



**KERALA REAL ESTATE REGULATORY AUTHORITY  
THIRUVANANTHAPURAM**

**Complaints No. 151/2021 & 177/2021**

Present: Sri. P. H. Kurian, Chairman  
Smt. Preetha P Menon, Member  
Dr. B. Sandhya, Member

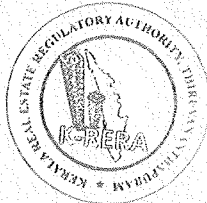
Dated 23<sup>rd</sup> April, 2024

**Complainants**

1. Graceland Foundation Residents : Complaint No.151/2021  
Welfare Association  
Represented by its Secretary,  
V.B. Sreedharan,  
Grace Land Foundation,  
Pangrapilly, Mulanthuruthy -682314.
2. V.B.Sreedharan, : Complaint No.177/2021  
S/o, V.A. Balakrishna Menon  
House No.H-3,  
Grace Land Foundation,  
Pangrapilly, Mulanthuruthy -682314.  
[Adv. Jacob Mathew Manalil, Adv. Priya Elizabeth Babu and  
Adv. Rajapraphap S.J]

**Respondents**

1. M/s Graceland Foundation,  
(Partnership firm)  
306, Pioneer Tower,  
Marine Drive,

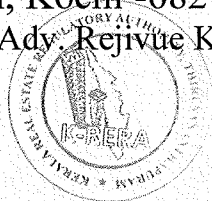


Ernakulam, Kochi -682 031.

[By Adv. M.R. Rajendran Nair, Adv. Alina Anna Kose]

2. Minu George,  
(Managing Partner)  
Graceland Foundation,  
306, Pioneer Tower,  
Marine Drive,  
Ernakulam, Kochi -682 031.
3. Jacob Thomas,  
Partner,  
Graceland Foundation,  
306, Pioneer Tower,  
Marine Drive,  
Ernakulam, Kochi -682 031.
4. Susan Josi Champanoor  
(Partner)  
Graceland Foundation,  
306, Pioneer Tower,  
Marine Drive,  
Ernakulam, Kochi -682 031.
5. Dr. Ajith Tharakan,  
(Partner)  
Graceland Foundation,  
306, Pioneer Tower,  
Marine Drive,  
Ernakulam, Kochi -682 031.
6. Graceland Villa & Apartments Owners Association  
Represented by its Secretary,  
Jacob Thomas,  
Graceland Foundation,  
Marine Drive,  
Ernakulam, Kochi -682 031.

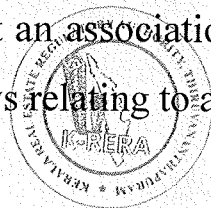
[By Adv Vidya A.K, Adv. Rejivue K.C for R3, R4, R5 & R6. ]



The above Complaint came up for virtual hearing today. Counsel for the Complainants Adv Jacob Mathew Manalil and the Counsel for the 1st Respondent Adv. Alina Anna Kose and the 3<sup>rd</sup> Respondent/Promoter Jacob Thomas partner of 1<sup>st</sup> Respondent and the Secretary representing the 6<sup>th</sup> Respondent also attended the hearing.

### **INTERIM ORDER**

1. According to the Complaint, the Graceland Foundation, a partnership firm, developed a project, named “Graceland Foundation”, comprising of apartments and villas for accommodating people aged above 55 years, who are desirous of leading a retired life with a group of similar like-minded senior citizens and the Complainant is the association of allottees of the project. It is alleged that the promoters without increasing the area for common amenities is trying to merge Project “Elder dale” of the same promoters, with the “Graceland Foundation”, without the consent of the Complainants/allottees of the project. The Relief sought by the Complainants are, (i) direct the 1<sup>st</sup> Respondent to execute and register a sale deed transferring the entire common area along with amenities to the Complainant Association of owners (Allottees) of apartments and villas in terms of Sec 17(1) of the Real Estate (Regulation and Development) Act, 2016, (ii) to declare that the 6th Respondent association is not an association of allottees as envisaged under the Act or the laws relating to apartment ownership in Kerala and



has no authority to carry out the functions assigned under the aforesaid Act, (iii) declare that the Complainant association bearing Registration No EKM/TC/67/2020, representing the allottees of the project 'Graceland Foundation' is entitled to the physical possession of the documents, plans, common areas including the club house in terms of Sec 17(2) of the Act, 2016 and (iv) direct the 1<sup>st</sup> Respondent to register the project with the Real Estate Regulatory Authority under the Real Estate (Regulation and Development) Act, 2016.

2. As per order dated 15<sup>th</sup> January, 2022 in the above Complaints, the Authority found that the project is an ongoing project and the Complaint is maintainable before this Authority. As it was found that the project is liable to be registered under the Real Estate (Regulation and Development) Act, 2016 [herein after referred to as the Act, 2016], in Suo-moto Proceedings No.1576/K-RERA/2021 dated 1<sup>st</sup> June 2022, the Respondents/Promoters was directed to register the project Graceland, which was challenged by the Respondent /promoters before the Hon'ble Kerala Real Estate Appellate Tribunal and thereafter before the Hon'ble High Court of Kerala. The Hon'ble High Court of Kerala, vide order dated 1<sup>st</sup> December, 2023 in MSA No 7 of 2023, have also confirmed the decision of this Authority with regard to registration and directed the promoter to register the project within 30 days. Though the promoters initiated process for registration, the Authority noticed that they applied only for a



part of the project excluding the “Elder dale”. The Counsel for the 1<sup>st</sup> Respondent /Promoter, in the hearing on 28.02.2024 agreed that the project “Elder dale” is also required to be registered and they will register it immediately. The Authority convinced her that as the common areas of the two parts of the project are being shared by all the allottees, the projects cannot be registered separately. The Counsel assured that they would amend the application for registration and insert the details of “Elder dale” also in the application for registration. As there is violation of the direction of the Hon’ble High Court, the 1<sup>st</sup> Respondent/Promoter was directed to file a detailed Affidavit in this regard.

3. The 1<sup>st</sup> Respondent filed a statement dated 12.03.2024 as follows: With respect to the relief for transfer of common area, they are willing to transfer the common area subject to the condition that the cost of the common area need to be paid by the Association to whose name the common area is to be registered along with cost of such assignment. With regard to the 2<sup>nd</sup> relief for declaration that 6<sup>th</sup> Respondent is not the one under RERA became infructuous, because the said association is not in existence. With regard to the 3<sup>rd</sup> relief of declaring the Complainant association as the allottee association, it can be granted provided that the said Association produces before the Authority, the list of members showing all the owners of all 72 units as subscribed members of the said Association. With regard



to the registration, the application for registration of “Graceland” was already made and based on the direction of the Authority steps have been initiated for making amendment in the application to include “Elder dale” also in the registration and the same is pending. In the next hearing on 14.03.2024, the Counsel for the Complainants submitted that they shall file a statement in this regard after discussing with his clients and the Elder dale people.

4. In the written submission on 20.04.2024, the 1<sup>st</sup> Respondent/promoter submitted as follows: As both the 72 units in the projects (56 units of Graceland and 16 units of Elder dale) shares common facilities which are promoted by the same partners, they requested permission to proceed with the registration of “Elder dale” project as a second stage of Graceland Foundation. It was also submitted that both the entities currently operate under a unified residential Association.

5. When the matter came up for final hearing this day, the Counsel for the Complainant submitted that the Respondents/promoter agreed to register the common area in favour of the Association and the first relief sought can be ordered now. The Counsel also submitted that the 6<sup>th</sup> Respondent association is defunct now and he is not pressing on the other reliefs sought for in the Complaint. The Authority expressed its view that the order granting 1<sup>st</sup> relief can be granted after clearing the registration of “Elder dale” part of the project. The 3<sup>rd</sup>



Respondent/Promoter, the partner of 1<sup>st</sup> Respondent and the Secretary representing the 6<sup>th</sup> Respondent assured that they will complete the registration of “Elder dale” within no time.

6. In the above facts and circumstance, after hearing both the parties, the Authority hereby directs as follows:

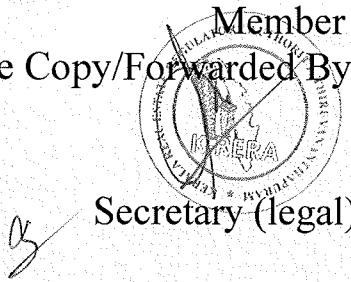
- (1) The 1st Respondent/promoter shall complete the registration of the entire project u/s 3 of the Act, 2016 including the “Elder dale” naming it as “Graceland Phase 2 (Elder dale)” by uploading all the required documents and remitting the required fees within 15 days of receipt of this order.
- (2) The Complainant Association shall file an affidavit within 15 days of receipt of this order, after passing a resolution in the general body meeting of the members of the Association, including “Elder dale” allottees, with respect to their consent for sharing and maintaining the common areas/amenities, in common and operating it as a single project with single Association. The copy of resolution passed shall also be filed along with the affidavit.

Sd/-  
Preetha P. Menon  
Member

Sd/-  
Dr. B. Sandhya  
Member

Sd/-  
P. H. Kurian  
Chairman

True Copy/Forwarded By/Order

  
Secretary (legal)

