



GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:4/RERA/Adj. Matters(108)/2023/1194

Date:23/11/2023

Mrs. Sonia Bhaskar,

w/o. Mr. Shivam Bhaskar, aged 47 years, Business,
R/o. A78 New Friends colony,
South East Delhi. 110025.

.....Applicant/Complainant

Versus

M/s. Paradise Estate,

A partnership firm duly registered under the Indian Partnership Act, 1932
Having its office at 17, Gulmohar Apartments,
East Street, Pune, 411 001.

Represented by its partners,

(1) Mr. Mohit Aurora, s/o. Mr. Harish Aurora,
aged 33 years, married business, Indian National,
r/o. Yogi Park, Flat no. 102, C-2,
Koregaon Park, Pune-411001.

(2) Mr. Mohamad Ali Haji, s/o. Mr. Aslam Haji,
aged 34 years, married, business, Indian National,
r/o. Ganga Satellite, Flat No. 201, A1, Wanowrie, Pune-411040.

(3) Mr. Moiz Poonawala, s/o. Mansoor Poonawala,
aged 38 years, married, business, Indian National,
resident of C/o. Shiv Sharma, Clover Plaisades, Flat No. 1063, building A,
NIBM, Undri Road, Pune, 411048.

.....Respondent

Ld. Advocate Shri Atmaram Desai for the Applicant/ Complainant.

Ld. Advocate Shri R. Naik for the Respondent.



ORDER

(Delivered on this 23rd day of the month of November, 2023)

The present proceedings have arisen as a corollary to the complaint under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the RERA Act') filed by the applicant/complainant against the respondent bearing complaint no. 3/RERA/Complaint(318)/2022.

2. The above said complaint was disposed off vide Order dated 03.08.2023 by the Goa Real Estate Regulatory Authority (for short 'Goa RERA'). The said Authority has directed as follows:-

“The respondent is directed to comply Section 17 of the RERA Act, quoted above, within two months of the passing of this order and accordingly execute a registered conveyance deed in favour of the complainant for the aforesaid villa along with the undivided proportionate title in the common areas to the association of the allottees/ society and handover all the relevant documents as per the mandate of said Section 17. The complainant is directed to participate towards the formation of an association or society of the allottees as per the mandate of Section 19(9) of the RERA Act.

However, liberty is given to the respondent to approach this Authority after two months of the passing of this order for reasonable extension of time on genuine grounds to fully comply Section 17 of the RERA Act.

The respondent to file compliance report in the form of an affidavit after two months of passing of this order, failing which penalty would be imposed on the respondent for non compliance of this order and execution proceedings will be initiated by this Authority.

The instant complaint is now referred to the Adjudicating Officer to adjudge compensation, if any, as per Section 71 of the said Act.”

3. The applicant/ complainant filed her claim for compensation in Form 'B' seeking compensation of ₹1,00,00,000/- (Rupees One Crore only) for mental stress and agony caused to the applicant/ complainant.
4. It is the case of the applicant/ complainant that vide Articles of Agreement executed and registered on 11.08.2021, the respondent agreed to sell to the applicant/ complainant villa bearing no. B-02 admeasuring 131 sq. mtrs. comprising of ground and first floor in Block B in the project 'Amado Vistas'. Despite having paid the entire sale consideration, the respondent till date has not executed the sale deed in respect of the said villa purchased by the applicant/ complainant inspite of several requests. Due to the failure on the part of the respondent to execute the deed of sale, the applicant/ complainant is unable to enjoy the possessory and proprietary rights to the said villa and is undergoing tremendous mental stress and agony.
5. The respondent in the reply/ written statements has contested the claim for compensation filed by the applicant/ complaint. It is the case of the respondent that it is not in dispute that possession of the said villa has been handed over to the applicant/ complainant on 30.06.2021. the respondent states that in terms of the Articles of the Agreement dated 11.08.2021, the respondent is liable to and bound to execute conveyance of the land to the society and it is mandatory for the complainant to become members of such society or association.

6. The applicant/ complainant has made a categorical statement that the applicant/ complainant is not in favour of the formation of an Association of Society. The respondent was always willing to and was and is ready to execute conveyance deed of the land in favour of the Housing Society. As on date out of 30 unit owners 16 have signed and given their consent for formation of society. Hence the applicant/ complainant is not entitled to any reliefs as claimed.
7. The parties hereto have filed their respective affidavits in evidence. Written arguments have been placed on record by both the parties. Oral arguments were also heard.
8. The point for determination and my finding to the same is as follows:-

| Point for determination | Finding |
|--|------------------|
| Whether the applicant/ complainant is entitled to compensation of Rupees One Crore as claimed? | In the negative. |

REASONS

9. Ld. Advocate Shri A. Desai for the applicant/ complainant submitted that despite the Order dated 03.08.2023 passed by the Regulatory Authority directing the respondent to comply with Section 17 of the RERA Act within two months and to execute a registered conveyance deed in favour of the applicant/ complainant for the aforesaid villa along with the undivided proportionate title



in the common areas to the association of the allottees/ society, the respondent has failed to comply with the same till date.

10. Ld. Advocate Shri R. Naik for the respondent on the other hand submitted vide the said Order dated 03.08.2023 that the Regulatory Authority had also directed the complainant to participate towards the formation of an association or society of the allottees as per the mandate of Section 19(9) of the RERA Act.
11. Ld. Advocate Shri R. Naik submitted that till date the applicant/ complainant has failed to participate towards such formation of an association of the allottees as directed.
12. Admittedly, after the passing of the said order dated 03.08.2023, no steps have been taken by the applicant/ complainant towards formation of an association or society or cooperative society of the allottees, or a federation of the same. The applicant/ complainant neither in the application for compensation nor in the affidavit in evidence or even in the written arguments has made any averment that he is ready and willing to participate in the formation of an Association or society or cooperative society of the allottees or a federation of the same as prescribed under Section 19(9) of the RERA Act and as directed by the Regulatory Authority vide its Order dated 03.08.2023.
13. The applicant/ complainant having not complied with the mandate of the Section 19(9) of the RERA Act despite being specifically directed to do so, the




applicant/ complainant is not entitled to seek any reliefs by way of compensation as against the respondent.

14. The point for determination, is therefore, answered in the negative.
15. Before parting with this order, it is necessary to mention that the applicant/ complainant filed her claim for compensation in Form 'B' on 12.09.2023. The respondent sought time on 27.09.2023, 03.10.2023, 06.10.2023, 12.10.2023 and filed reply on 18.10.2023. The applicant/ complainant filed affidavit in evidence on 02.11.2023 and written arguments was filed on 07.11.2023. The respondent filed affidavit in evidence and written arguments on 17.11.2023. The matter stands disposed off on 23.11.2023.

In the result, I pass the following:-

ORDER

The claim for compensation filed by the applicant/ complainant in Form 'B' stands dismissed.


23/11/2023
(Ashley L.C. Noronha)
Adjudicating Officer,
Goa RERA