THE ANDHRA PRADESH REAL ESTATE REGULATORY AUTHORITY
AT: VIJAYAWADA

On 17th day of March,2025.

Corum: Sri E.Rajasekhara Reddy, Hon'ble Member,
Sri. U.S.L.N.Kameswara Rao, Hon'ble Member,
Sri. A.Jagannadha Rao, Hon'ble Member.

Complaint No:82/2023

Between:

Colonel Mandava Venkata Ranga Rao,
House No:2-23J-35, Jalvayuvihar,
Kukatpally, Hyderabad-500085,
Telangana State.

...Complainant

AND

M/s. A.P. State Govt Employees- Mutually
Aided Cooperative House Building Society Ltd,
Reg. No. AMC/KNA/DCO/2016/122,
Rep by its president,
Addala Subba Raju,

...Respondent

ORDER

The complainant filed a complaint under Section 31 of the Real Estate (Regulation and Development) Act, 2016, alleging that the respondent society failed to perform its obligations and contravened the provisions of the RERA Act and the rules made thereunder.

The case of the Complainant:

The complainant stated that the respondent offered him a plot (Plot No.

41) which was mortgaged to the APCRDA, admeasuring 300 sq. yards, and collected an advance payment of ₹18,00,000/- (@ ₹8,500 per sq. yard). After continuous follow-ups, a letter of allotment was issued on 03.06.2023.

It is also stated that, in a Special General Body Meeting held on 11.03.2023, a proposal was made by Sri Addala Subba Raju, the President, to collect ₹1,000 per sq. yard from all owners/prospective buyers to overcome financial difficulties, repay creditors, original landowners, and complete pending development works in the layout. However, this proposal was strongly opposed by the members and was not approved during the meeting. Despite this, the Board of Management proceeded to issue notices to the allottees of the society for additional payment.

To date, there has been no progress in the pending development works, leading to concerns of misappropriation of funds and collusion between the parties involved, ultimately betraying the interests of members and plot buyers.

It has also been reliably learned that the original landowners, from whom the society acquired the land to develop the layout, are now seeking the creation of a second charge on the APCRDA-mortgaged plots in the Navepothavaram project, claiming outstanding dues from the original land acquisition. However, this claim appears to be fictitious, as the said land was already registered in the society's name in February 2019 and was subsequently transferred to individual plot buyers.

There is suspicion of collusion between the President, Directors of the Society, and the original landowners, who appear to be in favor of creating a second charge on the CRDA-mortgaged plots, violating Section 11(4)(h) of the RERA Act, 2016.

The complainant has also filed additional information seeking the following reliefs: a. Intervene and stay the creation of a second charge on CRDA-mortgaged Plot No. 41 in the Navepothavaram layout, as it contravenes Section 11(4)(h) and Section 79 of the RERA Act, 2016. b. Freeze the bank accounts of the society and order verification of all transactions to fix responsibility for misappropriation of funds, as per Section 7(4) of the RERA Act. c. Initiate action against the Board of Directors for their role in the misappropriation of project funds, under Sections 7, 40, and 69 of the RERA Act. d. Sanction compensation for the delay in handing over the developed plot (which was promised in September 2021) as per Section 18 of the RERA Act, until the developed plot is registered. e. Order the transfer of the project, along with all accounts and assets, to the Sriharipuram Government Employees Cooperative Colony Welfare Association, Navepothavaram (Regd. No. 361/2023), as requested in Letter No. 41045/MVRR/Pers/2024/01 dated 27th September 2024, under Section 8 of the RERA Act, as the society has failed to complete the project despite repeated extensions and is not in a position to do so in the future. f. Stay the operative portions of the APSGEMACHBSL letter referred to in Para 1(b), until a final verdict is passed by AP RERA. g. Issue necessary directions under the RERA Act, 2016, to ensure the early completion of pending development works and to protect the interests of the buyers of plots in the Navepothavaram Government Employees Colony Layout.

In response to the complaint, the respondent society filed its counter stating that the respondent society allotted Plot No. 41, measuring 300.13 sq. yards to the complainant in the layout, after receiving an advance payment of ₹18,00,000/-. and issued a letter of allotment at his request, incorporating the following conditions:

1. Page 3: It was clearly stated that Plot No. 41 was mortgaged with APCRDA and would be registered in the complainant's name only after its release from CRDA.

2. Page 4, Clause 5: The mortgaged status of Plot No. 41 with APCRDA was explicitly mentioned.

3. Page 5, Clauses 10 & 11: The Executive Committee reserved the right to cancel the allotted plot and reallocate it to other members before executing the sale deed.

4. Page 5, Clause 14: The buyer must abide by the Board's decisions regarding any revision in unit cost or increase in the sale price, subject to court orders or property attachments.

5. Page 5, Clause 15: The complainant was informed that Plot No. 41 was mortgaged with APCRDA (Regd. Doc. No. 1923/2020) and would only be registered after release.

The above terms and conditions were mutually agreed upon by both parties and were signed with full consent in the allotment letter. The complainant was fully aware that Plot No. 41 was mortgaged with APCRDA, and hence, the allegation that the respondent society violated the RERA Act is false.

The convening of general body meetings, passing of resolutions by the Executive Committee and General Body, and the decision to collect an additional development charge of ₹1,000 per sq. yard from members and plot owners were purely administrative and internal matters of the society. However, the Executive Committee later canceled the proposed collection of ₹1,000 per sq. yard.

Furthermore, the landowners of the layout filed original suits before the Hon'ble VII Additional District Judge (ADJ) Court, Vijayawada, for the recovery of outstanding payments. As a result, certain plots belonging to the respondent society have been placed under attachment.

The respondent society subsequently canceled all allotments of mortgaged plots, including the plot allotted to the complainant, by passing a resolution dated 26.12.2024.

In view of the above, the respondent society has requested this Authority to dismiss the complaint with costs.

The complainant further argued that the total cost of the project is ₹1,31,25,01,890/- (One hundred thirty-one crores twenty-five lakhs one thousand eight hundred ninety rupees) as per the details provided at the time of Registration with the RERA Authority. However, the respondent society has now proposed to enhance the cost of the plot to ₹1,000/- per square yard. The estimated cost of this enhancement is as follows:

The total extent of the area as per the sanctioned plan is 84.2925 acres. Out of this total area, the plotted area constitutes only 52.53%. The total plotted/saleable area is 2,14,309 square yards. With an enhancement of ₹1,000/- per square yard, the additional amount demanded is about to ₹21,43,09,000/- (Twenty-one crores forty-three lakhs nine thousand rupees).

The action of the respondent in enhancing the cost of the plot and demanding an additional amount of ₹21,43,09,000/- is arbitrary, illegal, and contrary to the provisions of the RERA Act and the rules made thereunder. It was further argued that there is gross mismanagement by the managing committee of the

respondent, who have allegedly diverted the funds instead of utilizing it for the development of the project. Therefore, the Hon'ble Authority is requested to conduct a thorough inquiry by appointing an efficient officer of the Authority.

The complainant further argued that merely ordering an inquiry into the affairs of the respondent society would not suffice. To protect the interest of the plot purchasers, it is necessary to issue orders for the attachment of the entire property relating to the project. If such an order is not granted, it may result in further misuse of substantial public funds, causing grave injustice to the plot purchasers.

The counsel for the respondent opposed the appointment of an inquiry officer and the grant of an interim order, requesting the dismissal of the complaint as not maintainable.

Observations:

The respondent society, being a promoter, is obligated to fulfill its commitments and complete the project within the stipulated timeframe as per the agreed terms. However, the society has failed to complete the project due to insufficient funds. Furthermore, the respondent society has also sold mortgaged plots, thereby violating the conditions set forth by the sanctioning authority. Based on the material filed by the complainant, there are serious allegations against the respondent society regarding the misuse of funds collected from plot purchasers. Additionally, an inquiry has already been ordered by the Registrar of Cooperative Societies. The counter filed by the 1st respondent society also acknowledges that a show-cause notice has been issued by the CRDA for violating the conditions by selling mortgaged plots. There are about 30 complaints filed against the same project in AP RERA alleging the same irregularities against the respondent.

Prima facie, this Authority is of the opinion that it is necessary to conduct an inquiry into the affairs of the respondent society in the interest of the plot purchasers.

In the above circumstances, exercising the powers conferred under Section 35 of the Act, an inquiry is hereby ordered, appointing Smt. K. Naga Sundari, Additional Director, as the inquiry officer to verify the compliance of the obligations cast upon the respondent society under the Act and the rules made thereunder, on the following lines:

1. Verification of whether 70% of the collected funds have been deposited into the escrow account.
2. Ensuring that withdrawals have been used exclusively for land and construction costs.
3. Scrutinizing CA, Engineer, and Architect certifications for withdrawals.
4. Assessing the impact of any financial irregularities on the completion of the project.
5. Verifying the current status of the project.

The inquiry officer is directed to submit a detailed report with findings, supporting documents, and recommendations within 30 days from the date of this order.

Relief:

Pending finalization of the proceedings before this Authority, and in order to protect the interests of the plot buyers, this Authority, exercising the powers conferred under Section 36 of the Act, directs the respondent society not to alienate, transfer, or sell any portion of the real estate project land in an extent of Ac 84.29 cents (341134.19 Sq. meters) situated in (R.S. No) Survey No. 3/5B,4/1A,1B,4/2A(P),2B(P),4,5,6(P); 5/3(P); 6/7,8,6/12(P); 10/1,5; 14/1A,1B,2; 15/1A,1B,1C,2A2B,2C; 16/1(P); 20/1B2,1B3,20/2A,2B(P); 21/1,2,3,4,5,6,7;23/1(P),2; 28/1,2,3,4; 291A,1B,2; 30;32/1(P)&62(P) Navepothavaram Village, Ibrahimpatnam Mandal, Krishna District, Pincode-521456 until further orders of the Authority.

A copy of this order shall be communicated to the Sub-Registrar concerned, the District Registrar, NTR District, and the Commissioner of Stamps and Registrations for necessary action.

*An appeal lies to the Appellate Tribunal within a period of 60 days from the date of receipt of a copy of this order, as per Section 44 of the Real Estate (Regulation and Development) Act, 2016.

(Typed as per the dictation of the Authority, corrected, and pronounced by the Authority in open court on this 17th day of March, 2025.)

MEMBER MEMBER MEMBER