounts; and
- b. For violation of Sections 3 & 4, i.e., for executing the Memorandum of Understanding dated 07.03.2020 with the Complainant without registering the Project with this Authority, this Authority deems it fit to impose penalty of Rs.2,26,379/- (Rupees Two Lakhs Twenty-Six Thousand Three Hundred and Seventy-Nine Only) 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.

- c. Upon obtaining the requisite permissions, if any, the Respondent is hereby directed to submit an application for registration of the project with this Authority in compliance with Section 4 of the Act, 2016 immediately. Furthermore, until the Promoter is issued a registration certificate by this Authority, the Promoter/Respondent is directed not to advertise, market, book, sell, offer for sale, or solicit any person(s) to purchase any plot in the said Project in any manner. Failure to comply shall render the Respondent liable for penalties under Sections 63 & 59 of the Act, 2016.

10. In light of the above directions, the Complaint is disposed of.

11. If aggrieved by this Order, the parties may approach the Telangana Real Estate Appellate Tribunal within 60 days from the date of receipt of this Order.

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