



GOA REAL ESTATE REGULATORY AUTHORITY
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F.No:3/RERA/Complaint (515)/2025/ 671

Date: 27/04/2026

Coram: Shri Vincent D'Silva, Hon'ble Member-Goa RERA

1. Mrs. Karima Zainul Poonjani,

2. Mr. Zainul Jaffer Poonjani

Both R/o 201, Sainath Niwas, Nr. Traffic office,

Ramnagar, Dombivli East Kalyan,

Thane, Maharashtra-421201.

.....Complainants

Versus

1. M/s Chintamani Realtors

A partnership firm,

Represented by its partners:-

(i) **Mr. Sudhir Dube,**

Address:-

(a) R/o Chintamani Tower, Opp. Football Ground,

Duler, Mapusa, Bardez, Goa-403507.

(b) Dube layout, Perena Nagar,

Umarsara, Yavatmal,

Maharashtra-445002

(ii). Mr. Sushil Triloknath Dube

Address:-

(a) R/o Chintamani Tower, Opp. Football Ground,
Duler Mapusa, Bardez, Goa-403507.

(b) Dube layout, Perena Nagar,
Umarsara, Yavatmal,
Maharashtra-445002.

2. M/s Sudin Naik Real Estate Developers,

Proprietary firm,

Represented through sole proprietor

Mr. Sudin Subhash Naik

R/o D 14, Housing Board Colony,

Ganeshpuri, Mapusa, Goa-403507.

.....Respondents

Lokmanya Multipurpose Co-Operative Society Ltd.

Having branch office at 'Om Builder',

Near Gauri Petrol Pump, Old Betim Road,

Alto Porvorim, Porvorim,

Bardez, Goa-40350.

...Intervener/applicant

Ld. Advocate Neelesh Takkekar along with Adv. Saish Mandrekar for
the complainant.

Respondents absent.

Ld. Adv. Prashant G. S. Gaitonde for the intervener/applicant.

ORDER

(Delivered on this 27th day of the month of April, 2026)

This order shall dispose of the application filed by the applicant for intervention at exhibit 275/c.

2. Briefly stated, the case of the applicant/intervener is as follows:-

The applicant is a financial institution and a secured creditor of respondent No. 1. The respondent vide registered deed of Mortgage dated 12.03.2013 duly executed before the Sub-Registrar of Bardez at Mapusa Goa registered on 18.03.2013 mortgaged in favour of the intervener two properties namely, (a) land admeasuring 1928 m² identified as "Marancho Sorvo" situated at Khorlim, Mapusa being surveyed under Chalta No. 13, 14 and 16 of P.T. Sheet No. 91 of City Survey, Mapusa and (b) land admeasuring 1089 m² identified as "Toliecho Sorvo" situated at Khorlim, Mapusa surveyed under Chalta No. 11 of P.T. Sheet no. 91 of city survey, Mapusa.

3. The said mortgaged was created by depositing the Title Deeds with respect to the aforesaid properties with the intervener. The

applicant has the first charge over the said property as the said property is mortgaged by M/s Chintamani Realtors to the applicant vide a Deed of mortgage dated 12.03.2013 duly executed before the Sub-Registrar of Bardez registered on 18.03.2013. The aforesaid properties being mortgaged in favour of the intervener vide registered Mortgaged Deed has a better right and is having a first charge over the aforesaid properties, which are the subject matter of the present complaint.

4. That upon creation of the mortgage, a legally enforceable charge was created over the mortgaged property including all buildings and superstructures erected thereon. The complainants are not entitled to any reliefs from the Hon'ble Authority without first clearing the dues of the intervener and therefore, the applicant/intervener is a necessary and proper party for complete and effective adjudication of the above complaint. It is just and necessary that the intervener be impleaded as necessary party in the above proceedings to protect its secured interest, otherwise irreparable loss, injury and prejudice would be caused to the intervener.

5. The complainant filed a reply inter-alia contending that the application is untenable on facts as well as on law and therefore, the

Hon'ble Authority should not grant any indulgence at the instance of the intervener. There is no board resolution attached along with the application and hence, the present application is untenable and not maintainable in law. The intervener is neither necessary party nor a proper party. The applicant has also failed to make out a case in support of their application seeking for intervention in the present matter. The intervener cannot intervene in the present case since it has never sought any redemption of mortgage and therefore, the application is untenable in law.

6. The intervener were very well aware regarding the flats being sold by the respondent to the respective flat purchasers in the subject building and never raised any grievance at that relevant point of time. The intervener on the basis of an alleged Deed of Mortgage dated 12.03.2013 purportedly being signed between the respondent and the intervener cannot seek an embargo on complainant's right to secure an order and safeguard the subject matter of dispute. The said property on which the subject building is constructed was sought to be attached in the case bearing Execution application which was filed by the intervener before the Hon'ble Ad-hoc District Judge- I at Mercas, Tiswadi-Goa. The complainants filed an application objecting to the

execution proceedings and also sought for discharge of the said properties, which was under attachment and the said Hon'ble Court vide its order dated 18.11.2025 allowed the said application filed by the complainants and was pleased to discharge the said properties, which was under attachment.

7. The present intervention application is filed with a motive to defeat the rights of the complainants, which have to be safeguarded against the unscrupulous builders who have defrauded several buyers by keeping their fate in lurch. Such a genuine claim has to be protected which cannot be defeated at the instance of an intervener, who is unwary of the difficulties faced by the flat owners. The application does not make any valid ground warranting the interference of the Hon'ble Authority to defeat the rights of complainants and therefore, the application be dismissed.

8. Arguments heard.

9. Ld. Adv. Prashant G. S. Gaitonde for the applicant/intervener has submitted that the applicant/intervener is seeking to implead in the present proceedings as the respondent has created a mortgage by depositing the title deeds of the property where the building is

constructed and upon creation of the mortgage, a legally enforceable charge was created on the mortgaged property, including all the buildings and that the intervener/applicant is having first charge over the aforesaid properties, which are subject matter of present complaint. He further submitted that the intervener is a Multi-State Co-operative Society registered under the provisions of MSCS Act which is a self contained legislation providing the mechanism for redressal of disputes under Section 84 of MSCS Act. The provisions of MSCS Act are not ultra vires and the bank has option to file complaint under MSCS Act without invoking provisions under SARFAESI Act. In support of his contention, he relied upon the citations namely (a) *Ramesh Chand (D) Thr. Lrs Vs Suresh Chand and Anr., Civil Appeal No.6377 of 2012* (b) *Pandurang Ganpati Chaugule Vs Vishwasrao Patil Murgud Sahakari Bank Limited, Civil Appeal No. 5674 of 2009* (c) *The Cosmos Co-operative Bank Ltd Vs Central Bank of India & Ors., Civil Appeal No. 1565 of 2025* and (d) *A. Navinchandra Steel Private Limited Vs Board of Directors of the Abhyudaya Co-op. Bank Limited, in Commercial Arbitration Petition No. 742 of 2025.*

10. Per contra, Ld. Adv. Neelesh Takkekar for the complainants have submitted that the intervener on the basis of an alleged Deed of Mortgage dated 12.03.2013 purportedly being signed between the respondent and the intervener cannot seek an embargo on complainants' right to secure an order and safeguard the subject matter in dispute. The said property on which the subject building is constructed was sought to be attached in the case bearing Execution application which was filed by the intervener before the Hon'ble Ad-hoc District Judge and the said Hon'ble Court vide its order dated 18.11.2025 allowed the said application filed by the complainants and was pleased to discharge the said properties, which was under attachment. The citations relied upon the intervener are not applicable to the case at hand. The intervener is neither necessary party nor proper party and has also failed to make out a case in support of their application seeking for intervention.

11. Discernibly, the RERA Act is enacted for regulation and promotion of real estate sector and to ensure sale of plot, apartment or building in an efficient and transparent matter and to protect interest of the consumer. Its main purpose is to protect homebuyer, bring transparency and regulate the real estate industry. It also provides for

fast track dispute resolution to prevent project delay and to ensure buyers are not exploited by the developer.

12. It is well settled in the case of *Union Bank of India V/s Rajasthan Real Estate Regulatory Authority & Ors. 2022 Livelaw (SC) 171* that RERA authority has the jurisdiction to entertain a complaint by an aggrieved person against the bank as a secured creditor, if the bank takes recourse to any of the provisions contained in Section 13(4) of the SARFAESI Act. It also observed that as held in the case of *Bikram Chatterji*, in the event of conflict between RERA and SARFAESI Act, the provisions contained in RERA would prevail.

13. The intervener/applicant have not initiated any proceedings under Section 13(4) of the SARFAESI Act against the developer nor any order obtained under SARFAESI Act. The Hon'ble District Court vide its order dated 18.11.2025 was pleased to discharge the said properties, which were under the attachment. The RERA Authority has the jurisdiction to entertain a complaint by an aggrieved person against the bank as a secured creditor, if the bank takes recourse to any of the provisions contained in Section 13(4) of the SARFAESI Act. Mere financing the project without invoking enforcement action

under SARFAESI Act does not make a bank/financial institutions a necessary party in a RERA complaint filed by the homebuyer.

14. The contention of Ld. Adv. Prashant G. S. Gaitonde for the applicant/intervener and reliance placed on the above citations are not applicable as (a) the case of *Ramesh Chand, supra* was originated from a civil suit filed for recovery of possession, mesne profits, declaration of title and mandatory injunction and is not an authority for the proposition that in a matter which is pending before the RERA authority, an application for intervention can be filed. The judgment does not deal with the scope or rights of bank for enforcing its rights before the RERA. (b) In the case of *Pandurang Ganpati Chaugule, supra* the issue was about the applicability of SARFAESI Act to Co-operative Banks and it has been held that co-operative banks fall within the SARFAESI Act and its activity is of banking. (c) In case of *The Cosmos Co-operative Bank, supra* the issue was which bank had a first charge over the property, that is, the Central Bank or Cosmos Bank and that the issue involved before the Authority is not even remotely connected to the ratio laid down in said judgment. (d) In *Navinchandra Steel Private Limited, supra* the challenge was to an award passed by the Arbitrator who was appointed under Section 84

of the Multi-State Co-operative Societies Act,2002. The Bank had invoked the provisions of SARFAESI Act for the purpose of enforcing security in respect of mortgaged property and the Hon'ble Court has held that there is no conflict between the competing Acts. The issue before this Authority is completely different in as much as the intervener seeks to intervene in the complaint which is under adjudication before the RERA. The submission of Ld. Adv. Prashant G. S. Gaitonde that the intervener can choose forum for recovery is nowhere discussed or answered in the above citations.

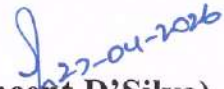
15. The rights of the complainant who is a genuine homebuyer have to be safeguarded against the unscrupulous builders, who have defrauded several buyers by keeping their fate in lurch and such genuine claims of the homebuyers cannot be defeated at the instance of an intervener/financial institutions by claiming that the complainant is not entitled for any relief from the Authority. Moreover, the present intervener cannot intervene in the present case since it has never sought any redemption of mortgage nor invoked enforcement action under SARFAESI Act. The intervener has failed to make out a prima facie case about necessity of the presence of the bank for final adjudication of dispute between the parties to the proceedings and for

effective disposal of the case. There are no rights for the intervener/applicant to any of the reliefs in respect of the matter involved in the proceedings and therefore, it is not open for the intervener to make any inroads in the proceedings. It is in such circumstances, the application for intervention filed by the applicant cannot sustain.

16. Having said so, I pass the following:

ORDER

The application for intervention filed by the applicant at exhibit 275/c stands dismissed.


(Vincent D'Silva)
Member, Goa RERA

Panaji, Goa,
Dated: 27.04.2026