

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

COMPLAINT NO.104 OF 2024

11th day of July, 2024

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

Sri.Krishna Nilyam Residents ...Complainant

Versus

M/s Mahalaxmi Construction rep by Sri Pabba Siddeshwar
...Respondent

The present matter filed by the Complainant herein came up for final hearing on 16.04.2024 before this Authority in the presence of Complainants present in person and Authorised respresentato Sri Shashank on behalf of the Respondent and upon hearing the arguments of the party, 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 "RE(R&D) Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") seeking directions from this Authority to take action against the Respondent.

A. Brief Facts on behalf of the complainant:

3. Complainants purchased the flats from the Respondent, M/s Mahalaxmi Constructions, a registered firm under firm number 426 of 2015, represented by Managing Partner Sri Pabba Siddeshwar, S/o Pabba Pentaiah, located at Plot No. 20, Shobhana Colony, West Marredpally, Secunderabad - Mobile No. 9849664607, through sale deeds as mentioned above.

2. Mr. Siddeshwar obtained building permission under Building Permission No. 1/C30/06890/2021 dated 19/05/2021 and TDR Permit No. 2302/GHMC/SEC/2022 BP dated 7/3/2022.

3. The sanction plan for the building permission is enclosed herewith for your ready reference.

4. Complainants, the flat owners of Krishna Mahalaxmi Nilayam residents, wish to bring to Authority's attention that an unauthorized penthouse has been constructed in our building without proper approvals. According to the HMDA-approved building plan, only 5 floors with 2 flats each (total 10 flats) are permitted. The unauthorized penthouse is constructed on the terrace, causing inconvenience to our terrace rights and to all owners of respective flats.

5. Additionally, they are facing issues with the quality of construction by M/s Mahalaxmi Constructions. The following are our concerns regarding shortcomings on behalf of the builders:

- a. Unauthorized construction of a penthouse for commercial office in our residential apartment. Requesting RERA to act by demolishing the same or allotting it as a recreation hall for residents' social events only.
- b. Improper sewage pipeline and insufficient drainage passage, leading to frequent drainage blockages.
- c. Improper water plumbing resulting in water from the overhead tank not reaching the flats until it is half filled, along with frequent pipe choking due to insufficient pipe diameter.
- d. Visible cracks on the building and flat walls due to poor quality of construction.
- e. Rainwater blockage in terrace and parking area due to poor civil work.
- f. Parking floor tiles not laid properly.
- g. Doors in all flats are of poor quality, making it difficult to open and close them.

- h. The builder has obtained sanction for only half-inch diameter for Manjeera water supply, which is insufficient for 10 flats. Requesting an increase in diameter to 1 inch.
 - i. The existing generator lacks auto mode facility, posing risks during power failures where residents could get trapped inside building lifts, facing severe suffocation.
6. Therefore, we request your office to take immediate action to stop the illegal construction of the penthouse. Furthermore, we urge you to engage with the builder to address the grievances raised by the flat owners promptly.

B. Relief(s) Sought:

7. The complainants have sought for the following relief:
- a. Immediate action to stop the illegal construction of the penthouse.
 - b. Resolution of quality issues raised by flat owners, including sewage, water plumbing, structural concerns, rainwater blockage, parking floor tiles, door quality, water supply, and generator facility.
 - c. Request for RERA to demolish the unauthorized penthouse or allocate it as a recreation hall exclusively for residents' social events.
 - d. Coordination with the builder to address the complaints raised by flat owners.

C. Respondent Reply:

8. Respondent categorically denies the allegations made by the complainants, describing them as false, untrue, baseless, and vindictive. He emphasizes the need for strict proof to substantiate such serious accusations.

9. He acknowledges that the complainants purchased flats from M/s. Mahalaxmi Constructions, a firm run by him. However, he refutes the allegation of a penthouse being constructed, explaining that the room on the terrace was built as a shelter for workers during the construction phase. It was later repurposed as a maintenance office, with no commercial activities

taking place. He asserts that the existence of this room was known to all flat owners during the purchase, and no objections were raised.

10. He acknowledges that the complainants purchased flats from M/s. Mahalaxmi Constructions, a firm run by him. However, he refutes the allegation of a penthouse being constructed, explaining that the room on the terrace was built as a shelter for workers during the construction phase. It was later repurposed as a maintenance office, with no commercial activities taking place. He asserts that the existence of this room was known to all flat owners during the purchase, and no objections were raised.

11. He clarifies that the room on the terrace cannot be classified as a penthouse for commercial office purposes. It serves as a maintenance office, fulfilling the builder's commitment to maintaining the building for two years. He reiterates that this authority is empowered to resolve disputes regarding construction flaws and asserts that no commercial activities occur in the maintenance office.

D. Rejoinder by the complainant:

12. In reply to the stands taken on behalf of respondent, the complainant filed a rejoinder contending that it is true that the complainant purchased flats from the Respondent, a registered firm. However, it is a falsehood to claim that the room on the terrace was constructed for any purpose other than providing shelter for workers during construction. This room was subsequently used as a maintenance office, with no commercial activities conducted therein. The existence of this room was known to all flat owners at the time of their respective purchases, and no objections were raised then.

13. The Respondent's statement claiming the penthouse was constructed as a shelter for construction workers and later used as a maintenance office is false. The complainants assert that this is not a shelter room but a posh 3BHK flat, significantly larger than their own flats, occupying more than 50% of the terrace space, which is a common area for all flat owners. Due to this

flat's presence, the complainants have lost the common area needed for conducting any social gatherings on the terrace, as the remaining space is very small.

14. Moreover, the person claiming ownership of the flat plans to establish a corporate office in the penthouse, which is legally objectionable in a residential complex where traditional families with girl children and housewives reside.

15. The allegations levied by the complainants fall well within the ambit of the Authority. If the Respondent raises contentions about the penthouse as alleged, the complainants will not fall outside this Authority's jurisdiction. The complainants are concerned about the quality of construction, having purchased their respective flats through loans from financial institutions and banks.

16. The issues raised by the complainants are genuine problems faced by all flat owners. The attached real pictures depict the false ceiling that fell due to seepage from the bathroom of Flat 101. Despite repeated calls, the builder has not rectified the issue, resulting in a shabby appearance at the parking area of Flat 502, where the entire beam has seepage issues.

17. There are cracks in the compound wall, as well as in the walls of the flats, including damaged light holders that have not been repaired. There are major cracks in the false ceiling of the parking area. The builder has failed to install CCTV cameras on all floors, having only placed one near the lift. Despite repeated requests to install cameras on each floor, the builder has not complied and insists that the one near the lift is sufficient. Surprisingly, half of these cameras are not functioning.

18. The Respondent mentioned that no cracks were observed at the time of handover. However, all the cracks and seepage issues developed within 3-6 months of occupation of the flats, indicating the use of low-quality materials for construction.

E. Hearing Conducted:

19. During the hearing, the complainants reiterated the contentions made in the complaint. They further stated that the respondent has given the penthouse to the landowner for use, which has resulted in the complainants facing issues due to restricted access to the terrace.

20. The complainants also submitted that they are experiencing plumbing issues that need to be rectified by the builder, as these issues arose within 3-6 months of taking possession of the units. The structural defects indicate the quality of the materials used by the builder in constructing the apartment.

21. In response, the respondent submitted that the penthouse is being used for office files. The respondent further submitted that the 5th floor was constructed through TDR, and no permissions were obtained for the penthouse. The respondent also submitted that the penthouse was built for maintenance purposes for the residents of the building and was supposed to be handed over to them for that purpose.

22. The complainants requested the authority to hand over the penthouse to them so they can use it as a common area, association room, or maintenance room, and not allow the respondent to have rights over the said illegal penthouse.

F. Point for consideration:

21. Now the Point for determination is ***whether the complainant is entitled for the relief(s) sought:***

22. The complainants, in prayer (a), have requested this Authority to halt the construction of the penthouse constructed by the Respondent. The complainants have also submitted that they were aware of the unauthorized construction at the time of purchasing the flat but did not raise any objections then. Furthermore, during the hearing, the complainants submitted that they are willing to take possession of the penthouse and use it as a maintenance room. However, the Authority is of the view that, since the structure is unauthorized, the complainants cannot be granted such relief.

The unauthorized penthouse is liable to be demolished, and appropriate action shall be taken by the local authority. Therefore, the complainants may approach the local authority to seek further action.

23. The complainants have raised various structural/workmanship defects, which includes sewage, water plumbing, structural concerns, rainwater blockage, parking floor tiles, and door quality. Pursuant to Section 14(3) of the Real Estate (Regulation and Development) Act, any structural defect or any other defect in workmanship, quality, or provision of services shall be rectified by the promoter within a period of five years from the date of possession of the unit. The Authority observes that the Respondent has entered into registered sale deeds with all the complainants during the period from 2022 to 2023, which indicates that the Respondent remains liable for any structural defects that may arise. Consequently, the Authority directs the Respondent/builder to rectify all the aforementioned defects raised by the complainants within 60 days from the date of this order.

24. With respect to the relief sought to increase the diameter of the Manjeera water supply to one inch, the Authority lacks jurisdiction over this matter. The complainants are at liberty to approach the appropriate forum for such relief.

G. Directions by the Authority:

25. Therefore, vide this Order, this Authority deems fit to direct the Respondent Builder to attend structural defects if any, and rectify the identified defects within 60 days from the date of the receipt of this Order and subsequently, to submit proof of such rectification upon the completion of the stipulated time period. These directives are issued in accordance with the aforementioned findings and are to be implemented promptly by the Respondent.

26. In lieu of the above-mentioned directions, the present complaint stands disposed of. Upon the failure of the Respondent Builder to comply with the present Order, appropriate action, including imposition of a penalty, will be taken as per provisions under Section 63 of the Act, 2016.

27. If aggrieved by this Order, the parties may approach the TS Real Estate Appellate Tribunal (vide G.O.Ms.No.8, Dt.11-01-2018, the Telangana State Value Added Tax Appellate Tribunal has been designated as TS Real Estate Appellate Tribunal to manage the affairs under the Act till the regular Tribunal is established) as per Section 44 of the Act, 2016.

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

Sd/-
Sri. Laxmi NaryanaJannu,
Hon'ble Member
TG RERA

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

