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INTELLECTUAL PROPERTY RIGHTS

L&T Realty v/s L&T Raintree Boulevard Welfare Association:

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VS **L&T Raintree Boulevard Allottees
Welfare Association**

On 11th October 2022, the Hon'ble Bombay High Court in the matter of *L&T Realty Developers Limited vs L&T Raintree Boulevard Allottees Welfare Association and others*¹ held an association formed by the allottees to be liable for infringement of promoter's trademark.

The allottees of a real estate project under the name and style 'L & T Realty Raintree Boulevard' ("**said Project**") developed by the promoter/plaintiff i.e. L&T Realty Developers Limited ("**L&T**") in the city of Bengaluru in the year 2015, formed an association i.e. L & T Raintree Boulevard Allottees Welfare Association ("**Association of Allottees**") with the well-known trademark "L&T" other registered trademarks relating to the project. L&T had serious objection to the use of said Project name by Association of Allottees on grounds that the words 'L&T' and/or 'L&T REALTY RAIN TREE BOULEVARD' and/or 'RAIN TREE BOULEVARD' was adopted as a distinctive trade mark for the project, registered under Class 36 in year 2015 and filed a suit to protect themselves.

During arguments, it was contended by the plaintiff that Association of Allottees could not have used the specific words that forms part of the registered marks of L&T; even if the said association claims to espouse the cause of apartment owners under the said project. It was submitted that use of the words pertaining to the registered mark of L&T and putting up a website in the name of Association, carries possibility of misuse of the mark and hurting the goodwill of L&T in the real estate market. By inviting attention to the page of the website, L&T submitted that the potential of causing damages is obvious. Furthermore, as per provisions of Karnataka Apartment Ownership Act, 1972 and the Rules framed thereunder and further in accordance with terms of the Agreements executed, L&T intended to form an association of the apartment owners, which would be known as "Raintree Boulevard Apartment Owners' Association". Peculiarly, the existence of present Association of Allottees would cause an obvious confusion in public minds.

The Hon'ble Bombay High Court Mr. Justice Manish Pitale observed that there was no dispute about the registration of mark 'L&T' & 'L & T Realty Raintree Boulevard' by the Plaintiff who is a well-known entity in the field of real estate development in this country. He observed that any unauthorized use of the registered mark has the possibility of diluting the goodwill of such a mark and that merely because Association of Allottees claims to be operating for the welfare of the apartment owners, L&T cannot be barred from pressing reliefs against the same. Therefore, Hon'ble Court restrained Association of Allottees from infringing the mark 'L&T' and/or 'L&T REALTY RAIN TREE BOULEVARD' and/or 'RAIN TREE BOULEVARD' of Plaintiff.

This clearly sets a tenet for private association of allottees to not use name of the project and the promoter's registered mark for the identity of the association.

¹ Bombay High Court, IA(L) 12610 of 2022 in Commercial IP Suit (L) 12606 of 2022