

Surendar Reddy, Srujan Bolishetti and Asif Ahsan. The said POA holders have personal knowledge of the dispute and are well acquainted with the facts of the case. It is pertinent to state here that the Complainants herein represent majority of the members of the Society.

- ii. The Respondent No. 1 is a Society formed for the welfare of employees working in BHEL in Telangana with the intention of providing affordable individual housing to its members by developing a house for 200 plus members within a gated community in the lands located at Indresham Village, Patancheru Mandal. Sanga Reddy District, Telangana ("Schedule Property"). The Respondent No. 2 is the President and Respondent No. 3 is the Secretary of the Respondent No.1 Society.
- iii. The Respondent No. 1 approached the Respondents No. 4 and 5, i.e., the landowners of Schedule Property and expressed its willingness to acquire 200 plus plots, each comprising of 167 and 200 (hereinafter referred to as "(a) and (b) units" respectively) Square yards of Survey Nos. 189 and 191 at the Schedule Property. Further, the Complainants had also simultaneously requested Respondent No.4 and 5 to construct 2 (Two) BHK independent houses of 1020 Sq.ft and 1200 Sq.ft. slab area respectively on the independent plots of "a" and "b" units in the Schedule Property and deliver the same to the members of the Society.
- iv. The Respondent No. 4 and Respondent No. 5 claiming to be the landowners of the Schedule Property admeasuring Acres 20-05 Guntas, located at Survey No. 189 and 191, expressed their intention to develop the lands into plots by creating a layout and to develop the same into residential houses through Respondent No. 6.
- v. The Respondent No. 2 along with Respondents No. 3, 4, 5 and 6 released fanciful brochures capturing the objective of initiating a housing scheme venture at the Schedule Property of 200 plus units (Land + Constructed House)

having: "a" type unit - 167 square yards with built up area of 1020 Sft; and "b" type unit 200 square yards with built up area of 1200 Sft. respectively.

- vi. The price fixed for unit (a) 167 square yards unit house was INR 32 lakhs; and unit (b) 200 square yards unit house was INR 38 lakhs.
- vii. The Complainants and other members of the Respondent No.1 Society, based on the representations made by the Respondent Nos. 2, 3, 4, 5 and 6 obtained memberships in the Society by making an initial advance payment of INR 1.7 Lakh each for both (a) and (b) type of units, towards house booking advance, admission fee, share capital and administrative expenditure.
- viii. Thereafter, a Memorandum of Understanding ("MOU") dated 22.02.2018 was entered by and between the Respondent No.1 Society and Respondent Nos. 4, 5 and 6 capturing the terms of acquisition and development of the units. The Respondent No. 1 collected funds from total 225 members of the Society out of which 120 members opted for "a" type unit and 105 members are for "b" type units but has only specified plots for 200 units (100 "a" type of units and 100 "b" type of units) in the MOU.
- ix. However, soon after collecting the funds from the Complainants, the Respondents started unilaterally changing the terms and conditions of the MOU. The Complainants and other members also questioned Respondent No. 2 and the Authorized representative of Respondent Nos. 4, 5 and 6, Mr. Nitin, with regards to several deviations in the MOU from commitments given in brochures and while collecting advances in the meeting dated 07.03.2018 held by society office and several times afterwards. The Respondent No. 2 and Mr. Nitin have provided vague answers and promised the Members that the MOU will be revised in line with the member's view. Subsequently, they have ignored the concerns of the members.
- x. Respondents No. 4, 5 and 6 have agreed to jointly formulate a layout of dwelling scheme. Further, the Respondent Nos. 4 and 5 have agreed to obtain the

necessary approvals/plan sanctions/clearances from the authorities concerned and to develop the layout accordingly as agreed and upon receipt of the entire sale consideration, will convey the total plots to the Society. Subsequently, the Respondent No. 6 shall take up the works contract of construction of the individual houses on the respective plots as per the agreed specifications of construction and obtain approval of house plans from the necessary authorities and handover the same to the Society.

- xi. At the time of execution of the MOU, the Complainants independently paid 10% of the unit cost for both (a) and (b) units respectively i.e., an amount of INR. 3,30,000/- for (a) and INR. 3,90,000/- for (b) units, and collectively paid an amount of INR 6,80,00,000/- (Rupees Six Crores Eighty Lakhs Only) in the month of February and March 2018 through cheques/challans and the same was acknowledged by Respondent No. 4 and 5 and an amount of INR 20,00,000/- (Rupees Twenty Lakhs Only) was paid as advance to Respondent No. 6 which was duly acknowledged in the MOU.
- xii. Subsequent to the above payments, a meeting was conducted on 14.03.2019 by the Respondent Nos. 1, 2, and 3 in the presence of Mr. Nitin, the authorised representative of Respondent Nos. 4, 5 and 6. During the said meeting, to the utter shock and surprise of the Complainants and other members of the Society, the Respondent Nos. 4, 5 and 6 demanded an additional 10% payment on unit cost on the premise of escalation of raw material costs. In this regard, Respondent No. 2, 3, 4, 5 and 6 also pressurized the Complainants and other members of the Society that in the event the additional 10% of the unit cost is not paid forthwith, there will be increase in the project cost. The Complainants and the other members of the Society were promised that on receipt of the additional 10% of the unit cost, the following conditions would be fulfilled: a. Plots will be registered directly in the favour of the members of the Society, b. Advance will be used for booking of raw materials, so that there will not be

escalation on the project cost, c. HMDA approval will be received shortly (2-3 months of time), development of the project will start immediately and d. Project will be completed in a maximum period of 18 to 24 months.

- xiii. In order to avoid any conflict and stalling of the project, the Complainants and other members of the Society proceeded on the basis of the trust and goodwill reposed on the Respondent No. 2, 3, 4, 5 and 6 paid the additional 10% as demanded. The Respondent Nos. 4, 5 and 6 acknowledged the receipt of total amount of Rs.17.55 Cr (Rupees Seventeen Crores Fifty-Five Lakhs only) from Respondent No.1 Society.
- xiv. Respondent No. 2 circulated a letter dated 06.11.2020 on WhatsApp vide message dated 16.12.2020 to all the members of the society to deposit the registration charges. Some amongst the Complainants and other members of the Society under the fear of losing the society membership and believing the Respondent No. 2, deposited the amounts of Rs.1.5 Lakhs to Rs.1.7 Lakhs each. It was made to believe by Respondent Nos. 2 that the amounts were transferred to accounts of Respondent 4 and 5. From the notice of Respondent 4 dated 16.11.2021, the Complainants have learnt that total amount to Rs.17,55,20,000/- (Rupees Seventeen Crores Fifty-Five Lakhs Twenty Thousand only) has been transferred to the Respondent No. 4 and 5 account from society, which is approximately 44% of total project land cost.
- xv. Subsequent to the above meeting and payments, to the utter shock and surprise to the Complainants and members of the Society, it was discovered that a false and fabricated document titled as 'Supplementary Agreement' dated 06.02.2019 was found executed between the Respondent No.1 through Respondent No.2, Respondent No.4, 5 and 6 wherein it was specified that the members of the Society including the Complainants herein agreed for additional sale consideration in view of loss of land for providing peripheral road. It is of utmost importance to state here that the meeting was held on 14.03.2019

wherein it was unequivocally informed to the Complainants and other members of the Society that there will be no price escalation upon payment of additional 10% of the unit cost. However, on the contrary, the Respondent No. 2 in collusion with Respondent No. 4 and 5 created the false and fabricated document with an intention to deceive and make unjust enrichment through the Complainants and other members of the Society.

- xvi. The Complainants have time and again requested the Respondent Nos. 2, 3, 4, 5 and 6 for reasons for such unilateral escalation of the unit cost. However, the Respondents were evasive in their responses and threatened the Complainants and other members of the Society that if they do not agree to the escalation cost, no allotments would be made, and the MOU would stand cancelled.
- xvii. Further, as per the MOU, the Respondent Nos. 4 and 5 were required to obtain necessary statutory approvals, licenses for the development of the units. The Respondent No. 4 and 5 after much delay and repeated requests and follow ups from the Complainants and other members of the Society, obtained the approval from HMDA only on 20.12.2019 for the Schedule Property i.e., for Survey Nos. 189 and 191 admeasuring an area of 77488.93 Sq. mts. totalling to 19-20 (Ac Gts).
- xviii. The Complainants and the erstwhile members of the Society were informed of the same through WhatsApp and a meeting was called for at the project site on 20.02.2020 and another meeting at office of Respondent 1 on 23.02.2020. In the said meetings, the Respondent No. 1, 2 and 3 along with Mr. Nitin intimated the Complainants and members of the Society that the project cost was escalated and provided no valid reasons for the same. The Complainants and the erstwhile members of the Society unanimously rejected the said escalation cost and protested against the same, however, despite the protests of the Complainants and other members of the Society, the Respondent No. 2 in

collusion with the Respondent No. 4 and 5, agreed for the said escalation and signed the Minutes of Meeting (MOM) dated 04.03.2020.

- xix. Complainants and other members of the Society having realised the foul play by the Respondents No. 1, 2 and 3 along with the Respondents No. 4, 5 and 6, issued a representation dated 02.03.2022 to the Respondent No.2 expressing their willingness to pay the remaining land cost as per the MOU dated 22.02.2018. However, despite the repeated requests seeking explanation and the protests on enhancement of the unit cost, the Respondents No.1, 2 and 3, without the consent or knowledge of the Complainants and other members of the Society, proceeded to circulate the purported Minutes of Meeting ("MOM") dated 04.03.2020 consenting to the enhanced prices as stated above.
- xx. Thereafter, the members of the Society discovered that the Respondent Nos. 4, 5 and 6 have also failed to register the Project under Telangana RERA, being another grave violation by the Respondent No. 4, 5 and 6.
- xxi. As per Article V of the MOU, the Respondent No. 4, 5 and 6 shall complete the construction of 200 Houses within 24 Months from the date of receipt of Final Layout Permission from HMDA/Independent House permissions from concerned authorities, as per the specifications mentioned in the MOU along with the development of roads/drains/water/electrification fittings to each house. Further, the Respondent No. 4 and 5 had to execute the registered sale deeds in favour of the Society with respect to 200 plots within 60 days with an additional 30 days grace period from the date of obtaining the approval of layout sanction plan from HMDA. As on date i.e., after expiry of 2 years, 8 months from the date of the sanction plan from HMDA, not a brick has been moved by the Respondent No. 4 and 5 either for layout of the Plots, allotment or construction of the houses, putting the Complainants and other members of the society to irreparable injury and hardship.

Relief sought:

4. In view of the facts mentioned above, the Complainants sought for the following relief(s):

- i. *To declare the inaction of the Respondent No. 4, 5 and 6 Promoters in communicating the approved plans from HMDA to the Complainants as illegal, arbitrary, and contrary to the agreed terms of the MOU.*
- ii. *To declare the action of the Respondent No. 4 and 5 in committing breach of the terms of MOU and the provisions of RERA Act and Rules as illegal and arbitrary.*
- iii. *To direct the Respondents to develop the project as per the terms of MOU and allot the residential units to the Complainants as per their original bookings;*
- iv. *Award compensation to the Complainants for an amount of Rs..../- towards mental agony, hardship, inconvenience in making them to approach different forums by incurring huge expenditure i.e., by engaging lawyers etc.*
- v. *To grant a perpetual injunction restraining the Respondents No4 and 5 from selling, disposing or assigning or in any way transferring/alienating the schedule property pertaining to Sy. Nos. 189 and 191 to any person/entity or creating any third-party interest whatsoever in the subject property.*
- vi. *To declare any transaction of the Schedule Property subsequent to the date of execution of the MOU ie., 22.02.2018 as null and void*
- vii. *To initiate penal/criminal Action against the Respondent Nos. 4 and 5 for*
 - a. *committing fraud and cheating the Complainants*
 - b. *committing breach of terms of MOU and the provisions of RERA Act*
 - c. *For obtaining extension of mortgage wherein a deliberate misrepresentation was made to the Complainants and other members of the Society.*
- viii. *Award costs of the Complaint;*
- ix. *and pass such other order or orders as this Hon'ble Authority may deem fit and proper in the circumstances of the case and in the interest of justice.”*

Reply on behalf of the Respondent Nos.4, 5 & 6 on 02.12.2022:

5. Respondent Nos.4, 5 & 6, vide their Reply dated 02.12.2022, in brief, submitted as under:

- i. Respondents No.4 & 5 are the owners of the land situated in survey No.189 and 191 of Indresham Village and the Respondent No.6 is the developer.
- ii. Present complaint is not maintainable as per the Provisions of RERA Act and this Honorable Authority has no Jurisdiction to entertain and dispose of the same.
- iii. Neither Respondent No.2 nor the other Respondents against whom the complaint was lodged are in any manner concern with Respondent No.5 at any point of time and that except the signing of the MOU, and supplementary MOU, Respondent No.5 had no role.
- iv. Respondents deny that there is any collusion between the Respondent No.2, 3 and 7 with the Respondent No.4 and 5.
- v. Respondents 4, 5 and 6 never made any representations to the members of the society at any point of time and deny that the members made initial advance payment 1.7 lakh each towards house booking advance, admission fee, share capital and administrative expenditure.
- vi. The Respondents 4 and 6 have agreed to obtain necessary approvals/sanction plan from the concerned authorities and agreed that upon receipt of the entire sale consideration will convey the total plots of the society and that Respondent No.6 will take up contract work for construction of the Individual houses on respective plots as per the agreed specifications of Construction and obtain approval of house plans from the concerned authorities and hand over the same to the society.
- vii. Despite of several request/reminders through verbal and mail communications made by Respondent No.4 & 6 to the society for payment of entire sale consideration of all the individual plots to get registered regular sale deed in favour of this society and to proceed for further construction of individual houses

to the members of the society, the society never came forward to pay the entire sale consideration and to get the sale deed registered in its favour and further disabled the Respondent No.6 to proceed with the construction part.

- viii. That to proceed with the project and to complete the project it is mandatory as per the clauses of the MOU that the society at first instance shall pay the entire sale consideration for the entire units as specified in the MOU and get registered sale deed in its favor. Further, progress of the project by the way of making construction of individual independent houses will take place only after the sale deed in respect of the respective individual plots as per the MOU is registered in favor of the society.
- ix. The society never paid the total sale consideration as per the terms of the MOU despite of repeated demands, requests, reminders to get the sale deed registered in its favor and the outcome of the latches, delay on the part of the society in proceeding with the project, these Respondents are blamed with unconcern issues, false claims and concocted stories.
- x. If the society and its members have complied with the terms of MOU, the project would have completed, but without fulfillment of the terms and conditions of the MOU by the society, the question of making any allegations or raising unwanted, unrelated and false and fictitious against Respondents No.4, 5 and 6 does not arise.
- xi. That these Respondents are not answerable to the members of the society on any of the issues, allegations levelled against Respondents 4, 5 and 6 and there is no privity of contract exist between these Respondents and the members of the society. It is only the society which is answerable on any of the issues a raised between the members of the society and the society itself. The MOU was executed by these Respondents with the society but not the members of the society. And that any issues or disputes between the society and these Respondents arising out of MOU shall be enforced before the competent civil court After invoking the

Article XIII (Resolution of Disputes) and that any unmettle disputes shall be referred to arbitration governed by the provisions contained in the arbitration and conciliation Act and that the award passed by the arbitrator shall be final and binding on both the parties.

- xii. The question of making any payments of the members of the society to these Respondents does not arise. These Respondents never received any amount much less 6 crores 80 lakhs and 20 lakhs respectively from the members and never acknowledged any receipts, except to the extent of receipt of 17.55 crores from the society.
- xiii. The society never fulfilled its commitment by complying with the terms and conditions of the MOU and not performed as per the recitals of the MOU.
- xiv. The complainants have no authority or right to plead that the supplementary agreement 06-02-2019 executed between Respondents 4, 5 & 6 with Respondent No.1 and 2 is a false and fabricated document and if they have any claim or grievance on execution of the supplementary agreement, it is open for them to raise the dispute with the society and its members.
- xv. It is false to state that there is an encumbrance on the properties of respondents 4 & 5 and should be made for free before disbursement of loan. These Respondents have deposited the titles deeds with their banker at the time of raising loan which in any manner treated as loss of title. As of today, the respondents 4 & 5 are the absolute owners with absolute right title interest and possession over the properties which are taken up for development as per MOU. There was no charge or encumbrance created on the properties. That the title deeds will be released once the loan amount is cleared. That It was an understanding between these Respondents and the Respondent No.1 represented by Respondent No.2 at the time of execution of MOU that a specific clause should be recited in the MOU that the society shall pay the entire sale consideration in respect of the individual plots as described in the MOU and get the sale deed

registered in favour of the society in order to close the loan account, accordingly a specific clause was recited in this regard. It is the society which is not complied the terms of the MOU as these Respondents got the consent/ approval from their banker to pay the sale proceeds into the loan account.

- xvi. It is true that these Respondents have to proceed with the project in term of Article V but the society never adhered to the term and conditions of the MOU and paid the entire sale consideration to get the sale deed registered in its favor. Therefore, the question of taking up construction and to complete the project within the stipulated period does not arise as the execution of sale deed in respect of the entire plots as per MOU by the society is a condition precedent.
- xvii. The complainants have no authority and right to question these Respondents as these respondents are not concerned with the complainants in any manner at any point of time and since the society has not adhered to the terms and conditions of the MOU which resulted in issuance of notice of termination of MOU dated 16-11-2021 and therefore the question of breach of terms of MOU by these Respondents does not arise. It is reiterated that the alleged delay in getting the approval from the statutory authorities is for the reasons best known to the society and its members.
- xviii. The Complainants have no right or authority to seek any relief from this Honorable authority on the strength of the false allegations attributed against the respondents much less to summon these Respondents 4, 5 & 6 to place or furnish any documents as there is no privity of contract exist between the complainants and these Respondents and it is the society (Respondent No.1) represented by respondent No.2 who accepted the un registered MOU. With regard to the deposit of balance sale consideration of their individual plots to the society and there after the society may convey the same to these Respondents for consideration of its request to proceed further.

- xix. That these Respondents never violated their duties and obligations in the capacity of the promoters as per the act.
- xx. That the complainants are not entitled for any of the reliefs as sought for and that this honorable authority may be pleased to reject the complaint and may direct the complainants to approach the respondents 12, 7 to 13 to invoke the arbitration as per Article XIII of Memorandum of Understanding.

Reply on behalf of Respondent Nos.1 to 3 and 7 to 13 dated 22.09.2023

- 6. The above-mentioned Respondents submitted as under:
 - i. The complaint is devoid of merit and liable to be rejected in so far as the society and its directors are concerned.
 - ii. That complainants in their complaint stated about the formation and functioning of the society but however sought relief only against the Respondents No. 4 to 6 and it appears from the statement of facts that they have no grievance against the society. It is very much evident from record that complainants themselves have withdrawn the complaints made against the society and submitted letters to DCO, Sangareddy in May,2020 and the GPA Holder Mr. Surender Reddy also categorically stated in his letter to DCO that the society is functioning in accordance with rules and bye-laws and there are no irregularities committed in the society and further stated that in view of the steep hike in the material cost and due to policy decision of HMDA in GOMs. No. 168 the land owner was forced to forego the land on account of master plan and peripheral road, hence the circumstances necessitated for the increase in the unit cost and the same was aggregable to all the members of the society. Therefore, from the letters and other documents filed along with this counter clearly would substantiate the sincere efforts of the society for completion of project at the earliest point of time in coordination with the Respondents No. 4 to 6.
 - iii. Complainants made false complaints against landowner-cum-developer and Respondents No. 2 and 3, before Police, Ramachandrapuram in FIR No.670/2021

and same was stayed by Hon'ble High Court on the ground that the matter pertains to "Civil Nature". It is not in dispute that the society entered into MoU with the landowners cum developers on 22.02.2018 for construction of the approval of concerned authorities. However, due to filing of criminal cases against developer and MC members - the project was unduly delayed. Nevertheless, the builder/developer has commenced project work.

- iv. Respondent Society was registered under MACS Act, 1995. The Society through its elected body of Management is functioning in accordance with Bye-Laws and provisions of MACS Act. In order to provide house sites to members by purchasing the available land in the local area Sangareddy, initially entered into an MOU dated 22.02.2018 with the land owners namely N.SIVA PRASAD and N. MAHALAKSHMI and M/s. Magnus constructions in Survey No.189 and 191 of Indresham Village of Sangareddy district. This project in order to provide house sites for 225 members and accordingly applied for the HMDA layout and got approved for 272 plots. This project specifically intended for 225 members but however some of the members were voluntarily withdrawn and there were only 176 members who come under this project. The society made plots lottery to 176 members including the complainants by lottery process on 24.12.2022.
- v. Out of 176 members, sale deed have been executed on 125 members on their individual names by giving consent to pay balance sale consideration for 167 sq yard plot and 24,40,000 for 200 sq yard plot. The Complainants unnecessarily created disputes by filing a false case against the Land Owner and Managing committee members and thereby the project was delayed and the land owner/Developer, in view of the pending criminal case, and other complaints in various forums. The landowner Mr. Siva Prasad notwithstanding the complaints filed by the members in various forums, came forward on humanitarian grounds for executing the registered sale deeds pursuant to request to the Landowner and serious efforts and steps taken by the management of the society for the benefit of

the members. The majority of the members (125) have availed the opportunity and got the plots registered in their names. Remaining 51 members having failed to come forward for payment of due amount to the land owner Mr. Siva Prasad for their plots within the cut- off time specified., 31-12-2022 for receiving the payments. Out of 51 members 8 were voluntarily withdrawn membership from society due to their domestic problem.

- vi. Complainants are some of the members of the society who have developed animosity against the President and Vice-President from the beginning and started making false complaints to the concerned Registrar under MACS Act (District Cooperative Officer, Sangareddy).
- vii. It is not correct to say that the society on execution of MoU dated 22.02.2018, after collecting advance amounts from the members of the society, Respondents unilaterally changed the terms and conditions of MoU and on raising objection by the Complainants, the 2nd Respondent and Mr. Nithin have provided vague answers is not correct. Respondent Society convened a General Body meeting on 14.03.2019 and discussed the issue with the members and members including the complainants have agreed for the enhancement of unit cost in view of the hike in the material cost and other miscellaneous expenditure. It is not correct to say that society and Respondents No.4 to 6 demanded additional 10% of the unit cost on the premise of escalation of raw materials and pressurized the members to pay additional cost forthwith. Therefore, there is no merit in the contention that society unilaterally changed the terms of MoU against the interest of members. In fact, Complainants are intentionally creating hurdles in execution of project, for which, society or builder cannot be held responsible.
- viii. As per the minutes of the General Body meeting only, in the interest of the members of the society, the supplementary agreement was executed for early completion of project. It is submitted that execution of agreements and its validity

and its correctness is the subject matter of civil court jurisdiction and the same cannot be questioned before this authority.

- ix. Society representing its members making sincere efforts to provide house sites and constructions of houses therein at the minimal cost with the support of developer i.e., Respondents No.4 to 6 and whereas the complainants alone, being allottees of the plots, causing obstructions in the development of the project and on the other hand questioning the escalation of the unit cost.
 - x. The members those who attended the loan mela conducted in August,2020 voluntarily approached the society and signed the loan forms and the Complainants having signed the documents cannot take U-turn and say that the same were obtained under pressure. The Complainants never protested or raised objections till filing of the complaints with regard to the signing of documents under pressure.
 - xi. As per MoU the Respondents No. 4 to 6 have to construct (200) houses from the date of final receipt of permission from the HMDA and thereafter the Respondents No. 4 and 5 shall have to execute the registered sale deeds and there is no dispute about the terms and conditions of the MoU. It is for the Respondents No.4 to 6 to answer with regard to the notices mails etc. issued by the complainants expressing their readiness and willingness for payment of the balance consideration and the society and its committee is not aware of the sale of (81) plots covered by Survey No.189 by the landowners to the outsiders.
7. On the basis of the pleadings of both parties, the point that arises for consideration is, whether the Complainants are entitled for the relief as prayed for?

Observations and Directions of the Authority:

8. The Complainant, filed Memo dated 05.09.2023 and 06.09.2023 and informed this Authority that the Respondent Nos.4 & 5 executed Sale Deeds in favour of 91 members who are before this Authority. However, 42 members are yet to get their

registrations from the said Respondents and therefore, they are aggrieved and seeking relief from this Authority. The matter was heard on 05.09.2023, 08.09.2023, 11.09.2023, 22.09.2023 and 05.10.2023, wherein during the course of arguments, the Counsel for Respondent Nos.4, 5 & 6 sought time for coming to a settlement so as to compensate the Complainants, however failed to do so on several occasions. Therefore, looking at the urgency in the matter, the matter was reserved for orders on 05.10.2023 and the Complainant was directed to file a memo enlisting the amounts pending to be paid on behalf of the Complainants to the Respondents. Further, the Complainants have also agreed to accept registration of only the plots, and not the constructed units in the subject property.

9. Accordingly, the Counsel for Complainants submitted a memo dated 06.10.2023 along with written submissions enumerating the Complainants' name, advance paid for house booking and the balance amount to be paid by members (42) @ Rs. 16,000 Per Square Yard for Undeveloped Land as below:

Sl. No.	NAME of the Member	Society Membership number	Allotted Plot Number	Plot Size in Sq. Yards	Advance Paid in INR	Balance to be paid in INR
1	Kagita Ashok	9	116	167	6,50,000	20,32,000
2	Rajesh Kumar Mandal	25	81	167	6,50,000	20,32,000
3	Manik Kumar Murmu	33	67	167	6,50,000	20,32,000
4	Gouri Charan Sahoo	35	25	167	6,50,000	20,32,000
5	Meera Mohammad Shaik	44	110	167	6,50,000	20,32,000
6	Kothapally Janardhan	46	18	167	6,50,000	20,32,000
7	T Yashodha	66	79	167	6,50,000	20,32,000

8	Mottikayala Krupa Rao	67	45	167	6,50,000	20,32,000
9	Bangi Nagendraiah	68	47	167	6,50,000	20,32,000
10	Chaudhary Vikash Bharti	70	64	167	6,50,000	20,32,000
11	Mediseti Sai Kiran	72	28	167	6,50,000	20,32,000
12	Jayanta Kumar Palei	78	84	167	6,50,000	20,32,000
13	Bipin B Mahapatra	79	62	167	6,50,000	20,32,000
14	Thampuluri Yadaiah	85	36	167	6,50,000	20,32,000
15	NN Kumar Kilaparthi	86	49	167	6,50,000	20,32,000
16	Kareppa	87	77	167	6,50,000	20,32,000
17	Salandri Divakar	90	35	167	6,50,000	20,32,000
18	Srinivasa Rao Bandi	91	123	167	6,50,000	20,32,000
19	Rajesh Kumar Yadava	93	3	167	6,50,000	20,32,000
20	Vijayabhaskar B	96	48	167	6,50,000	20,32,000
21	Panchanan Dash	97	113	167	6,50,000	20,32,000
22	SN Prasad Kothapalli	102	44	167	6,50,000	20,32,000
23	Banavath Rajender Naik	104	106	167	6,50,000	20,32,000
24	CH Durgaprasad	107	129	167	6,50,000	20,32,000
25	Purusottam Patra	110	87	167	6,50,000	20,32,000
26	Yadunath Lokhande	114	60	167	6,50,000	20,32,000
27	Kammari Sangameshwar	151	131	200	7,70,000	24,40,000
28	Althaf Basha Shaik	158	147	200	7,70,000	24,40,000
29	Kandula Suresh	159	140	200	7,70,000	24,40,000
30	Hariman Meena	160	53	167	7,70,000	19,12,000

31	Mithlesh Kumar	162	166	200	7,70,000	24,40,000
32	Ramesh Kumar Ray	176	159	200	7,70,000	24,40,000
33	Ashwini Kumar Nayak	186	92	167	7,70,000	19,12,000
34	Sajal Ghosh	188	167	200	7,70,000	24,40,000
35	Sunil Kumar Mohanty	195	168	200	7,70,000	24,40,000
36	Shaik Riyaz	201	55	167	7,70,000	19,12,000
37	Karigari Jyostna	212	203	200	7,70,000	24,40,000
38	Syed Maruf Afrooz	215	23	167	7,70,000	19,12,000
39	Debashish Hotta	217	132	200	7,70,000	24,40,000
40	Anil Kumar	225	114	167	7,70,000	19,12,000
41	D Shankar	229	107	167	7,70,000	19,12,000
42	Butchim Naidu Chokka Kula	239	50	167	7,70,000	19,12,000

9. Admittedly, Respondent Nos. 4, 5 & 6 are in receipt of Rs.17.55 crores from the Respondent Society paid by the Complainants in lieu of the allotment done by lottery of the plots sized 167 sq yds and 200 sq yds on 24.12.2022. This can be corroborated by the fact the Respondent No.4 along with the members of the managing committee conducted a General Body Meeting (“GBM”) dated 20.12.2022 wherein it was expressed that the Respondent No.4 would come forward for execution of sale deed in favour of the Complainants and other members of the Society.

10. The Respondent Nos.4, 5 & 6 blame the Respondent No.1 Society for not having complied with the conditions stipulated in the MOU dated 22.02.2018 by not completing the payment except for Rs. 17.55 crores, as stated by them in their Reply dated 02.12.2022, to get the sale deed registered in its favor. They state that taking up

construction and completing the project within the stipulated period does not arise as the execution of sale deeds in respect of the entire plots as per MOU by the Society is a condition precedent.

11. *Per contra*, the Respondent No.1 Society states that the delay in execution of the MOU dated 22.02.2018 occurred on account of filing of criminal cases against developer and MC members by the Complainants. Further, as regards unilaterally changing terms of the MOU, these Respondents state that the Respondent Society convened a General Body meeting on 14.03.2019 and discussed the issue with the members and members including the Complainants have agreed for the enhancement of unit cost in view of the hike in the material cost and other miscellaneous expenditure. The Complainants also admitted, to pay the escalated price of Rs.16,000/- for undeveloped land per sq yds as against the agreed terms of the MOU for Rs.10,900/-per sq yds under the apprehension of the loan being declared as an NPA. Accordingly, 125 members paid the escalated price and got Sale Deeds registered in their favour. However, the remaining 42 members, despite showing willingness to pay the escalated price were kept in abeyance and were not intimated about the registration of sale deeds in their favour.

12. This Authority is not concerned with the criminal complaints filed by the Complainants against the Respondents as the court of competent jurisdiction is already seized of the matter and shall be adjudicated as per law. In the facts of the present case, as per Section 11(4)(a) and (f) the Promoter i.e., the Respondent Nos.4, 5 & 6 including the President of the Society i.e., Respondent No.2 who entered into an MOU dated 22.02.2018, are responsible for all obligations, responsibilities and functions under the provisions of the Act and the rules made thereunder to execute a registered conveyance deeds of the plots in favour of the allottees along with the undivided proportionate title in the common areas to the association of allottees.

13. Despite being in receipt of the Rs.17.55 crores, the Respondents have failed to enter into an agreement of sale, thereby violating Section 13(1) of the Act and are merely relying upon an MOU in which the Complainants are not a party *per se*.

14. It is imperative upon the Respondents to issue allotment letters and subsequently to enter into registered agreement of sales as per the provisions of the Act. The Respondent Society has failed to provide a satisfactory explanation for their failure to collect the escalated payments from the Complainants, even though the Complainants have demonstrated their willingness to make such payments. Additionally, the Respondent Landowners, in their sworn affidavits, have expressed their readiness to transfer the ownership of the plots to the remaining 42 complainants upon receiving the outstanding amounts. In view of this and in view of willingness expressed by the Complainants that they are ready to accept the registration of only plots and not constructed units, this Authority is of the considered view that the matter can be disposed of with following directions:

- a. The Complainants to deposit/ pay the outstanding amounts of the 42 members to the Respondent No.1 Society within 30 (thirty) days from the date of receipt of this Order; and
- b. The Respondent No.1 Society, within 30 (thirty) days of receiving this outstanding amount shall transfer the same to Respondent Nos.4, 5 & 6; and
- c. The Respondent Nos.4, 5 & 6 shall, within 7 days of the receipt of the said outstanding amounts execute registered Sale Deeds in favour of the said 42 Complainants/members as enlisted in the table above. Parties are hereby informed that in case of any default on part of said 42 Complainants/members in paying the balance amounts, they shall be liable to pay such amounts with interest at the rate of 10.65% (8.65% + 2%) per annum to the Respondent No.1 Society. In case any amount has already been already collected by the Respondent

No.1 Society from the said 42 Complainants/members, the interest part thereof, shall be paid to the Complainants for keeping the amount with the Society.

15. With the above directions, the present complaint stands disposed of. Parties are hereby informed that non-compliance of the same shall attract penalty under Section 63 of the Act.

16. 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) within 60 days from the date of receipt of this Order.

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

Sd/-
Sri Laxmi Narayana Jannu,
Hon'ble Member,
TS RERA

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

TELANGANA STATE REAL ESTATE REGULATORY AUTHORITY