

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

COMPLAINT NO.117 OF 2024

17th Day of May 2025

Quorum: **Dr. N. Satyanarayana, IAS (Retd.), Hon'ble Chairperson**
Sri K. Srinivasa Rao, Hon'ble Member
Sri Laxmi Narayana Jannu, Hon'ble Member

M/s Viana Homes Pvt. Ltd.
through its Managing Director,
Sri Anji Reddy
R/O- Plot No. 3 & 53
Radhika Reddy Arcade, Jayabheri Pine Valley
Gachibowli, Hyderabad

...Complainant

Versus

1. Sri Sikha Balaraju
R/o- H. No. 2-17/2-2
Rajula Bazar, High School Road
Vijayawada-521108
2. M/s Infy Projects,
Represented through its Managing Director
Sikha Balaraju
R/o-3rd floor, G-Square, Survey No. 79/P
Beside Raidurgam Police Station, Serilingampally
Hyderabad, Telanagana 500032
3. M/s Bell Square Pvt Ltd
Represented through its Managing director
Sikha Balaraju
R/o-3rd floor, G-Square, Survey No. 79/P
Beside Raidurgam Police Station, Serilingampally
Hyderabad, Telanagana 500032
4. Smt. K Vijaya Lakshmi
R/o-F. No. 40J, G Block Rain Vistas Rock Garden
Green Hills Road, Moosapet
Hyderabad 500018

...Respondent(s)

The present matter filed by the Complainant herein came up for hearing on 08.08.2024, 04.09.2024, 24.09.2024, 03.10.2024, 29.10.2024 and 22.11.2024 before this Authority in the presence of Counsel for Complainant, Sri Drupad Sangwan and none for Respondent Nos.1, 2 & 3 despite service of notice and Respondent No.4 appeared in person, and after hearing the arguments, this Authority passes the following **ORDER**:

2. The present Complaint has been filed by the Complainant under Section 31 of the Real Estate (Regulation & 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 reliefs against the Respondents.

Brief facts of the case:

3. The Complainant submitted that Complainant owns and manages the commercial complex known as "POOJITHA TECH PARK" registered with this Authority bearing Registration No. P02400002546 having validity up to 27.01.2027. It was submitted that this complex is situated in and over the land measuring approximately 2 acres and 10 guntas (10,890 square yards), encompassing Survey No. 89/ (as per linked documents and passbooks) and Survey Nos. 89/1 and 89/2 (as per Web Pahani). Located in Kokapet Village and Grampanchayat, Gandipet Mandal, Ranga Reddy District, Telangana State. It was submitted that the Complainant and two other stakeholders, no other person, individual, or company has any rights or claims to offer, sell, or transfer any part of the "Poojitha Tech Park" commercial property to prospective purchasers.

4. It was submitted that in the year 2022, Respondent No. 1 approached the Complainant at its registered office, and proposed that he had a substantial client base interested in purchasing commercial space in "POOJITHA TECH PARK" and expressed his intention to mediate prospective transactions. Although the Complainant discussed the terms of the

agreement, Respondent No.1 never finalized it, and the Complainant Company did not pursue the matter further. Thus, no express agreement was entered into between the complainant herein and the Respondents. Subsequently, the Respondents introduced the Complainant to several prospective purchasers, leading to the execution of some Sale Agreements with those individuals.

5. The Complainant submitted that Respondent No. 1, using his companies, namely M/s. Infy Projects Pvt Ltd and M/s. Bell Square Pvt Ltd / M/s. Bellcom India Pvt. Ltd. and (Respondent No. 2 and 3), the Respondent No.1 has been falsely representing potential purchasers as licensed or authorized RERA agents of the Complainant. The Complainant clarified that they have not entered into any agency agreement with Respondents No. 1 to 3, nor have they authorized the Respondents to act on its behalf i.e. M/s. Viana Homes Pvt Ltd. That Respondent Nos. 1 to 3 in collusion and in connivance with each other have misled prospective purchasers by quoting higher prices than those stipulated in the Sale Agreements and misappropriated these amounts, causing financial losses and reputational damage to it. That an intending purchaser reported that the Respondents falsely represented themselves as M/s. Viana Homes Pvt Ltd's marketing head without authorization. That despite multiple attempts to contact him via calls and messages, Respondent No.1 remained unresponsive.

6. It was submitted that one of the holders of a Sale Agreement for a commercial space in "POOJITHA TECH PARK" filed a complaint with this Authority against the Complainant vide Complaint No. 1784 of 2023 and he has been arrayed as Respondent No. 4 to the present complaint. The allegations made in the complaint are directly tied to the fraudulent activities and misrepresentations carried out by the Respondent No.1 and his companies, who falsely presented himself/themselves as an authorized agent of the Complainant Company. The Complainant has been informed that First Information Reports (FIRs) have also been registered by EOW Cyberabad PS

against Respondent No.1 for fraud and cheating amounting to Rs. 4 Crores in relation to Complainant project, "POOJITHA TECH PARK."

7. That Respondent Nos. 1 to 3 have engaged in forging and fabricating signatures/receipts of Complainant Company representatives, thereby putting them at severe risk. That Respondent Nos. 1 to 3's fraudulent actions not only involve the misappropriation of funds but also the use of deceitful means to manipulate and mislead prospective purchasers. That Complainant filed a police complaint against Respondent Nos. 1 to 3 and urged the Police Authorities to take immediate and appropriate action against them.

8. It was submitted that Respondents No. 1 to 3 herein without being registered as agents under Section 9 have facilitated the sale or purchase of a commercial flat in the real estate project of its company and as such are liable to be punished under Section 62 of the RERA Act, 2016.

9. Accordingly, aggrieved, the Complainant prayed as under:

- i. *Impose maximum penalty as per Section 62 of RERA Act, 2016 on Respondent No. 1 to 3 in the interest of justice;*
- ii. *If any RERA license of being an agent/ promoter is issued to Respondent No. 1 to 3, cancel the said licenses and bar them from acting as RERA agents in future;*
- iii. *Direct Respondent Nos. 1 to 3 to refund all the amounts that have been appropriated on behalf of the Complainant on the Project "Poojitha Tech Park" to the Complainant promoter;*

Points for consideration:

10. Upon deliberation of the contentions as well as the documents filed therein, the following issues sprout for consideration:

- I. Whether the Respondent Nos.1, 2 & 3 violated Section 9 of the Act, 2016? If yes, are they liable for penalty?
- II. Whether the Complainant is entitled to its reliefs as prayed for? If yes, to what extent?

Observations and directions of the Authority:

11. Notices were issued to the parties and Respondent Nos.1 & 2 entered appearance through their Counsel, Sri Habeeb Sultan Ali & Sri K. Shiva Kumar. There was no representation from Respondent No.3. Despite issuance of notice again and receipt of the same by the Respondent Nos.2 & 3 and the Counsel for Respondent No.1, there was no response from the said Respondents in terms of filing any reply or any oral submissions before the Authority. In lieu of the same, this Authority set the Respondent Nos. 1 to 3 *ex-parte* vide Order dated 22.11.2024. Respondent No.4 submitted that no reply needs to be filed on her behalf, however orally submitted that the Respondent No.1 is an un-registered agent who, admittedly, entered into a transaction with Respondent No.4 on behalf of the Complainant.

Point I

12. Issue in the present complaint is regarding the Respondents not being registered with this Authority and entering into transactions on behalf of the Complainant company without any authorization from the said Complainant Company. Issue is also to identify whether the Respondents are qualified as agents or not.

13. The Definition of an agent as provided under Section 2(zm) is:

“(zm) "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”

14. As per the Complainant's assertions and the Complaint filed before this Authority in case of 1784 of 2023 and 139 of 2024, along with submissions of Respondent No. 4, it is evident that Respondent No.1, acting on behalf of the Complainant, engaged in a transaction and received monetary consideration from Respondent No.4 towards the purchase of the flat. The aforesaid act, undertaken by Respondent No.1 in conjunction with Respondent Nos.2 and 3, squarely falls within the statutory definition of a "real estate agent," as they collectively facilitated the transaction with Respondent No.4 on behalf of the Complainant. This Authority has decided to adjudicate the issue concerning the refund of the excess amount claimed by Respondent No.4 in the said case no. 139 of 2024. Accordingly, the issue shall be addressed and proceeded with in that complaint.

15. Now that it is established that Respondent Nos.1, 2 & 3 are "real estate agents" not being registered with the Act, 2016, Section 9 provides as under:

"9. Registration of real estate agents.—(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."

16. This very provision mandates every real estate agent to register themselves before the Authority before facilitating any the sale or purchase of any plot, building or apartment. Further, Clause (2) also mandates such person to make an application for registration before entering into any sale transactions as an "agent". Respondent Nos.1, 2 & 3 by not registering themselves as agents before this Authority have gravely violated the above-

quoted provision and are therefore, liable for penalty under Section 62 of the Act, 2016.

17. Therefore, Point I is answered in affirmative.

Point II

18. The relief (i) sought for by the Complainant has been granted as explained above. Relief (ii) cannot be granted as there is no license/certificate issued by this Authority in favour of Respondent Nos.1, 2 & 3. Regarding relief (iii), the Complainant has failed to establish, in consonance with Respondent No.4, as to how much amounts have been received by the Respondent Nos.1, 2 & 3 on behalf of the Complainant. In the absence of the reply on behalf of the said Respondents, and the adequate evidence of exact amounts being received by them, this Authority is not inclined to issue any vague order. Therefore, relief (iii) is not granted in favour of the Complainant.

19. Therefore, Point II is answered as above.

Directions of the Authority:

20. In light of the above discussion, the Authority vide its powers under Section 37 and 38, issues the following directions:

- i. Respondent Nos.1, 2 & 3 are jointly and severally liable for penalty under Section 62 for violation of Section 9(1) & (2) and are therefore, directed to pay penalty of Rs.3,69,600/-(Rupees Three Lakh Sixty Nine Thousand Six Hundred Only) payable within 30 (thirty) 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
- ii. Respondent Nos.1, 2 & 3 are directed, strictly, not to facilitate the sale or purchase of or act on behalf of any person, including the Complainant herein, 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 Section 9, as otherwise stringent action, including penalty for every day during which such default continues, which may cumulatively extend up to five per cent., of the estimated cost of plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated, shall be imposed on the Respondent Nos.1, 2 & 3 in accordance with Section 65 of the Act, 2016.

21. In light of the above directions, the present complaint is disposed of. No order as to costs.

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

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

Sd/-
Dr. N. Satyanarayana, IAS (Retd.),
Hon'ble Chairperson,
TG RERA

