

BEFORE THE HON'BLE REAL ESTATE REGULATORY
AUTHORITY OF TELANGANA STATE AT HYDERABAD.

APPEAL NO. 7 OF 2025

(Against the order dated 28.08.2024 in CC.63 of 2024 before the Telangana
Real Estate Regulatory Authority)

Between:

M/s Mehta & Modi Realty Knowkoo LLP

....Appellant/Respondent

Vs

1.Mr. Prasenjit Das.

(Complainant)

2.Mr. Suraj Prakash Panday.

(2nd Respondent)

...Respondents

BRIEF SUBMISSIONS FILED ON BEHALF OF THE APPELLANT.

1. The present appeal is filed against the order dated 28.08.2024 in CC.63 of 2024 passed by the Telangana Real Estate Regulatory Authority, wherein it imposed penalty of Rs.9,81,506/- under Section 61 of the RERA(R&D) Act, on the ground that the appellants violated the sanctioned plan by fixing the drain pipeline for totlot room of the 2nd Respondent, through the balcony of 1st Respondent/Complainant.
2. The construction of the totlot room of the 2nd Respondent and that to at the 2nd Respondent request is the internal modification but there is no change or modification to the structural plan sanctioned by the authority, as such it cannot be said that the said modification is the violation of the sanctioned plan. In this regard the relevant sanction plan and request for addition and alteration of the 2nd Respondent are enclosed for kind perusal of this Hon'ble Tribunal and whereas the Section 14 (2) (i) of the RERA Act which state as follows:

***“.....Provided that the promoter may
make such minor additions or alterations as***

may be required by the allottee, or such minor changes or alternations as may be necessary due to architectural and structural reasons duly recommended and verified by an authorized Architect or Engineer after proper declaration and intimation to the allottee.

Explanation - For the purpose of this clause, "minor additions or alterations" excludes structural change including an addition to the area or change in height, or the removal of part of a building or any change to the structure, such as the construction or removal or cutting into of any wall or a part of a wall, partition, column, beam, joist, floor including a mezzanine floor or other support, or a change to or closing of any required means of access ingress or egress or a change to fixtures or equipment, etc. any other alternations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project without the previous written consent of at least two-thirds of the allottees, other than the promoter, who have agreed to take apartments in such building".

As such the allegations of the Respondent No.1/Complainant that the appellants violated the sanctioned plan is not at all correct. Further the 2nd Respondent herein i.e. allottee flat No.706 is requested for internal modification by way of his addition and alteration letter dated 13.8.20²² stating that his mother is 78 years old and requested the appellant to do the needful. Keeping in view of the rules and regulations of RERA and as mentioned in section 14 of the Act the Appellants have made the

arrangements. Thus, the imposing of the penalty by the Authority is not according to law.

3. It is submitted that the Respondent/Complainant himself admitted before the Hon'ble Authority that after filing of the case the alleged pipe line was removed, which was going through his balcony and he was satisfied with the work done by the appellants. This admission was made before the Hon'ble Authority and the same was recorded in the docket proceedings.

4. It is just and necessary to state that the fixing pipeline in the Balcony of the 1st Respondent does not comes under any category of modification of any structural changes of sanctioned plan. As such the imposing of the fine by authority is not sustainable and is liable to be set-aside.

5. This Hon'ble Authority at the instance of the 2nd Respondent directed the appellant to make the possible alternative arrangements to lay the pipeline connection to utilize totlot room for the 2nd Respondent flat. The appellants are taking steps without prejudice against the rights of the Respondent No.1/Complainant, to provide drain line to Respondent No.2. The Respondent/Complainant making so many objections for that, which can be find from his written submission before this Hon'ble Authority. The copies of photograph and plan enclosed which shows that the alternate arrangements which were made by the Appellant for the convenient of the 2nd Respondent and which is no way harming to the 1st Respondent/Complainant nor to the any other flat owners but still he is taking an objections. Moreover the Appellant has taken an expert opinion of the engineers to make an another alternate solution to the Respondent No.2 by connecting the drain pipes to the already existing pipelines which will even not pass separately and directly club in to the existing pipelines. The same is also willing to provide by the appellant upon the order of this Hon'ble court. It is pertinent to mention here that the storm water pipes, sewage pipes, storm water pipe, sewage pipes in an apartment complex/ group housing schemes are provided by way of a common infrastructure. They

necessarily have to crisscross through out the complex which includes common walls of flats, from the ceiling of bathroom and utility areas, basement floors, setback areas etc. It is impossible to provide exclusive pipelines for each flat that do not pass through other areas of the housing complex.

In the circumstances stated above, there is no violation of any plan or RERA Act, as alleged by the Respondent No.1/Complainant and on that basis the penalty was imposed, which is not sustainable as mentioned above in the absence of any violation of plan and also the pipe line which was already removed as objected by the complainant, as such the imposition of penalty by the Hon'ble Authority is against the law and the same is unsustainable and is liable to set aside.

Therefore it is prayed that this Hon'ble Tribunal may be pleased to set aside the impugned order passed in CC.No.63/2024 and waive off the penalty of Rs.9,81,506/- imposed by the Hon'ble RERA Authority and pass such other orders as this tribunal deems fit and proper in the circumstances of the case and in the interest of justice.

Place : Hyderabad,
Date :16-04-2025


Counsel for the Appellant.

List of document enclosed for the kind perusal of this Hon'ble Appellate Tribunal :

1. Sanctioned plan.
2. Copy of Clause 14 of RERA Act.
3. Additions and alteration request made by the 2nd Respondent.
4. Drawing plan which shows the Appellant is making alternate arrangement for the Respondent No.2.
5. Photographs which shows the Appellant is making alternate arrangement for the Respondent No.2 without causing any disturbance to the other flat owners.

Place: Hyderabad,
Date: 16-04-2025


Counsel for the Appellant

BEFORE THE HON'BLE
REAL ESTATE APPELLATE
TRIBUNAL
AT: HYDERABAD

TA.No.07 OF 2025
Against the order in
CC. No.63/2024 TSRERA

Between:
M/s Mehta & Modi Realty
Kowkoo LLP
.. Appellant/Respondent

Vs

Prasenjit Das
.. Respondent/
Complainant
Suraj Prakash Pandey
.. 2nd Respondent

..RESPONDENTS

BRIEF SUBMISSIONS FILED ON
BEHALF OF THE APPELLANT

Filed on: 16.04.2024

Filed by : Counsel for Appellant

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