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

COMPLAINT NO.63 OF 2024

28th August, 2024

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

Mr. Prasenjit Das

...Complainant

Versus

M/s Mehta & Modi Realty Knowkooor LLP
Mr. Suraj Prakash Pandey

...Respondent(s)

The present matter filed by the Complainant herein came up for final hearing on 02.05.2024 before this Authority in the presence of Complainant and counsel M.A.Lateef for Respondent 1 and no representation made on behalf of Respondent 2, upon hearing the arguments of the both 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. The Complainant, an individual, purchased a residential flat, Flat No. 506, on the fifth floor in Block B, through an agreement of sale executed on the 11th day of November 2019 and a sale deed on the 9th day of December 2022. The flat is part of the layout developed by Respondent No. 1 under the name and style of "Greenwood Heights," consisting of 119 flats, further comprising Block A and Block B in the layout located in Sy No. 196, Hislop Road, Kowkur, Alwal Mandal, Medchal Malkajgiri District, Secunderabad-

23. Based on the Complainant's assertions, it appears that the drainage pipeline passing through the balcony is not in accordance with the sanctioned plan obtained by the Respondent 1. The Complainant's attempts to address this issue with the Respondent 1 through emails, legal notices, and other communications have, as per the record, elicited no remedial action from the Respondent to date. In its reply submitted to this Authority, the Respondent 1 contended that stormwater pipes, water supply pipes, and sewage pipes in an apartment complex or group housing scheme are common infrastructure elements that must, of necessity, crisscross throughout the complex and no deviations as alleged by the Complainant has taken place.

24. After a careful examination of the complaint, the counter affidavit filed by the Respondent, and the rejoinder submitted by the parties, this Authority observes the following:

a) The sanctioned plan of the project does not authorize the construction of a powder room in Unit 706, yet the Respondent 1 has constructed such a room, resulting in the installation of a drainage pipeline that traverses the Complainant's balcony. The Respondent's actions are therefore in clear deviation from the sanctioned plan.

b) The Authority is of the considered opinion that the presence of the drainage pipeline in the Complainant's balcony poses potential future risks, including but not limited to leakage, health hazards, and other related issues. Such a deviation is manifestly unfair to the Complainant, who did not consent to any alterations from the sanctioned plan.

25. In accordance with Section 14(1) of the Real Estate (Regulation and Development) Act, 2016, it is incumbent upon the Promoter to develop and complete the project strictly in conformity with the sanctioned plans, layout plans, and specifications as approved by the competent authorities.

26. Accordingly, this Authority concludes that Respondent No. 1 has deviated from the sanctioned plan, thereby contravening the provisions of Section 14 of the Real Estate (Regulation and Development) Act, 2016. It is further determined that the placement of the drainage pipeline in the

Complainant's balcony is a direct result of such deviation. Consequently, Respondent No. 1 is hereby directed to remove the drainage pipeline from the Complainant's balcony within 30 days from the date of this Order.

27. The Authority observes that the complainant is seeking compensation in the present complaint. It is essential to understand that the Act clearly distinguishes between interest and compensation, providing them as distinct entitlements available to allottees. This Authority does not possess the jurisdiction or authority to grant compensation as specifically sought by the complainant. The complainant shall have the liberty to approach Adjudicating Officer under Form N.

28. For contravention section 14 of the RE(R&D) Act, the Authority exercising its powers under Section 61 of the RE(R&D) Act, imposes a penalty on Respondent 1 of Rs.9,81,506/-. The amount is payable in favor of TGRERA FUND through a Demand Draft or online payment to A/c No. 50100595798191, HDFC Bank, IFSC Code: HDFC0007036, within 30 days of receipt of this Order by the Respondents/Promoter.

29. The Respondent 1 is hereby informed that failure to comply with this Order shall attract Section 63 of the RE(R&D) Act.

30. In the result, the complaint is disposed of. However, having regard to facts and circumstances of the case, the parties shall bear their own costs.

31. If aggrieved by this Order, the parties may approach the Telangana Real Estate Appellate as per Section 44 of the Act, 2016.

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

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