

24th Day of January 2025

Corum: **Sri K. Srinivasa Rao, Hon'ble Member**
 Sri Laxmi Narayana Jannu, Hon'ble Member

Corum: **Sri K. Srinivasa Rao, Hon'ble Member**
Sri Laxmi Narayana Jannu, Hon'ble Member

Sri D. Vinod & Sri M. Sathish

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

COMPLAINT NO.33 OF 2024

...Complainant

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

COMPLAINT NO.34 OF 2024

...Complainant

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,

Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

...Respondents

COMPLAINT NO.35 OF 2024

Sri E. Sai Ram & Sri N. Sridhar

...Complainants

Versus

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

...Respondents

COMPLAINT NO.36 OF 2024

Ms. Y. Anusha

...Complainant

Versus

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

...Respondents

COMPLAINT NO.37 OF 2024

Sri G. Kiran Kumar Goud

...Complainant

Versus

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

...Respondents

COMPLAINT NO.38 OF 2024

Sri S. Venkatesh

...Complainant

Versus

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

COMPLAINT NO.39 OF 2024

...Respondents

Ms. A Gayatri

...Complainant

Versus

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

COMPLAINT NO.80 OF 2024

...Respondents

Ms. C. Sirisha

...Complainant

Versus

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

COMPLAINT NO.95 OF 2024

...Respondents

Ms. Sneha Singh

...Complainant

Versus

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar

2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

...Respondents

COMPLAINT NO.142 OF 2024

Ms. V. Aruna

...Complainant

Versus

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

...Respondents

COMPLAINT NO.144 OF 2024

Sri P. Praveen Goud

...Complainant

Versus

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

...Respondents

COMPLAINT NO.145 OF 2024

Sri Ajit Kumar J.

...Complainant

Versus

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

...Respondents

COMPLAINT NO.208 OF 2024

Sri V. Venu

...Complainant

Versus

1. M/s Green Metro Infratech Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Boddu Ashok Kumar
2. M/s Bhuvanteza Infra Projects Pvt. Ltd.,
Represented through its Authorised Representative,
Sri Chekka V. Subramanyam

...Respondents

The present matters filed by the respective Complainant mentioned herein above came up for final hearing on 07.11.2024 before this Authority in the presence of Complainants in person, and Counsel for Respondent No.1, Sri V.M.N.S. Prasad, Sri U. Narendra and Sri Govind Narayana Swami, none for Respondent No.2 despite service of notice who was set *ex-parte* vide Order dated 21.10.2024, and upon hearing the arguments, this Authority passes the following

COMMON ORDER:

2. The present Complaints have 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 action against the Respondents.

Brief facts of the case:

3. The Complainants submitted that they paid their respective sale consideration of by way of cheque and cash to Respondent No.2, M/s Bhuvanteza Infra Projects Pvt. Ltd., through its Authorised Representative, Sri Chekka V.

Subramanyam and in some cases also to Respondent No.1, M/s Green Metro Pvt. Ltd., through Sri B. Ashok, towards purchase of their respective Flat in Tulasi Bhagyanagar Project, Dundigal registered with this Authority vide Regn. No. P02200002031 dated 24.08.2020 having validity up to 08.11.2025. The Complainants further submitted that the Respondents, also executed Agreements of Sale in favour of the Complainants in this regard. Further, said Respondent promised to register the said Flat in favour of the Complainant within a period of 10 days, however, almost 4 years have elapsed since the date of the respective Agreement, but there has been no response from the Respondents. Following is the details of the Complainants:

S.No.	Complainant Name	Flat No.	Amount paid (Rs.)	Date of Agreement of Sale
1.	Sri D. Vinod & Sri M. Sathish	C-309	24,85,000 (full payment)	08.10.2020
2.	Sri A. Prakash	C-G10	15,00,000 (partial payment)	06.12.2020
3.	Smt. E. Chandramani	C-205	15,00,000 (partial payment)	23.12.2020
4.	Sri E. Sai Ram & Sri N. Sridhar	A-207	31,00,000 (full payment)	12.04.2021
5.	Ms. Y. Anusha	B-411	26,00,000 (full payment)	17.12.2020
6.	Sri G. Kiran Kumar Goud	C-407	24,50,000 (full payment)	23.11.2020
7.	Sri S. Venkatesh	C-309	26,00,000 (full payment)	16.11.2020
8.	Ms. A Gayatri	B-413	26,07,250 (full payment)	16.12.2020
9.	Ms. C. Sirisha	E-209	27,00,000 (full payment)	02.12.2020
10.	Ms. Sneha Singh	C-407	13,00,000 (partial payment)	14.02.2021
11.	Ms. V. Aruna	C-205	26,50,000 (full payment)	23.10.2020
12.	Sri P. Praveen Goud	B-502	25,75,000 (full payment)	19.09.2020
13.	Sri Ajit Kumar J.	A-310	27,00,000 (full payment)	19.10.2020

14.	Sri V. Venu	B-G3	30,00,000 (full payment)	26.12.2020
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4. Meanwhile, notices have been issued to the Respondents and the notices have been returned for Respondent No.2, whereas, Respondent No.1 entered appearance through its counsel. Respondent No.1 also filed a reply, primarily submitting that there is no privity of contract between the Complainants and the Respondent No.1 as the Agreements of Sale was executed by Respondent No.2. It was categorically submitted that even though the Respondent No.1 received amounts from, Complainant, the same was refunded in May 2024, subsequent to the filing of the present complaints. He added that no sale consideration was ever received by Respondent No.1, however, as per the document/agreements of sale, the entire sale consideration was received by Respondent No.2, who is responsible for the transaction. It was also specifically submitted that the Respondent No.1 never entered into any agreement with Respondent No.2 for sale/marketing/advertising of the Respondent No.1's flats in the Tulasi Bhagyanagar Project, Dundigal. That therefore, it was prayed that present complaint be dismissed against the said Respondent No.1.

Interim Directions:

5. This Authority perused the material on record and issued interim directions directing Respondent No.1 not to alienate/sell/transfer or create any third-party rights on respective flats of the Complainants above-named in Tulasi Bhagyanagar Project, Dundigal until the complaints are finally disposed of by this Authority.

Points for consideration:

6. Basing on the facts and circumstances, present issues sprout for consideration:

- I. Whether the act of unilateral cancellation of the allotment on part of Respondent No.1 is in violation of Section 11(5) of the Act, 2016?
- II. Whether Respondent No.2 is in the capacity of an agent to Respondent No.1 and has violation Sections 9 & 10 of the Act, 2016?
- III. Whether the Complainants are entitled to any relief? If so, to what extent?

Observations of the Authority:**Point I**

7. Notices have been issued to the Respondents, however, same were returned for Respondent No.2 and therefore, the Complainants were directed to serve on the Respondent No.2 and submit proof of service. Accordingly, notices were served on Respondent No.2, yet none appeared on their behalf, and therefore they were set *ex-parte* on 21.10.2024. During the hearing, the Complainants reiterated the contents of their complaint whereas, the Respondent No.1 prayed to dismiss the complaint against Respondent No.1 as there exists no privity of contract between the Complainant and the Respondent No.1.

8. As observed earlier, amounts were sent by the Complainants to the Respondent No.1 through Respondent No.2 and in some cases also directly to Respondent No.1. It is observed that amounts were sent by the Complainants to the Respondent No.1 in the year 2020. If at all Respondent No.1 assumed that the said amounts were receiving by error on part of the Complainants, he ought

to have reversed the transaction within a period of one month or such reasonable period from the date of transaction. However, Respondent No.1 reversed the said amounts on in May 2024, after an inordinate delay of nearly 4 (four) years, which clearly indicates Respondent No.1's intent. The fact that Respondent No.1 reversed the amounts only subsequent to the filing of the present complaint before this Authority in March 2024 casts serious doubt on the bona fides of the Respondent's actions and suggests a clear violation of the provisions of the Act, 2016 more specifically Section 11(5), unilateral cancellation of the agreement of sale. It *prima facie* appears that Respondent No.1 is endeavouring to evade its statutory obligations, thereby causing undue prejudice to the Complainants, as though the Respondent has no privity or involvement with them. However, it is evident that amounts were received and subsequently refunded, accompanied by the issuance of cancellation letters to the Complainants for reasons best known to Respondent No.1.

9. Now, the Complainants cannot be left in lurch because of the *inter-se* disputes between the Respondents or such other discrepancies that put the rights of the allottees at jeopardy. Further, unilateral cancellation on behalf of the Respondent No.1 is completely uncalled for and unwarranted. Section 11(5) clearly stipulates that "The promoter may cancel the allotment only in terms of the agreement for sale: Provided that the allottee may approach the Authority for relief, if he is aggrieved by such cancellation and such cancellation is not in accordance with the terms of the agreement for sale, unilateral and without any sufficient cause."

10. In the Agreement of Sale dated 08.12.2020, the only term of cancellation provided is non-payment of sale consideration by the Complainant, however, the Complainant, vide receipts provided and cheque nos. issued, has clearly paid the remaining sale consideration thereby complying with the said condition. Further, even if assuming he did not pay within the time frame, cancelling on behalf of the Respondent No.1 subsequent to filing of the present complaint before this Authority after a belated period of four years raises grave suspicion as to its intentions on non-compliance of the provisions of the Act, 2016.

11. The Hon'ble Supreme Court in *CITI Bank N.A. v. Standard Chartered Bank*, (2004) 1 SCC 12 categorically held as under:

*"47. Novatio, rescission or alteration of a contract under Section 62 of the Indian Contract Act can **only be done with the agreement of both the parties of a contract.** Both the parties have to agree to substitute the original contract with a new contract or rescind or alter. **It cannot be done unilaterally.**"*

12. Annexure to Rule 38 of the Rules, 2017 provides for the Agreement of Sale to be executed with the allottees, under which Clause 9.3 provides as follows:

"9.3 The Allottee shall be considered under a condition of Default, on the occurrence of the following events: (i) In case the Allottee fails to make payments for ____ consecutive demands made by the Promoter as per the Payment Plan annexed hereto, despite having been issued notice in that regard the allottee shall be liable to pay interest to the promoter on the unpaid amount at the rate prescribed in the Rules; (ii) In case of Default by Allottee under the condition listed above continues for a period beyond ____

consecutive months after notice from the Promoter in this regard, the Promoter may cancel the allotment of the [Apartment/Plot] in favour of the Allottee and refund the money paid to him by the allottee by deducting the booking amount and the interest liabilities and this Agreement shall thereupon stand terminated. Provided that the promoter shall intimate the allottee about such termination at least thirty days prior to such termination. The amount shall be repaid by the Promoter within a period of ninety days after termination or the date on which the Promoter is able to resell the Apartment/Plot to another purchaser, whichever is later.”

13. Further, Clause 7.5 provides that *“the Allottee shall have the right to cancel/withdraw his allotment in the Project only as provided in the Act: 71 Provided that where the allottee proposes to cancel/withdraw from the project without any fault of the promoter, the promoter herein is entitled to forfeit the booking amount paid for the allotment. The balance amount of money paid by the allottee shall be returned by the promoter to the allottee within three months of such cancellation or at the time that the Promoter is able to resell the said Apartment/Plot to another purchaser, whichever is later.”*

14. A bare perusal of the two makes it abundantly clear that cancellation can only be done at the behest of the allottee or by the promoter in the sole event of the allottee failing to adhere to the terms of the payment schedule or such other terms of the Agreement of Sale entered therein. When both such events are not met with in the facts and circumstances of the present case, it is not warranted that the Respondent No.1 cancels the allotment made in favour of the Complainant only to waive off its liability.

15. Therefore, Point I is answered in affirmative, and it is held that Respondent No.1 is in violation of Section 11(5) and is liable for penalty under Section 61 of the Act, 2016.

Point II

16. The definition of a real estate agent *means any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called, as per Section 2(zm) of the Act, 2016.*

17. The Respondent No.2, by executing agreements of sale in favour of the Complainants on behalf of the Respondent No.1 is acting as the real estate agent of the Respondent No.1 promoter in accordance with the provision quoted above. Even though the Respondent No.1 denies any agreement being executed between the Respondent No.1 and Respondent No.2 for sale of the units in the Project, the evidence proves to the contrary. No explanation whatsoever has been submitted, whether orally or in writing, as to why so many units of the Project belonging to Respondent No.1 were offered for sale by the Respondent No.2.

18. Upon verification, this Authority has learnt that the Respondent No.2 is neither registered as an agent in the records of this Authority in accordance with Section 9 (1) & (2) which provides as under:

“9. (1) No real estate agent shall facilitate the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being the part of the real estate project registered under section 3, being sold by the promoter in any planning area, without obtaining registration under this section.

(2) Every real estate agent shall make an application to the Authority for registration in such form, manner, within such time and accompanied by such fee and documents as may be prescribed.”

19. Further, even assuming, for a moment, that Respondent No.2 is not an agent, all his actions of having offered for sale the units of the Project belonging to Respondent No.1 to the Complainants herein makes it abundantly clear that he is a person who introduced prospective buyers for negotiation for sale or purchase of flats which squarely falls under the definition of a real estate agent under Section 2(zm) of the Act, 2016.

20. Further, upon careful perusal of the sale agreements executed by the Respondent No.2 in favour of the Complainants, it can be seen that the Respondent No.1 portrayed as though he is the owner of the land on which the Project is being developed and also that he is the developer of the Project. He mislead the Complainants to believe that he is the landowner and promoter of the Project, whereas in contrary to this, as per records of the Authority, in the

registration details of the Project, the Respondent No.1 executed Development Agreement dated 27.09.2018 with the landowners namely, Sri M.V. Satyanarayana and Sri M.V. Balaraj. This very act of the Respondent No.2 gravely violates Section 10(c)(i)(B) which provides as under:

10. Every real estate agent registered under section 9 shall—

(c) not involve himself in any unfair trade practices, namely:—

(i) the practice of making any statement, whether orally or in writing or by visible representation which—

(B) represents that the promoter or himself has approval or affiliation which such promoter or himself does not have;

21. The Respondent No.2's conduct, amounting to an unfair trade practice, in falsely representing himself as the true owner and promoter of the Project, is both misleading and deceptive, thereby violating the rights and legitimate expectations of the Complainants. Such misrepresentation is a grave and unwarranted act that jeopardizes the interests of the allottees by exposing them to potential legal uncertainties, risks of fraudulent claims, and lack of recourse in the event of disputes. This conduct not only causes substantial financial harm to the Complainants but also undermines the transparency and integrity mandated under the Act, 2016, the primary aim of which is safeguarding the rights of the allottees. It creates an environment of mistrust, potentially discouraging prospective investors and purchasers, while leaving existing allottees vulnerable to exploitation and loss of their rightful claims over the Project.

22. Therefore, this Authority holds Point II as affirmative, Respondent No.2 is in violation of Section 9 & 10 and is liable for penalty thereof.

Point III

23. Now coming to the reliefs as claimed by the Complainant, as the allottee/Complainant has the unequivocal right to claim the possession of the apartment and also participate towards registration of the conveyance deed of the flat in accordance with Section 19(3) and 19(11) respectively, this Authority is of the considered opinion that the Respondents are jointly and severally liable to register the respective Flat belonging to the Complainant(s) at Tulasi Bhagyanagar Project, Dundigal in favor of the Complainants, as mentioned in the table above, in accordance with Section 17 of the Act, 2016 which provides as under:

“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 of 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:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.

(2) After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to hand over the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, as per the local laws:

Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, including common areas, the association of the allottees or the competent authority, as the case may be, within thirty days after obtaining the occupancy certificate.”

24. Therefore, Point III is answered as above and the Respondent Nos.1 & 2 both are jointly and severally liable for registration of the respective flats of the Complainants named above in their favor in accordance with Section 17 of the Act, 2016.

Directions of the Authority:

25. Vide its powers under Section 37 of the Act, 2016, the Authority issues the following directions:

- a. Respondent No.1 is hereby directed to pay penalty of Rs.8,57,697/- (Rupees Eight Lakhs Fifty-Seven Thousand Six Hundred and Ninety-Seven Only) for violation of Section 11(5) read with Section 61 of the Act, 2016, i.e., unilateral cancellation of the agreements of sale executed in favor of the Complainants payable within 30 (thirty) days payable within 30 days in favour of TGRERA FUND through a Demand Draft or online payment to A/c No. 50100595798191, HDFC Bank, IFSC Code: HDFC0007036; and

- b. Respondent No.2 is hereby directed to pay penalty of Rs.8,57,697/- (Rupees Eight Lakhs Fifty-Seven Thousand Six Hundred and Ninety-Seven Only) for violation of Sections 9(1) & 9(2) and 10(c)(i)(B) read with Section 62 of the Act, 2016, payable within 30 (thirty) days payable within 30 days in favor of TG RERA FUND through a Demand Draft or online payment to A/c No. 50100595798191, HDFC Bank, IFSC Code: HDFC0007036; and
- c. Complainants who have not remitted the total sale consideration or have defaulted in adhering to the payment schedule stipulated in their respective agreements of sale are hereby directed to pay the outstanding sale consideration, inclusive of interest, if applicable, to Respondent No.1 Promoter within a period of 30 (thirty) days; and
- d. Subsequent thereto, both Respondent No.1 and Respondent No.2 and hereby directed, who are jointly and severally liable, to register the respective Flat of the Complainants herein as enumerated in the table in favor of the respective Complainant thereof and handover possession of the same thereof within 60 (sixty) days, after receiving total sale consideration, in accordance with Section 17 of the Act, 2016.
- e. The Respondents are hereby informed that non-compliance of the directions of the Authority shall attract penalty under Section 63 and 65 of the Act, 2016.
26. In lieu thereof, the present complaint stands disposed of.

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

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