

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

COMPLAINT NO.520 OF 2024

11th Day of November 2024

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

Sri Sharath Chandupatla ...Complainant

Versus

M/s Buildox Private Limited ...Respondent

The present matter filed by the Complainant herein came up for hearing on 04.04.2024, 25.04.2024, 01.05.2024, 11.06.2024, 06.08.2024, 29.08.2024 and 10.09.2024 before this Authority in the presence of the Counsel for Complainant, Sri Rohit Pogula, Sri Raghava Chary & Sri Lokesh Vanam and Counsel for Respondent, Sri B. Vamshidhar Reddy, Sri K.S. Suneel & Sri Chanakya Basa and upon hearing the arguments, 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 "Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") seeking appropriate action against the Respondent.

Brief facts on behalf of the Complainant:

3. The Complainant stated that present complaint has been filed for bringing to the notice of this Authority to take necessary action against the Respondent for

marketing and illegal sale of flats/ apartments for an alleged project named "The Continent" in Kondapur/ Hafeezpet, Hyderabad, without necessary documents, permissions and approvals from the appropriate authorities including Real Estate Regulatory Authority (RERA).

4. That the Complainant came across an advertisement on www.facebook.com by a Facebook page of "Buildox". The advertisement was for sale of flats at Kondapur by Buildox being offered in a pre-launch scheme at lower than market prices. Once the link on the said facebook page is opened, a whatsapp chat is automatically opened. That within 2 (two) hours, the Complainant received a message on WhatsApp from one Mr. Kamal (+91 91828 55063) stating that he is from Buildox Sales Team and shared the details of the project that is being constructed by Buildox at Kondapur/ Hafeezpet, including tower plans, floor plans, etc. He has also sent a message stating that they are offering a price of Rs. 4,699/- per sq ft inclusive of all amenities and the offer expires in 2 weeks. He further stated that the location of project is opposite to My Home Mangala in Kondapur and the name of the project is "The Continent". He informed that the booking amount is Rs. 10 Lakhs and the remaining balance amount for the complete flat is to be paid within one month.

5. It was submitted by the Complainant that subsequently, on 06.02.2024, the Complainant initially visited the site at Hafeezpet, which is opposite My Home Mangala in Kondapur. Complainant was shown the land in which the project is going to be built.

6. The Complainant also went to their office located in Madhapur, where, Complainant had met with another person one Mr. Damodara Prasad (+91 90301 99199). He has also given his visiting card as the Director of "Hexasky Infra Projects

Private Limited", who undertakes the sales of Buildox projects. He explained to the Complainant that they shall give the possession of the flat in 2028 and that the offer of Rs. 4,699/- per sq ft is only valid for the next one week and that the prices shall increase afterwards. He persuaded the Complainant that this was the best price one could get in the market right now. He also informed that he had already sold around 55 flats, a total extent of 1,00,000 sq ft as on first week of February. Further, that a total number of around 4000 units are going to be constructed in the said project with 3 BHKs with an extent of 1800 sft, 2100 sft and 2600 sft and 4 BHKs with 3500 sft. Together, the total extent of built-up area for this project is 1.35 crores sft.

7. That during the negotiations, when Complainant had asked for a proof of payment for the flat chosen by him, they sent the Complainant a receipt of another customer with bearing SI No. 43 in the names of B Mallikarjun, D Pavan Kumar and Pradeep Kumar, who allegedly have paid an amount of Rs. 15,00,000/- (Rupees Fifteen Lakhs Only) on 02.02.2024 to the Respondent Company. They were allotted Unit 08 in 16th Floor of Tower 2 which is a 3 BHK flat with an extent of 1800 sq ft.

8. That after further negotiations, they agreed to offer the Complainant a flat at Rs. 4,300/- per sq ft. Considering the offer and believing their words to be true, on 07.02.2024, Complainant paid an amount of Rs. 2,00,000/- (Rupees Two Lakhs Only) as a token amount via RTGS to the bank account No. 038205005677 IFSC Code: ICIC0000382. Complainant promised them to send the rest of the token amount of Rs. 8,00,000/- (out of total Rs. 10,00,000/- as token amount) within one or two days. As an acknowledgement of receipt of the same, they have given the Complainant a receipt mentioning the Unit 09 in 12th Floor of Tower 2, which is a 3 BHK flat with an extent of 2100 sq ft that is allotted to him in "The Continent (Hafeezpet Project)".

9. That subsequent to the payment of Rs. 2,00,000/-, fortunately, before I could pay the rest of the amounts, it was brought to my notice that the Respondent is marketing and selling these flats without necessary approvals, permissions and title to the land. Complainant came to know that the landlords of the said land shown by the representatives of Buildox had not signed any sort of development agreement or any agreement whatsoever with Buildox and then Complainant realised that he was shown a piece of land in Kondapur/ Hafeezpet which does not belong to them. When Complainant had further enquired and researched on internet, Complainant came across articles where it was stated that Buildox does not have RERA registration or approvals from appropriate authorities. Without the said approvals and registration, they are marketing and selling flats to the public. Further, the news articles reveal that the said land i.e. Survey No. 80 of Hafeezpet is within the purview of a pending litigation before the Hon'ble Supreme Court.

10. It was submitted that, first, the Encumbrance Certificate, which was provided by the representatives of Buildox does not confer any right on it. Second, despite there being a *status quo* order on the said lands in Hafeezpet, Buildox is selling flats and apartments by concealing the true facts and misleading the general public regarding a land over which Buildox has no right whatsoever. The acts of Buildox are clearly illegal and void, and amounts to fraud, cheating, criminal breach of trust, etc.

11. It was further submitted that each and every act of Buildox Private Limited grossly violates the provisions of Act, 2016. Each of their action, from advertising and marketing on Facebook, inviting customers for sale of the property, offering to sell the property without the RERA registration, are in gross violation of Section 3 of said Act. They admit that they already sold certain flats and aiming to sell more in

the future. Therefore, their actions squarely fall under Section 3 of the RERA Act i.e. they have advertised, marketed, booked, sold and offered to sell, invited persons to purchase a plot in a real estate project without registering the project with the RERA authority.

12. It was also submitted that moreover, the plans shared by them are not HMDA/HUDA approved. They have merely shared draft plans and they are yet to obtain approval for building permissions, layout and master plans, floor plans, etc. from appropriate authorities.

13. It was also further brought to Complainant's notice that, Buildox neither purchased nor entered into a development agreement for the said land. Without accruing any right in the property, Buildox is selling flats to the innocent public by tricking them with deception and fraudulent statements and facts. Buildox does not have any right whatsoever, even in the land, to build the said project and sell these flats.

14. Complainant submitted that, therefore, Buildox is illegally selling flats for a non-existent project. Buildox (i) does not have any right over the land and (ii) did not obtain any approvals, including HUDA, HMDA, RERA for the said project. Buildox is selling a property in which it has no right whatsoever.

15. The Complainant further brought to the attention of this Authority that it is admitted on record that Buildox has already sold flats and apartments to the gullible homebuyers who paid full amounts for the said flats and apartments. Buildox is illegally taking money from these innocent homebuyers who spend their hard-earned money on investing and purchasing their home. As such, Complainant fears that

this is a big scam which needs to be unearthed and a detailed investigation is necessary so that the persons behind the said scam are rightfully punished.

16. In support of his contention, he submitted a recording of the conversation during the negotiation to prove that this was in fact, issued by the representatives of the Respondent. A transcript of the conversation between Complainant, his uncle Mr. Damodara Prasad and Mr. Kamal was also produced along with an application under Section 65B of the Indian Evidence Act.

17. It was further submitted that in Complaint No. 1626 of 2023, wherein this Authority has initiated *suo-moto* action against the Respondent for sale of flats at Hafeezpet/ Kondapur, the Complainant herein had produced all the evidences with respect to Facebook advertisement, WhatsApp chats and project plans. In response to the facebook advertisement, the Respondent replied stating that the advertisement is not authorised by them and that a complaint has been lodged with Facebook regarding the same. Further, it stated that the authorised signatory on the receipt produced by the Complainant is a forged one and was trying to implicate one Mr Johnson (with whom the Complainant has no acquaintance with) and making alleging against the BRS Party. Complainant submitted that it is nefarious that the Respondent is trying to project its statutory violation as a political issue by casually naming political parties in its reply. Respondent clearly intends to play the blame game but not address the issue at hand. In fact, the reply issued by the Respondent does not even deny receiving the amount of Rs. 2,00,000/- from the Complainant. There is no justification as to why the Respondent has received such an amount.

18. Complainant vehemently denied that these documents are fabricated in any manner as the said receipts are issued with the seal and authorised signatory of

Buildox Private Limited. That the Respondent is merely trying to deflect the blame as there is no other argument that it can make considering the evidence submitted is as clear as day.

19. It was submitted that the Respondent further makes claims that the Facebook page named "BUILDOX" was created on 01.02.2024 and that the said advertisement was initiated without the authorisation of Buildox Private Limited. However, when the advertisement was clicked on, it was redirected to a WhatsApp chat with Mr Kamal's phone number. In fact, the page is still active till date and redirection to Mr Kamal also subsists.

20. Further, if the claims of the Respondent that the Facebook advertisement is not authorised by them and that a complaint has been lodged with Facebook regarding the same are believed to be true, no evidence has been filed till date or with the reply to prove that such a complaint has been lodged. In fact, the advertisement redirects to WhatsApp chat even today and no action has been taken or initiated. Buildox failed to provide any evidence to the effect that action has been initiated against the alleged perpetrators who created the Facebook page or the person it is being redirected to.

21. It was also submitted that Buildox utterly failed to refute the allegations and establish its case. It is clear that Buildox is only trying deflect the issue by giving amateur reasons like impersonation of Facebook page and counterfeit of its authorised signatory stamp and signatures on its receipts. There is absolutely no whisper about the money it has received in its account, either accepting or refuting it.

22. That Buildox has entirely failed to prove as to how it is not involved marketing or selling the flats for the project of "The Continent" located at Kondapur/ Hafeezpet. Hence, necessary action is required to be taken against the Respondent as per the provisions of law, more particularly, by blacklisting the Respondent and the responsible persons i.e. Directors not to undertake any projects in the future.

23. It was further submitted that the Respondent claims that the amounts have been returned. While this statement is completely false, and that refund of the amount does not discharge the Respondent of its culpability and their liability under relevant laws, more particularly Act, 2016.

Reliefs Sought:

24. The complainant, accordingly, sought for appropriate action against the Respondent including blacklisting the Respondent Company from future projects and protect the interests of the innocent homebuyers and interim measures to investigate the extent of the alleged fraud.

Interim Orders issued by the Authority:

25. When the matter was called for hearing on 04.04.2024, this Authority, for the reasons stated in the Order dated 04.04.2024, issued interim directions to the Respondent as follows:

- i. Respondent is directed to submit the bank account statements of Respondent, its group companies and entities, more particularly A/c Number account No. 038205005677 IFSC Code: ICIC0000382 within 7 (seven) days with a copy supplied to the Complainant; and
- ii. The Respondent is restrained from marketing/ advertising/ selling or any such act in violation of the provisions of this Act in the proposed Project situated at

Hafeezpet and deactivate the Facebook advertisement till the final disposal of this matter.

26. The Interim Order also stated that failure of Respondent to comply with the directions of the Authority shall attract penalty under Section 63 of the Act, 2016.

Reply on behalf of the Respondent:

27. Vide affidavit dated 25.04.2024, the Respondent Company filed its detailed reply and submitted that an unknown person has impersonated and amended a fake Facebook page named "BULDOX" on 1st February 2024. That prior to it, the said page was named as THE WORLD OF JOY, initially created on 17th of July 2023 which in return renamed as BUILDUX which is published. That, however, this page was not initiated or authorized by the Respondent Company. Said facebook page the advertisement showing alleged sale of flats/apartments was liked by one Mr. Ravi Prasad Yelishala and except the said person there are no likes to the said advertisement. The Respondent Company has no project named "The Continent", situated at Sy.No.80 of Hafeezpet, Hyderabad, Telangana. Further the Respondent Company has no nexus with Mr. Kamal or Mr. Damodara Prasad and they are neither the employees nor representatives of the Respondent Company.

28. That upon discovering this fraudulent activity, the Respondent Company promptly lodged a complaint with M/s. Facebook to report the unauthorized creation of the page and thereafter filed a cyber-complaint with the police vide acknowledgement 23704240015742 and the investigation is pending. From the timeline of events and from the creation of the Facebook page, post to filing of the complaint, clearly indicates a premeditated conspiracy against the Respondent Company. The Respondent Company has no knowledge about the Complainant and

deposit of Rs. 2,00,000/- (Rupees Two Lakhs Only) made by the Complainant in the account of the Respondent Company for the alleged project, as they was no consensus. That however, the Respondent Company has tried to send Rs. 2,00,000/- (Rupees Two Lakhs Only) to the bank account from which the amount was received, but however the same couldn't go through as the Complainant has blocked the transactions to said account.

29. It was submitted that the fact that the Complainant has not issued a letter or legal notice addressing for return of Rs.2.00.000/- (Rupees Two Lakhs Only) but has chosen to file the present complaint seeking to blacklist Respondent Company from undertaking any projects in the future without seeking return of Rs.2.00.000/- (Rupees Two Lakhs Only) only goes long way to show that the present complaint is filed with an ulterior motive to tarnish the reputation the Respondent Company.

30. It was denied by the Respondent Company that the alleged page redirected the complainant to a WhatsApp chat with +91 91282 55063 wherein he could send a message to the Buildox Team. Further denied that the Complainant within 2 hours received a message on WhatsApp from one Mr. Kamal stating that he is from Buildox Sales Teams who shared the details of the project being constructed by Buildox at Kondapur/Hafeezpet. It was alleged that Mr. Kamal has sent a message to the Complainant stating that they are offering a price of Rs. 4,699/- per sft inclusive of all amenities and the offer expires in 2 weeks. It was submitted that the said facebook page was not authorized by the Respondent Company and there were no projects taken up by the Respondent Company in the Hafeezpet, Hyderabad. The Respondent Company has no knowledge about the person by name Mr. Kamal.

31. It was further submitted that the Respondent Company has no knowledge about the person Mr. Damodar Prasad who is the director of "Hexasky Infra Projects Private Limited" and is undertaking the sales of Buildox Projects. The said Mr. Damodar Prasad met the Complainant and explained that the possession of the flat will be given to Complainant in 2028 and the offer of Rs. 4,699/- per sft is only valid for the next one week is false and concocted story.

32. It was submitted that the receipts bearing Sl. No. 43 in the names of B. Mallikarjun, D. Pravan Kumar and Pradeep Kumar, who paid an amount of Rs.15,00,000/- on 02.02.2024 to Buildox are forged and fabricated and the stamps and seals do not belong to the Respondent Company. That despite the Respondent Company's efforts to contact the individuals associated with these receipts, they remain untraceable. Moreover, the stamps bearing the name the Respondent Company is counterfeit, and the signatures do not belong to any authorized representatives of the Respondent Company.

33. It was submitted that the Complainant with a *mala fide* intention deposited an amount of Rs. 2,00,000/- (Rupees Two Lakhs Only) on 07.02.2024 in the account bearing No. 038205005677 belonging to the Respondent Company. The Respondent Company has tried to send Rs. 2,00,000/- (Rupees Two Lakhs Only) to the bank account from which the amount was received, but however the same couldn't go through as the Complainant has blocked the transactions to said account.

34. It was specifically submitted on behalf of the Respondent that Mr. Kamal or Mr. Damodara Prasad are not made as respondents on whose instructions the Complainant has transferred an amount Rs.2,00,000/- (Rupees Two Lakhs Only) further shows that the Complainant in collusion with the above persons have

orchestrated the present complaint with an ulterior motive at the behest of the politically influential persons in order to tarnish the reputation of the Respondent Company and for wrongful gains and extort money from the Respondent Company.

35. It was also submitted that the Respondent Company does not have any land parcels/any agreements with anyone, nor do they have any DAGPAs to execute a project in Sy.No.80 at Hafeezpet, Hyderabad. The Respondent Company has conducted a thorough inquiry into the matter and the investigation revealed that the entire transaction was orchestrated by one Mr. Johnson, the owner of REAL ESTATE GURU, and a reputed Builder belonging to BRS Party. Their intent was to fabricate a situation to entangle the Respondent Company which was welcoming the new government under RERA regulations and the Respondent Company emphasized currently it has no ongoing real estate projects and is merely conducting market surveys following recent governmental changes in Telangana.

36. It was submitted that the contention that there being a *status quo* order on the said lands in Hafeezpet, Buildox is selling flats and apartments by concealing true facts and misleading the general public regarding a land over which Buildox has no right whatsoever is absolutely false and baseless. That except the complainant there is no complaint against the Respondent Company with regard to the present subject matter lodged by any person or third parties before any authority or court.

37. It was submitted that the Respondent Company has not violated any of the provisions of the Act, 2016. The contention that the advertising, marketing on facebook, inviting customers for sale of the property, offering to sell the property without the RERA registration and admitting of sale of flats by the Respondent Company is false and untrue. That the Respondent Company is in the business real

estate and the bank account numbers are with numerous individuals and are not a private information and it is not known to the Respondent Company as to why the Complainant has deposited an amount of Rs. 2,00,000/- (Rupees Two Lakhs Only) in the account of the respondent company till the issuance of show cause notice.

38. It was submitted that the Respondent Company is willing to return the amount of Rs. 2,00,000/- (Rupees Two Lakhs Only) deposited in the account of the Respondent Company in the form of DD vide No. 509956 dt. 19.04.2024 in favour of the Complainant.

39. Accordingly, the Respondent prayed to dismiss the complaint with exemplary costs of Rs.10 lakhs by vacating the interim orders dated 04.04.2024 plus all legal expenses incurred.

Rejoinder on behalf of the Complainant:

40. Vide Rejoinder affidavit dated 06.08.2024, the Complainant submitted that the Respondent is conveniently disowning the Facebook page and its representatives Mr.Damodara Prasad and Mr. Kamal. Moreover, the complaint was given to Facebook only and not to any Law Enforcement Agencies. Assuming without admitting that what the Respondent claims is to be true, a mere Facebook complaint would not suffice, as it would amount to forgery and impersonation serious offences for which, any prudent person would have complained to Law Enforcement Agencies. Instead, the Respondent merely complained to Facebook, which has no consequences whatsoever, to concoct a story and nothing else.

41. Complainant submitted that it has filed a police complaint registered as FIR No. 563 of 2024 dated 18.05.2024 against the Directors of the Respondent Company

i.e. Mr. Kaleshwar Vasgi, Mr. Sudhir Chanda, Mr. Kaukuntla Rithvik, Mr. Damodara Prasad and Mr. Kamal and that the same is under investigation.

42. It was submitted that regarding the caution notice published in the newspaper, the Respondent conveniently again addressed that the Facebook page does not belong to them. Complainant submitted, that, If what the Respondent states is true regarding the fact that Mr. Damodara Prasad and Mr. Kamal are acting on their own accord, the Respondent conveniently did not whisper a word about them in the newspaper caution notice, stating that certain persons are selling flats in the Respondent's name, without their authorisation. The sole reason for the same is that, if the Respondent actually made such a statement, it would panic the homebuyers who already bought the flats from them and would effect their sales. Therefore, the Respondent did not whisper a word about their sales but merely restricted to the Facebook page and nothing else.

43. It was submitted that Mr. Damodara Prasad is acting at the behest of the Respondent Company. If the Respondent truly denies any relation to the receipts and alleges a fabrication, the Respondent fails to justify as to why no criminal complaint with appropriate Law Enforcement Agencies has been filed against Mr. Damodara Prasad and Mr. Kamal. The fact that no action was initiated against them shows that, in fact Mr. Damodara Prasad and Mr. Kamal are working for the Respondent Company. Hence, that is the only logical conclusion as to why no formal complaint has been lodged with the Law Enforcement Agencies. Therefore, it is clear that the Respondent Company is merely disowning such persons on paper but no action has been taken, evincing that Respondent Company is, in fact behind the sales made by Mr. Damodara Prasad and Mr. Kamal.

44. The Complainant denied that there any influential persons behind this complaint and that he does not know of any person with the name Mr. Johnson. The Respondent Company merely wants to politicise this complaint, when there is no such involvement by anyone, with a sole and mala fide intention to distract this Authority and nothing else.

45. It was submitted that if the Respondent Company is clean and no secrets to with regards to the sales being made, the Respondent Company fails to justify their action of not complying with the order of this Authority to produce their bank account statements to prove otherwise. The act of the Respondent Company in not complying with the order dated 04.04.2024, wherein the Respondent Company was directed to produce the bank account statements. This act alone shows that the Respondent Company does not want to divulge information regarding their bank account transactions, as it would show the other transactions that took place. If what the Respondent Company is saying is true, there is no harm in complying with the order dated 04.04.2024. Therefore, the Respondent Company is, in fact, liable for violation of Act, 2016.

46. With respect to blocking of account, the Complainant submitted that blocking one's bank account is no crime. Further, the intention of the Respondent Company's to return the amount to Complainant's bank account is solely to ensure that his *locus standi* in the instant case is weakened. When the transaction took place on 07.02.2024, the Respondent Company did not try to make any contact with the Complainant or return the amount until March end, when this Authority was about to pass an order in Complaint No. 1626 of 2023 and after filing the instant complaint. The Respondent Company, when realising that this Authority is ready to pass an adverse order against them in Complaint No. 1626 of 2023 and that a separate

complaint has been lodged, tried to return the money to the Complainant's bank account.

47. It was also added that none of the homebuyers approaching this Authority is not a testament to the Respondent Company's violations, when there are proofs clearly showing that they are selling flats.

Submissions made during the hearing:

Complainant's submissions

48. The Complainant primarily submitted that the instant complaint is filed by the Complainant requesting the Authority to take necessary action against Buildox for marketing and illegal sale of flats/ apartments for an alleged project named "The Continent" in Kondapur/ Hafeezpet, Hyderabad, without necessary documents, permissions and approvals from the appropriate authorities including Real Estate Regulatory Authority (RERA).

49. It was reiterated that Respondent had marketed their project by the name 'The Continent' on various social media pages and the Complainant, after meeting Mr. Damodara Prasad (+91 90301 99199) and Mr. Kamal (+91 91828 55063). The Respondent's representatives shared the details of the project that is being constructed by Buildox at Kondapur/ Hafeezpet, including tower plans, floor plans, etc. He has also sent me a message stating that they are offering a price of Rs. 4,699/- per sq ft inclusive of all amenities and the offer expires in 2 weeks.

50. That, during the negotiations, when the Complainant had asked for a proof of payment format that the Respondent is going to issue, they sent him a receipt of

another customer with bearing SI No. 43 in the names of B Mallikarjun, D Pavan Kumar and Pradeep Kumar, who allegedly have paid an amount of Rs. 15,00,000/- on 02.02.2024 to Buildox. They were allotted Unit 08 in 16th Floor of Tower 2 which is a 3 BHK flat with an extent of 1800 sq ft.

51. That after further negotiations, they agreed to offer me a flat at Rs. 4,300/- per sq ft. Considering the offer and believing their words to be true, on 07.02.2024, Complainant paid an amount of Rs. 2,00,000/- (Rupees Two Lakhs Only) as a token amount via RTGS to the bank account No. 038205005677 IFSC Code: ICIC0000382. As an acknowledgement of receipt of the same, they have given me a receipt mentioning the tower and flat that is allotted to me in "The Continent (Hafeezpet Project)". I was allotted Unit 09 in 12th Floor of Tower - 2, which is a 3 BHK flat with an extent of 2100 sq ft. The Respondent representatives had also mentioned the transaction details on the receipt after confirming the receipt of the payment.

52. That, however, after making the payment of the token advance amount, it has come to the knowledge of the Complainant that the Respondent is selling the flats without registration of this Authority. Further, the plans shared by them are not HMDA/HUDA approved. They have merely shared draft plans and they are yet to obtain approval for building permissions, layout and master plans, floor plans, etc. from appropriate authorities. It was also learnt that Respondent neither purchased nor entered into a development agreement for the said land. Without accruing any right in the property, Buildox is selling flats to the innocent public by tricking them with deception and fraudulent statements and facts. Buildox does not have any right whatsoever, even in the land, to build the said project and sell these flats.

53. That therefore, Buildox is illegally selling flats for a non-existent project. Buildox (i) does not have any right over the land and (ii) did not obtain any approvals, including HUDA, HMDA, RERA for the said project. Buildox is selling a property in which it has no right whatsoever.

54. On filing of the instant complaint, this Authority was pleased to pass an interim order dated 04.04.2024 directing the Respondent to submit the bank account statements of Respondent, its group companies and entities, more particularly A/c Number account No. 038205005677 IFSC Code: ICIC0000382 within 7 (seven) days with a copy supplied to the Complainant and restrained the Respondent from marketing/advertising/selling or any such act in violation of the provisions of this Act in the proposed Project situated at Hafeezpet and deactivate the Facebook advertisement till the final disposal of this matter. However, the Respondent till date did not take any steps whatsoever to comply with the interim directions of this Authority.

55. It was submitted that Respondent failed to comply with the interim directions to produce the bank account statements and outrightly, without any reason, and refuses to submit the same. That if the Respondent is clean, there is no reason for them to not produce the bank accounts before this Authority. That in every subsequent hearing, despite the insistence of this Authority to submit the bank account statements, the Respondent does not provide any justification, let alone valid justification, to furnish such details. This clearly shows their mala fide intention to hide the transactions that they undertook and do not wish to disclose the same to the Authority.

56. That, the Complaint vide Memo dated 29.08.2024 intimated this Authority of the acts of the Respondent in trying to threaten the Complainant for approaching this Authority. That, the Respondent is indulging in forum shopping by approaching the Banjara Hills Police Station and after that, Jubilee Hills Police Station making complaints against the Complainant with an intention to threaten and harass the Complainant to ensure that the Complainant settles the matter.

57. That, since the police authorities are refusing to furnish a copy of the complaint submitted by the Respondent, the Complainant had attached copies of the screenshots of the conversation of the respective officers of the police stations on WhatsApp.

58. That the Respondent in their counter alleges that they tried to refund the amount paid by the Complaint back to the bank account without the consent of the Complainant. It is submitted that, this was done only after the Complainant intimated this Authority regarding the violations and fraudulent activities being committed by the Respondent.

59. That the refund of money that the Respondent intended to do was much after the complainant approached this Authority. Clearly, the intention of the Respondent is to ensure that locus standi of the Complainant is weakened, as the Complainant does not stand any locus before this Authority upon receipt of the said amounts.

60. Further, that the Respondent argues that Complainant blocked his bank account intentionally, when they tried to refund the amounts. It was blocked only when the bank authorities called the Complainant regarding the reversal of transaction and that they are trying to refund the amount to weaken the *locus standi*.

61. That it is well within the rights of the Complainant to operate his bank account according to his wish. The Respondent is projecting such act as a mala fide act. In fact, it was only done to ensure that the Respondent does not reverse the transaction and the Complainant loses the locus before this Authority. Further, it is the complainant's right to block or unblock his account and it does not amount to any crime.

62. It was further submitted that the Respondent argues that they do not know who Mr. Damodara Prasad or Mr. Kamal are, the persons who had communicated with the Complainant. Even though the Respondent argues that there is no connection between the persons the Complainant had interacted with, the Respondent failed to file any complaints against them. Especially, if the said fact is true, the acts of Mr. Damodara Prasad and Mr. Kamal amount to counterfeit, impersonation and very serious offences, as they are using their brand, seal and signature. That, since no action has been taken by the Respondent against the said persons, it is clear that Respondent is liable for the statutory violation.

63. Therefore, considering the conduct of the Respondent in blatant disregard of law by selling the flats without RERA registration, blatant disregard to the orders of the Authority, threatening and harassing the aggrieved homebuyers, warrant a severe action. As such, it is prayed that this Authority may be pleased to blacklist the Respondent from undertaking any construction activities in future.

Respondent's submissions

64. *Per contra*, the Respondent submitted that the specific plea of the complainant is that he has come across an advertisement for sale of flats at Kondapur on

www.facebook.com by a facebook page named "Buildox", for the project named "The Continent", situated at Sy.No.80 of Hafeezpet. Hyderabad, Telangana and upon clicking the advertisement link he was redirected to Whatsapp Chat wherein he had a discussion with one Mr. Kamal who mentioned that he is from Buildox Sales Team and thereafter he met another person named Mr.Damodara Prasad, Director of "Hexasky Infra projects private Limited" who mentioned that the undertakes the sales of Buildox Projects. That believing the same the complainant has paid an amount of Rs. 2,00,000/- as token amount via RTGS to the bank account No. 038205005677 belonging to the respondent. The said allegations are absolutely false, untrue and created only for the purpose of harassing the Respondent in one way or other.

65. That, the true facts are that an unknown person has impersonated and amended a fake Facebook page named "BULDOX" on 1st February 2024. Prior to it, the said page was named as THE WORLD OF JOY, initially created on 17th of July 2023 which in return renamed as BUILDDOX which is published. However, this page was not initiated or authorized by the respondent company. That in the said facebook page the advertisement showing alleged sale of flats/apartments was liked by one Mr. Ravi Prasad Yelishala and except the said person there are no likes to the said advertisement. The respondent company has no project named "The Continent", situated at Sy.No.80 of Hafeezpet. Hyderabad, Telangana. Further the Respondent company has no nexus with Mr. Kamal or Mr. Damodara Prasad and they are neither the employees nor representatives of the Respondent Company. Upon discovering this fraudulent activity, the Respondent Company promptly lodged a complaint with M/s. Facebook to report the unauthorized creation of the page and thereafter filed a cyber-complaint dt. 15.04.2024 with the police vide acknowledgement 23704240015742 and the investigation is pending.

66. It was added that it is evident that these actions are orchestrated by malicious entities aiming to tarnish the reputation of the Respondent Company. From the timeline of events and from the creation of the Facebook page, post to filing of the complaint, clearly indicates a premeditated conspiracy against the Respondent Company. The Respondent Company has no knowledge about the complainant and deposit of Rs. 2,00,000/- made by the complainant in the account of the respondent company for the alleged project, as they was no consensus. However, the Respondent Company has tried to send Rs. 2,00,000/- to the bank account from which the amount was received, but however the same couldn't go through as the Complainant had blocked the transactions to said account.

67. The fact that the complainant has not issued a letter or legal notice addressing for return of Rs,2,00,000/- but has chosen to file the present complaint seeking to blacklist Respondent company from undertaking any projects in the future without seeking return of Rs.2,00,000/- only goes long way to show that the present complaint is filed with an ulterior motive to tarnish the reputation the Respondent Company. Further, from the transcripts of the call record filed by the complainant, it is clear that he transferred the amount of Rs. 2,00,000/- after confirming with Mr. Kamal or Mr. Damodara Prasad that no approvals have been obtained and the same shall take at least 8 months. Therefore, this further shows that the Complainant has knowingly transferred the said amount with an ulterior motive in the alleged project which doesn't have any approvals by his own versions. The fact that Mr. Kamal or Mr. Damodara Prasad are not made as respondents on whose instructions the Complaint has transferred an amount Rs.2,00,000/- further shows that the complainant in collusion with the above persons have orchestrated the present complaint with an ulterior motive at the behest of the politically influential persons

in order to tarnish the reputation of the respondent company and for wrongful gains and extort money from the Respondent Company.

68. That due to the adverse media publicity by the Complainant on the respondent company the reputation of the Respondent Company is tarnished. That despite multiple media reports not even one individual has approached the Hon'ble authority or any court with similar grievance which clearly shows that this is a single and isolated complaint against the respondent company filed by the complainant with wrongful intention and with unclean hands.

69. That the Complaint has failed to do proper due diligence to check if there is any land belonging to Respondent company situated at Sy.No.80 of Hafeezpet, Hyderabad, Telangana before entering into any transaction. The Complainant failed to check if the Mr. Kamal or Mr. Damodara Prasad belonged to Respondent Company or were authorized by way of board resolution u/s 21 of the Companies Act by the Respondent Company before entering into any transaction. That the receipts numbered 043 and 061 both dated in February 2024 are fraudulent receipts and the stamps bearing the name the Respondent is counterfeit, and the signatures do not belong to any authorized representatives of the Respondent Company.

70. That therefore, the Complaint cannot hold the Respondent No.1 company liable for violation under the provisions of Sections 3 and 4 of the Act, 2016 when the Respondent company themselves are a victim of cyber phishing, civil and criminal defamation etc. at the hands of Complaint who is acting at the behest of politically influenced individuals.

71. Therefore, the Respondent prayed to dismiss the above complaint with an exemplary cost of Rs. 10 lakhs plus all legal expenses incurred in the interest of justice.

Points for consideration:

72. In consideration of the rival contentions made by both the parties and the documents submitted thereby, following points arise for consideration by this Authority:

- I. Whether the Respondent is in violation of any provisions of the Act, 2016 or the Rules thereunder? If yes, to what extent?
- II. Whether the Complainant is entitled to grant of its relief as prayed for? If yes, to what extent?

Point I

73. The Complainant's main contention is that the Respondent, without any approvals and permissions and, more particularly, registration from this Authority, in abject violation of Sections 3 and 4, with the sole intention to deceive innocent homebuyers, is promoting the sale of a Project titled "the Continent" situated at Sy.No.80 of Hafeezpet, Hyderabad, Telangana. He also submitted that the Respondent is marketing the sale of flats through its executives who contacted the Complainant through facebook and whatsapp, through Mr. Kamal & Mr. Damodara Prasad and accordingly prayed to blacklist the Respondent for violation of Sections 3 and 4 and for cheating the innocent homebuyers. He asserts that he paid Rs.2,00,000/- (Rupees Two Lakhs Only) as advance booking amount which was duly received by Respondent Company and that similarly several allottees have been affected by the Respondent's cheating tactics.

74. *Per contra*, the Respondent denies the existence of any such facebook page belonging to the Respondent and the subsequent whatsapp chat with the individuals, Mr. Kamal & Mr. Damodara Prasad do not belong to the Respondent Company. He asserted that he has duly filed complaint with facebook as well as with the cyber police and also gave a newspaper publication warning people of the impersonation of its company and the said complaints have been filed on record.

75. The Respondent also categorically submitted that the amounts were also received by the Respondent Company however, as the Respondent Company is in the business real estate and the bank account numbers are with numerous individuals and are not a private information and it is not known to the Respondent Company as to why the Complainant has deposited an amount of Rs. 2,00,000/- (Rupees Two Lakhs Only) in the account of the respondent company till the issuance of show cause notice. This contention, however, is overly vague and devoid of substantiating evidence. The mere receipt of funds by the Respondent is sufficient to establish that it has, in fact, accepted deposits in relation to the project, without having obtained the requisite registration with this Authority, thereby constituting a contravention of Section 3 which reads as under:

“No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act.”

76. Respondent also categorically denied the existence of any such project being “The Continent” situated at Survey No.80, Hafeezpet, Hyderabad, Telangana being promoted by it and stated that the land does not belong to him and the project was

never promoted by it or its executives. However, the Respondent has not provided any justification for the receipt of funds into its business account, particularly given the lack of any advertising or promotional activities related to the alleged project by the Respondent Company. The burden of proof rests squarely upon the Respondent to establish the grounds and rationale for the receipt of funds into its business account. However, no evidence or documentation has been submitted before this Authority to clarify the purpose or legitimacy of these transactions. This omission underscores the Respondent's mala fides in the matter, as the lack of substantiation fails to dispel the presumption of wrongful conduct.

77. This Authority bears the responsibility of safeguarding the rights, interests, and welfare of allottees, who are presumed to be vulnerable to the actions of promoters. In instances of such blatant disregard for statutory provisions, this Authority must intervene to protect the rights of current and prospective allottees, thereby preventing potential financial harm. This case exemplifies such a situation, where the Respondent has acknowledged receipt of funds but has failed to provide any credible or satisfactory justification for these deposits. By admitting to receiving these amounts, the Respondent has effectively demonstrated a violation of Section 3, proceeding with the marketing and sale of flats in the project without securing the requisite approvals and permissions.

78. Respondent blames the Complainant of having political intentions of accusing the Respondent and that the very filing of this Complaint is a conspiracy against the Respondent, and whereas the Complainant denies such intentions and submits that amounts were admittedly received by the Respondent Company. This Authority is not inclined to investigate into the personal feud amongst the Complainant and the Respondent. The paramount consideration is whether the Respondent's actions

constitute a violation impacting the rights of innocent homebuyers. If such a violation is established, it is imperative to determine the appropriate measures this Authority may undertake to address and rectify any harm caused to protect the interests of affected homebuyers.

79. In order to examine the deposits received by the Respondent, this Authority issued interim order dated 04.04.2024, directing the Respondent to submit its bank account statement. However, the Respondent has failed to bring no valid cause as to why such directions were not complied with. The Respondent merely filed its reply bringing on record the complaints filed before facebook and the cyber crime authorities and no substantial reason as to why the interim directions were not complied with. If at all the Respondent filed it's bank account statements as directed in the interim order the same would have revealed whether the promoter has received funds from the gullible allottees or not. However, despite repeated opportunities, the promoter has failed to comply with this directive, indicating potential malfeasance on their part thereby affecting the rights and interests of the allottees. Therefore, in accordance with Section 63 of the Act, 2016, this Authority deems it fit to impose penalty on the Respondent for not complying with directions of the Authority for no valid or substantial reason.

80. Considering the above, contentions of the Complainant and the Respondent, this Authority is of the considered view that the Respondent is in violation of Sections 3 and 4. After due consideration thereof, this Authority, in Complaint No.1626/2023 imposed penalty of Rs.3,96,39,600/- (Rupees Three Crores Ninety-Six Lakhs Thirty-Nine Thousand and Six Hundred Only), however an appeal has been preferred by the Respondent against the said order which is pending consideration but no stay on the order is granted as on today.

81. Point I is answered accordingly.

Point II

82. The Complainant has sought the blacklisting of the Respondent from future projects to protect the interests of innocent homebuyers. However, such a remedy is severe and disproportionate to the Respondent's offense in this matter. Accordingly, this Authority directs the Respondent to adhere strictly to the due process of law as stipulated under the Act, 2016, and comply with all ancillary regulations as prescribed by relevant authorities. Should the Respondent engage in advertising, marketing, booking, selling, offering for sale, or soliciting purchases for any plot, flat, or apartment without obtaining the necessary permissions and registration, this Authority will impose stringent penalties in line with Sections 59 and 60 of the Act, 2016.

83. Furthermore, this Authority reserves the right to impose additional measures, including the potential blacklisting of the Respondent or any other actions deemed appropriate, to safeguard the rights and interests of innocent homebuyers. Such actions may include issuing a public notice to inform potential buyers of the Respondent's non-compliance, as well as initiating *suo-moto* legal proceedings to hold the Respondent accountable for any violations. The Authority will take a proactive stance to ensure that the integrity of the real estate market is upheld, thereby protecting homebuyers from fraudulent practices and ensuring that their investments are secure. These measures will be implemented to prevent further harm to prospective purchasers and to reinforce the obligation of all promoters to adhere to statutory requirements and ethical standards in their business practices.

84. Furthermore, with regard to the amount remitted by the Complainant, this Authority holds that the Complainant was entitled, and indeed obligated, to review all pertinent documents prior to making any allotment or payment to the Respondent. In accordance with Section 19(1), the Complainant bore the duty to ascertain the accuracy of project details and confirm its registration under the provisions of the Act, 2016 before engaging in any transaction. Given the Complainant's failure to fulfil this duty, having paid an amount of Rs. 2,00,000/- (Rupees Two Lakhs Only) without due verification, he shall only be entitled to a refund of the amount paid, without interest.

85. This Authority further observes that the Respondent had previously made attempts to refund the amount, but the Complainant, without providing a valid explanation, remitted the amount back into the Respondent's account. Nevertheless, given this Authority's limited mandate to intervene in personal disputes between the Complainant and the Respondent, it is hereby determined that the Respondent remains liable to refund the amount paid by the Complainant.

Directions

86. In consideration thereof, this Authority issues the following directions:

- i. In accordance with the discussion in paragraphs 73 to 80, this Authority is hereby imposing penalty of Rs.1,60,000/- (Rupees One Lakh Sixty Thousand Only) vide its powers under Section 63 of the Act, 2016 for non-compliance of interim directions of the Authority in Order dated 04.04.2024, payable by the Respondent within 30 (thirty) days in favour of

TG RERA FUNDS through Demand Draft or online payment to A/c No.50100595798191, HDFC Bank, IFSC Code: HDFC0007036; and,

- ii. The Respondent is also hereby directed to refund the amount of Rs.2,00,000/- (Rupees Two Lakhs Only) paid by the Complainant within a period of 15 (fifteen) days, failing which appropriate action under Section 63 of the Act, 2016 will be initiated against M/s Buildox Pvt. Ltd. i.e., the Respondent herein.

87. The Complaint is hereby 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

TG RERA
TELANGANA REAL ESTATE REGULATORY AUTHORITY