

TELANGANA STATE REAL ESTATE REGULATORY AUTHORITY, HYDERABAD

No. 989/TSRERA/2023.

Dated.04.09.2023

INSTRUCTIONS TO THE PROMOTERS/BANKERS/LENDERS etc.,

Subject: TS RERA – Certain complaints filed claiming that builders are not utilizing the amount given by them for the construction of said projects and using for some other purposes & are delaying the construction/completion of project & handing over the project – Issuing of circular to promoters/ allottees, lenders etc., for mandatory deposit of money into the RERA designated bank account - regarding

Ref: 1. Real Estate (Regulation & Development) Act, 2016.

2. Certain complaints filed before the Authority.

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Government of India has enacted the Real Estate (Regulation and Development) Act, 2016 and all sections of the Act have come into force with effect from 31.07.2017, the Government of Telangana vide its Notification has established the Telangana Real Estate Regulatory Authority called as TS RERA.

2. Whereas the Authority under Section 37 of the Act is vested with the powers to issue directions to promoters, real estate agents and allottees from time to time as it may consider necessary.

3. whereas, the provisions of the Act, aim at bringing greater transparency, responsibility, accountability through disclosure of information on regular basis, maintenance of separate bank account Separately for each project for the purpose of deposit of money collected for the purpose of the project concerned with objective of timely construction and handing over to home buyers.

4. *The section 4(2)(l)(D) of the Act, stipulates that 'the seventy per cent. of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose:*

Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project:

Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered

accountant in practice that the withdrawal is in proportion to the percentage of completion of the project:

Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project”.

4.1 The section 11(4)(g) of RERA Act, 2016, provides that “the promoters shall pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees, as the case may be, which he has collected from the allottees, for the payment of outgoings (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project”.

4.2 The section 4(2)(l)(D) of the Real Estate (Regulation & Development) Act, 2016 read with section 11(4)(g) of the Act, mandates that the promoter shall maintain one designate account and amounts release/collected shall be used for the project.

4.3 It is also observed that promoters are submitting Chartered Accountants Certificate under Form 3 while registering the project with RERA.

5. It is learnt from certain complaint cases filed before the Authority that the Promoters are not utilizing the amount given by Allottees for the Project construction and are delaying the completion of the project and that the amount given is used for some other purposes.

6. Further, that the money borrowed by mortgaging the project land and units in the project are not utilized for the purpose of the project and that the total amount realized from the allottees plus the total money borrowed by mortgaging the project land is not fully utilized for the purpose of the project.

7. It is, therefore, in view of the above in general and para 3, 4, 5 in particular, the Authority has felt it necessary to issue these directions in the interest of the promoters, project, allottees, lenders etc., as below:

- a. That the promoter of the project shall deposit the entire amount borrowed for the purpose of the project into the designated account of the project and the money so deposited shall be utilized and withdrawn only for the purpose of the development of the respective project.

- b.** In case the promoter borrows the money for the project and registered the project phase wise as per explanation to section 3(2) of the Act, the promoter shall bifurcate and apportion the amount towards various phases and report the same during the quarterly updates along with the Bank statement with Chartered Accountants Certificate by way of Annexure.
- c.** The lenders/ Bankers /financial institutions shall also ensure to disburse such loans only to the designated RERA account of the project.
- d.** The chartered accountant based on the books of accounts maintained and while issuing certificates shall also report whether the amount borrowed for the purpose of the project has been deposited into the designated RERA account or not.
- e.** In case of the existing projects, where in the promoters have borrowed money for the purpose of the project and not utilized any portion of such money to the respective project shall deposit the unutilized portion of money into the designated RERA account within 3 months from the date of this notification.
- f.** The Promoters shall do Audit of accounts of the project and the chartered Accountant shall certify the same in a Form 7 prescribed by this Authority.
- g.** The authority may call for any information or documents from the promoters by issuing a notice to enforce this notification.


Secretary
TS RERA

Copy to

1. All Real Estate Promoters,
2. The convenor, SLBC, SBI, for information & to circulate and inform all Banks
3. All the Bank controllers,
4. All lead district managers,
5. The President, Telangana State Chartered Accountants Association.
6. TS RERA website