

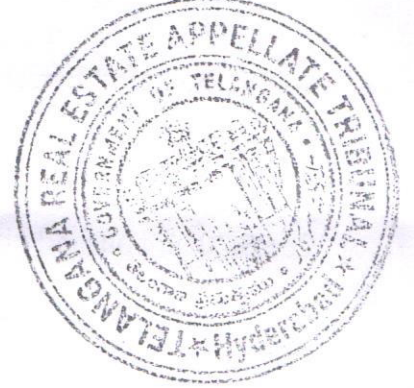
TELANGANA REAL ESTATE APPELLATE TRIBUNAL: HYDERABAD

CORAM: Hon'ble Sri Justice A. Santhosh Reddy, Chairperson.
Hon'ble Sri P. Pradeep Kumar Reddy, Judicial Member.
Hon'ble Smt.Chitra Ramchandran, Administrative Member.

T.A.No.7 of 2025

Between:

M/s. Mehta & Modi Realty Kowkooor LLP
5-4-187/3&4, MG Road, Soham Mansion,
II Floor, Secunderabad, represented by
its Designated Partner, Mr. Anand Mehta.



...Appellant

And

1. Prasenjit Das,
Flat No.506, Block-B, Greenwood Heights,
Hislop Road, Near ARK Majestic Kowkooor,
Bolaram, Medchai-Malkajgiri District, Hyderabad
2. Suraj Prakash Pandey,
Flat No-706, Block-B, Greenwood Heights,
Hislop Road, Near ARK Majestic Kowkooor,
Bolaram, Medchai-Malkajgiri District, Hyderabad.

...Respondents

Counsel for the Appellant : Mr. Manne Hari Babu
Mr.M.A.Lateef.

Respondent No.1 : Party-in-Person

Date of Decision : 06.08.2025

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ORDER: (Per Hon'ble Sri Justice A. Santhosh Reddy)

The present appeal has been preferred under sub-section (1) of Section 44 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called as 'the Act') by the appellant/promoter aggrieved by the Order, dated 28.08.2024, passed by the Telangana Real Estate Regulatory Authority, Hyderabad, (hereinafter referred to as 'the Regulatory Authority') in Complaint No.63 of 2024, whereby the complaint filed by the 1st respondent herein (complainant) has been disposed of imposing a penalty of Rs.9,81,506/- on the appellant/promoter for contravention of Section 14 of the Act.

2. The averments made in the complaint filed by the 1st respondent herein i.e., complainant, succinctly, are as follows:

The complainant has purchased a residential Flat No.506 on the 5th floor in Block B through an agreement of sale executed on 11.11.2019 and a sale deed on 09.12.2022. The said Flat is part of the layout developed by the appellant under the name and style of Greenwood Heights consisting of 119 Flats in Block A and Block B in Sy.No.196, Hislop road, Kowkur, Alwal Mandal, Medchal-Malkajgiri District, Secunderabad. The complainant took possession of the said Flat *vide* letter dated on 25.02.2023 issued by the appellant. It is stated that the appellant/promoter constructed a toilet in the portion earmarked for the Balcony on the 7th floor of Flat No.706 of the 2nd



respondent, which was located directly above his Flat No.506 in Block B. It is further stated that the 2nd respondent, through an *e-mail* dated 17.06.2023, admitted that he had requested the appellant to construct a toilet in the portion earmarked for the balcony, for which he paid an additional amount. The construction of the said toilet in the portion earmarked for his balcony causes significant inconvenience and discomfort and as such it deviates from the original sanctioned plan. It is further stated that the said unauthorised construction constitutes trespass and interference with his exclusive rights over the property. It is further stated that Section 14 of the Act mandates that all construction projects must be developed and completed by the promoter in accordance with the sanctioned plans, layout plans and specifications approved by the competent authorities. Furthermore, any additions or alterations to the sanctioned plans, layouts and specifications require prior consent of the owner. It is further stated that as per the National Building Code of India, 2016, all construction projects must adhere to the sanctioned plans, layouts and specifications approved by the competent authorities.

Therefore, he pleaded the following reliefs:

1. Removal of the unauthorized drainage pipe passing through the complainant's balcony.
2. Demolition of the toilet that has been constructed in violation of the sanctioned plan.
3. Restoration of the affected areas to their original condition, ensuring no damage during the removal process.
4. Adherence to the original plan as sanctioned by the GHMC.
5. Compensation of Rs.50,000/- towards legal expenses for his religious sentiments and for wasting valuable time.



3. The aforesaid complaint was contested by the appellant/promoter on the grounds, *inter alia*, contending that the complainant took possession of his Flat by way of a possession letter dated 25.02.2023 and signed on a letter of confirmation, wherein he confirmed in Point No.4 that he has no claim of whatsoever nature against the developer and in Point No.6 he confirmed that he had no objection to any development being carried out by the developer in and around the said Flat and that in Point No.7, he also confirmed that he had no objection to changes in the design of the housing project including other Flats or blocks of Flats. It is further contended that the complainant raised an objection about the sewage pipeline passing through the balcony of his Flat about a month after taking possession of the Flat i.e., on 22.03.2023. Storm water pipes, sewage pipes and water supply pipes cannot be made for exclusive use and that it can be provided as part of a common infrastructure. It is further contended that the construction has been completed in accordance with the permitted plans and that there is no unauthorized construction or deviation. With these pleas, the appellant/promoter pleaded for dismissal of the complaint with exemplary costs.

4. After hearing the learned Counsel appearing for the appellant/Promoter and the 1st respondent herein (Complainant) and perusing the entire material available on record, the learned Regulatory Authority, *vide* impugned order dated 28.08.2024, disposed of the complaint

17. Section 14 of the Act, for the sake of convenience, is reproduced hereinbelow: -

"14. Adherence to sanctioned plans and project specifications by the Promoter: - (1) The proposed project shall be developed and completed by the promoter in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities.

(2) Notwithstanding anything contained in any law, contract or agreement, after the sanctioned plans, layout plans and specifications and the nature of the fixtures, fittings, amenities and common areas, of the apartment, plot or building, as the case may be, as approved by the competent authority, are disclosed or furnished to the person who agree to take one or more of the said apartment, plot or building, as the case may be, the promoter shall not make -

(i) any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities described therein in respect of the apartment, plot or building, as the case may be, which are agreed to be taken, without the previous consent of that person:

Provided that the promoter may make such minor additions or alterations as may be required by the allottee, or such minor changes or alterations 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 the fixtures or equipment etc.,

18. Section 14 of the Act relates to adherence to sanctioned plans and project specifications by the promoter. 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. As per sub section (2)(i) of Section 14 of the Act, the promoter may make such minor additions or alterations as may be required by the allottee or necessary due to architectural and structural reasons authorized by Architect or Engineer. As per sub section (2) (ii) of the Act, any other alteration or addition in the sanctioned plan shall not be done without the previous consent of at least two thirds of the allottees.

19. In an apartment/flat, the Balcony is highly valued for providing additional living space, improved air quality and also offer to relax and enjoy the views, contributing to the pleasant living. Therefore, the construction of toilet room in the balcony of Flat No.706 of the 2nd respondent is a clear deviation from the sanctioned plan and it does not come under the exceptions of alterations or additions under the provisions of Section 14 (2) (i) of the Act. Therefore, the contention of the learned Counsel for the appellant/promoter that the construction of toilet room in the balcony is merely an alteration/modification and is permissible under Section 14 (2) (i) of the Act cannot be accepted. Further, construction of toilet room in the balcony of the 2nd respondent and installation of drainage pipeline through the balcony of the 1st respondent/complainant causes significant inconvenience and discomfort to the complainant and that the said drainage pipeline undoubtedly obstructs the complainant's use and enjoyment of the property.

20. The learned Counsel for the appellant/promoter submitted that the appellant has removed the alleged pipeline, which was passing through the balcony of the 1st respondent/ complainant and made all possible alternate arrangements as directed by the learned Regulatory Authority. To substantiate the said contention, the appellant/promoter has filed the sanctioned site plans, sketch of Flat No.706 of the 2nd respondent and also photographs of the building showing that they have removed the drainage pipeline and made alternate arrangements by laying the pipeline connection to utilize the toilet room of the 2nd respondent in Flat No.706. The said arrangement is in no way harming to the 1st respondent/complainant nor to any other Flat owners.
21. On the basis of the aforesaid analysis, we are of the considered view that initially the appellant/promoter has deviated from the sanctioned plan by laying a drainage pipeline in the balcony of the 1st respondent/complainant. Therefore, we find no infirmity or illegality in the impugned order passed by the learned Regulatory Authority warranting interference of this Tribunal.
22. Insofar as the imposition of penalty of Rs.9,81,506/- on the appellant/promoter by the learned Regulatory Authority is concerned, since the appellant/promoter has made alternate arrangements by complying the direction of the learned Regulatory Authority, without prejudice to the rights

of the parties, and other Flat owners, the penalty imposed by the learned Regulatory Authority requires to be reduced.

23. Having regard to the facts and circumstances of the case and taking into consideration the conduct of the appellant/promoter, we are of the view that it is just and reasonable to reduce the penalty of Rs.9,81,506/- imposed by the learned Regulatory Authority on the appellant/promoter. Accordingly, the penalty imposed on the appellant/promoter is reduced from Rs.9,81,506/- to Rs.2,00,000/-. Except to the extent of reduction in penalty, the order of the learned Regulatory Authority is confirmed in all other aspects.

24. With the above modification, the appeal is dismissed. There shall be no order as to costs. Copy of this order be communicated to the learned Regulatory Authority and the parties.

Pending miscellaneous applications, if any, shall stand closed.

Sd/-
A. SANTHOSH REDDY, J
(CHAIRPERSON)

Sd/-
P. PRADEEP KUMAR REDDY
(JUDICIAL MEMBER)

Sd/-
CHITRA RAMCHANDRAN
(ADMINISTRATIVE MEMBER)

TRUE COPY

06st AUGUST, 2025
GSN

[Signature]

[Signature]

Registrar
Telangana State Real Estate Appellate Tribunal
Government of Telangana
HYDERABAD

[Signature]
Administrative Officer
TELANGANA REAL ESTATE APPELLATE TRIBUNAL
Hyderabad