



REAL ESTATE

Statutory Compliance Over Contractual Deviation: Telangana RERA Appellate Tribunal Upholds Penalty for Promoter's Agreement Violation

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The Real Estate (Regulation and Development) Act, 2016, commonly known as RERA, was enacted with the critical objective of protecting the interests of homebuyers and ensuring transparency and accountability in the real estate sector. The Telangana Real Estate Appellate Tribunal, in its recent judgment dated 6th May 2026, has reinforced this legislative intent through a comprehensive ruling that addresses several contentious issues plaguing builder-buyer relationships. The case of *Mehta & Modi Realty Kowkur LLP v. Deepa Suraj Premi and Anr.*, T.A. No. 45 of 2025, decided by a Bench comprising Hon'ble Sri Justice A. Santhosh Reddy (Chairperson) and Sri P. Pradeep Kumar Reddy (Judicial Member), is a significant precedent on the interpretation and enforcement of RERA provisions, particularly concerning the sanctity of model agreements, the levy of maintenance charges, the formation of residents' associations, and the applicability of GST on delayed payment interest.

The factual matrix of the case revolves around a residential unit in the "Greenwood Heights" project situated at Sy. No. 196, Kowkur Village, Malkajgiri Mandal, Medchal-Malkajgiri District, Telangana. The respondents, Deepa Suraj Premi and another, had booked Flat No. B-512 on the fifth floor of Block 'B', admeasuring 1,715 square feet of super built-up area including common area, together with a proportionate undivided share of land to the extent of 72.72 square yards and a single car parking space. The total sale consideration was fixed at Rs. 62,33,000/-, against which the respondents paid an advance of Rs. 25,000/- on 25th October 2019 through cheque number 770033. Thereafter, the parties entered into an agreement of sale on 11th November 2019, and ultimately a registered sale deed was executed on 4th April 2024. The dispute arose when the respondents, upon seeking possession of the flat, were confronted with multiple demands and conditions that they perceived as arbitrary, unfair, and in violation of statutory mandates under the RERA framework.

The respondents approached the Telangana State Real Estate Regulatory Authority by filing Complaint No. 157 of 2024, wherein they levelled serious allegations against the promoter. They contended that despite having executed the sale deed, they were asked to join an association styled as "Greenwood Welfare Association" and pay maintenance charges retrospectively from March 2023 to March 2024, a period predating their actual possession. Furthermore, the promoter demanded that they sign a letter of confirmation acknowledging the flat as complete in all respects and issue a No Objection Certificate, even while essential works such as sanitary fittings, painting, and finishing remained pending. The respondents highlighted that the association in question was registered on 16th November 2021 under the Telangana Societies Registration Act, 2001, bearing registration number 687/2021, at a time when not a single flat in the project had been completed, registered, or occupied. They pointed out that the memorandum of association of this entity contained objectives limited to cultural, charitable, social, and sporting activities, with no mention of apartment maintenance or welfare of flat owners, thereby rendering it a fraudulent vehicle for the promoter to perpetuate control and extract unlawful charges.

In addition to the association-related grievances, the respondents challenged the collection of Rs. 31,000/- towards Manjeera Water charges, arguing that provision of water facilities constituted a basic amenity whose cost should form part of the sale consideration rather than being separately demanded. They also contested the interest calculations on delayed instalments at the rate of 18% per annum as per Clause 9.1 of the executed agreement, noting that interest was demanded even during the COVID-19 pandemic lockdown period when construction activity had ceased. The respondents further objected to the computation of interest on GST amounts and on Tax Deducted at Source amounts already remitted to government accounts. They emphasized that the project had not received its occupancy certificate, signifying incomplete status, and that the agreement executed on 11th November 2019 was materially different from the draft agreement uploaded on the TG-RERA portal at the time of project registration, thereby violating Rule 38 of the Telangana State Real Estate (Regulation and Development) Rules, 2017.

The appellant, Mehta & Modi Realty Kowkur LLP, filed a detailed counter before the Regulatory Authority contesting these allegations. The promoter maintained that maintenance charges were payable under Clause 11.4 of the executed agreement from the date of intimation of possession or completion, whichever was earlier, regardless of actual occupancy. It defended the formation of the Greenwood Welfare Association, stating that its objectives could be modified after the association took charge. Regarding the water charges, the appellant relied on Clause 6.4 of the agreement, submitting that these were statutory charges payable to the water works board and not retained for its own benefit. The promoter further asserted that the respondents had agreed to pay interest on delayed payments through the booking form and sale agreement, and that despite COVID-19 disruptions, the flat was completed within the stipulated time. It contended that the executed agreement contained identical rights and safeguards as the model format, and that any variations were minor and non-prejudicial.

After considering the rival submissions, the Regulatory Authority passed its impugned order dated 23rd June 2025, directing the appellant to pay a penalty of Rs. 10,99,992/- for contravention of Section 60 of the RERA Act on account of furnishing false

information in the Form-B affidavit and executing an agreement different from the uploaded version. The Authority clarified that maintenance charges would be payable only after taking possession as per Clause 7.2 of the model agreement under Rule 38. It directed the promoter to complete all pending works and hand over physical possession, dissolve the existing association and form a new one under the Telangana Cooperative Societies Act, 1964, and refrain from collecting GST on interest amounts, holding that GST applied only to the total sale consideration.

Aggrieved by this order, the promoter filed the present appeal before the Appellate Tribunal, raising substantial questions of law and fact. The appellant's learned counsel argued that the Regulatory Authority had erred in treating deviations from the model format as non-compliance with Rule 38, asserting that the executed agreement preserved all statutory safeguards. It was contended that the penalty was arbitrary and excessive, particularly in the absence of proven mala fide intent or prejudice. Regarding maintenance charges, the appellant relied upon Clause 11.4 of the executed agreement and Section 19(6) of the RERA Act, arguing that the Authority had impermissibly rewritten the contract contrary to Supreme Court precedents holding that courts cannot substitute their own terms for those agreed upon by parties. The appellant further submitted that the direction to dissolve the association exceeded the Authority's jurisdiction, citing the High Court's subsequent decision in *Nitish Reddy v. State of Telangana* (2021 SCC Online TS 1614) and a State Government Circular Memo dated 21st August 2023 permitting registration under the Societies Registration Act. The appellant also challenged the GST-related direction as beyond the Authority's competence, characterizing indirect tax liability as the exclusive domain of tax authorities.

The respondents, appearing in person, robustly defended the impugned order. They argued that the appellant could not selectively invoke Clause 11.4 of an executed agreement while simultaneously denying the applicability of Rule 38's model format. They submitted that the penalty was lawfully imposed under Sections 59 and 60 read with Section 13 of the RERA Act for multiple statutory violations. They characterized the Greenwood Welfare Association as a fraudulent entity created to maintain the promoter's control, pointing to its formation date in November 2021 when no flats were occupied and its membership largely comprising the promoter's employees. They relied upon the Supreme Court's decision in *Maharajadhiraja Sir Kameshwar Singh v. State of Bihar* (AIR 1952 SC 252) on the principle of public purpose, and affirmed the Authority's findings on GST and interest calculations.

The Tribunal, after careful consideration of the entire record and rival contentions, framed the central issue as to whether the impugned order was sustainable in law. On the question of Rule 38 compliance, the Tribunal conducted a comparative reading of the executed agreement and the uploaded draft, concluding that the appellant had indeed executed a completely different agreement despite uploading the model format. This conduct was held to contravene Rule 38 and amount to furnishing false information and deliberate suppression of material facts, justifying the penalty under Section 60. The Tribunal emphasized that the purpose of Rule 38 is to ensure uniformity and protect the balanced rights of both promoters and allottees, which the appellant had subverted.

On maintenance charges, the Tribunal held that Clause 7.2 of the model agreement under Rule 38 constitutes a statutory mandate limiting maintenance liability to the period after taking possession. The appellant could not override this through a contractual clause in an invalidly executed agreement. The Tribunal harmonized this interpretation with Section 19(6) of the RERA Act, holding that contractual stipulations must operate within the statutory framework. Regarding the association, the Tribunal noted that Clause 19 of the model agreement requires application for registration within two months of occupancy certificate issuance and after 60% of allottees have taken possession. It affirmed the High Court's directive in *W.P. No. 3319 of 2013* that apartment maintenance associations must be formed under the Telangana Cooperative Societies Act, 1964, whose objectives include maintenance of apartments, unlike the Societies Registration Act. The existing association's premature formation and deficient objectives rendered the Regulatory Authority's dissolution direction proper.

On the water charges, the Tribunal upheld the Authority's refusal to refund Rs. 31,000/-, applying Clause 8(2)(vii) of the model agreement which obligates allottees to pay their share of security deposits demanded by local authorities for utility connections. However, on interest and GST, the Tribunal sided with the respondents. It noted that under Clause 18(VII) of the model agreement, the balance payment was due upon completion by 10th November 2021, but the appellant itself admitted that essential works remained pending. Consequently, interest demands were untenable. The Tribunal affirmed that GST applies only to sale consideration and not to interest on delayed payments, as the latter does not form part of the sale price.

The Telangana Real Estate Appellate Tribunal has delivered a landmark ruling that reinforces the supremacy of statutory compliance over contractual subterfuge in real estate transactions. By upholding the penalty for agreement manipulation, mandating possession-precedent maintenance charges, directing proper association formation under cooperative law, and clarifying the scope of GST applicability, the Tribunal has significantly advanced homebuyer protection under the RERA regime.

The judgment is a cautionary precedent for promoters who attempt to circumvent regulatory mandates through parallel agreements and premature association formations. The appeal was dismissed, and the impugned order dated 23rd June 2025 was upheld in its entirety, with no order as to costs. The Registry was directed to transmit copies to the parties and the Regulatory Authority as mandated under Section 44(4) of the RERA Act.

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