



# GOA REAL ESTATE REGULATORY AUTHORITY

DEPARTMENT OF URBAN DEVELOPMENT

GOVERNMENT OF GOA

101, 1<sup>st</sup> Floor, 'SPACES' Building, Plot No. 40, EDC Patto Plaza, Panaji 403 001 GOA

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Case no.3/RERA/Complaint(28)/2018/ 436

Date: 07/06/2022

**Shri Kashinath Jairam Shetye & others,**

A-102, Raj Excellency, Patto,

Ribandar, Goa.

.....

**Complainant**

V/s

**Civilco Engineers and Associates,**

01, Shri Saish Co-operative Housing Society,

Near Savitri Hall, Haveli Curti,

Ponda-Goa-403401.

.....

**Respondent**

## **ORDER**

**(Dated 07/06/2022)**

This order decides the complaint dated 10.08.2018 filed by Shri Kashinath Jairam Shetye, resident of A-102, Raj Excellency, Patto, Ribandar, Goa (complainant) against M/s Civilco Engineers and Associates, No. 01, Shri Saish Co-operative Housing Society, Near Savitri Hall, Haveli Curti, Ponda, Goa (respondent).

2. The brief background of the complaint is as following:-

2.1. The respondent by not registering 07 ongoing real estate projects with the Goa RERA have violated various provisions under Sections-3,4,5,6,8,9

and 10 of the Real Estate (Regulation and Development) Act, 2016 (the Act) and liable for action under provisions of Sections-59, 60, 61, 62, 69(1) , 71 of the said Act and sought interim relief of till the time the respondent follows the RERA Act and Rules and completes all formalities, registration issued to the projects may be stayed and stopped.

2.2. The names of the real estate projects listed by the complainant which were not registered by the respondent are as follows:-

- (a) Empire Heritage, Valpoi, Goa.
- (b) Mahalaxmi Elite-II, Bandora, Ponda, Goa.
- (c) Golden Sands-I, Sapna Park, Porvorim, Goa.
- (d) Golden Height-II, Porvorim, Goa.
- (e) Surya Residency, Nageshi Bandora, Ponda, Goa.
- (f) Empire Village-I, Banastarim, Goa.
- (g) Empire Village-II, Banastarim, Goa.

3. The complainant was represented by Shri. Kashinath Jairam Shetye, Ms. Sonia Satedkar, Shri V. Pacheco, Shri Kartik, Advocate Shri Vishal Sawant, Advocate B. Andrade during the hearings. The respondent was represented by Shri N. Jalmi, Shri Satish Paigaonkar during hearings.

4. The complaint was forwarded to the respondent for reply on 24/09/2018. The respondent's reply dated 05.10.2018 is as follows:-

4.1. The project Mahalaxmi Elite-II was issued completion order on 12.09.2014. Enclosed copy of completion order dated 12.09.2014 and

- occupancy certificate dated 16.09.2014 under Survey No. 62/6, Plot No.12 in Village Panchayat Bandora.
- 4.2. The project Golden Sands-I was issued completion order on 14.02.2014. Enclosed copy of completion order dated 14.02.2014 and occupancy certificate dated 12.03.2014 under Survey No.66/1 of plot No. 80 in Curti Village, Ponda.
- 4.3. The project Golden Heights-II was received completion order on 09.10.2017. Enclosed copy of completion order dated 09.10.2017 and occupancy certificate dated 11.12.2017 in Survey No. 64/15 at Betim, Village Reis-Magos, Taluka Bardez.
- 4.4. The project Surya Residency was received completion order on 25.08.2014. Enclosed copy of completion order dated 25.08.2014 and occupancy certificate dated 16.09.2014 under Survey No. 271/1-A in Village Panchayat Bandora, Taluka Ponda.
- 4.5. The project Empire Village-I was received completion order on 25.11.2016. Enclosed copy of completion order dated 25.11.2016 and occupancy certificate dated 22.04.2017 under Survey No. 3/2 of Village Adcolna in Ponda Taluka.
- 4.6. The respondent stated that the completion orders were received by the above projects prior to RERA Act and Rules applicable and hence, there is no breach of any provision under RERA.

- 4.7. The respondent also stated with regard to project Empire Heritage Valpoi and Empire Village-II, Banastarim are concerned was already applied for registration before the Goa RERA on 12.03.2018.
- 4.8. The respondent further stated that at no point of time the complainant had approached them for purchase of any premises and the complaint is motivated with ulterior motive, therefore, the respondents be discharged from allegations.
5. The complainant has filed rejoinder reply to the respondent's claims on 14.02.2020. He stated that the application for registration was given on 12.03.2018 along with fees on 23.02.2018 to escape the penalty. The registration application of Empire Village-II is registered without No Objection Certificate (NOC) from two third members of Empire Village-I had been suppressed and hence, the registration may be cancelled and NOC from two third members of Empire Village-I may be directed to produce it. He also stated that project Empire Heritage has not yet registered, therefore pleaded to impose a fine of ten percent of the project cost on the respondent and cancel registration for suppressing fact.
- 5.1. The complainant further raised objection against sitting of single member of the Authority and sought to sit together with Chairman and other Member.
6. In the light above facts and circumstances of the case, the following questions arise which merits answer:

(i) Whether all ongoing seven real estate projects listed by the complainant required to have registered with Goa RERA?

(ii) Whether the complaint is required to be heard jointly with Chairman and other Member of the Authority?

7. **Question -1 Whether all ongoing seven real estate projects listed by the complainant required to have registered with Goa RERA?**

7.1. Section 3(1) and (2) of the Act mandates prior registration of a real estate project in the Goa RERA, if the area of the land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases, prior to advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building as the case may be in any real estate project or part of it, in any planning area as decided by the Authority including both ongoing as well as new real projects.

7.2. Further, the Rule 4 of the Goa Real Estate (Regulation and Development) Registration of Real Estate Project Rules, 2017 states that the promoter of an ongoing real estate project, for which completion certificate as provided by first proviso to sub Section (1) of Section 3 has not been received shall submit application for registration of such projects not later than three months from the date of commencement of Rules and to furnish relevant details such as, extent of development carried out, original time period for project completion including delay if any,

allotment done, amount already received along with pending receivables, separate bank details to park money to be received, etc.

7.3. The reply furnished by the respondent has been carefully perused and concluded as following: out of 07 ongoing real estate projects listed by the complainant, 05 projects had received completion order and occupancy certificate prior to the cutoff date of 23.03.2018 for registration of ongoing projects. The project Mahalaxmi Elite-II received completion order on 12.09.2014 and occupancy certificate on 16.09.2014. The project Golden Sands-I received completion order on 14.02.2014 and occupancy certificate on 12.03.2014. The project Golden Heights-II received completion order on 09.10.2017 and occupancy certificate on 11.12.2017. The project Surya Residency received completion order on 25.08.2014 and occupancy certificate on 16.09.2014. The Project Empire Village-I received completion order on 25.11.2016 and occupancy certificate on 22.04.2017. All the above 05 real estate projects does not require registration with the Goa RERA as per provisions under Section 3(1) and (2) read with Rule 4 of the Goa Real Estate (Regulation and Development) Registration of Real Estate project Rules, 2017.

7.4. The respondent has applied for registration with the Goa RERA for registration of real estate projects, namely Empire Heritage, Valpoi and Empire Village-II, Banastarim on 12.03.2018. Out of these two projects, the Authority has accorded registration of the project, namely Empire

Village-II on 29.10.2018, whereas the project namely Empire Heritage, Valpoi was rejected by the Authority on 25.11.2020.

7.5. Therefore, in the light of provisions under the Act and Rules there off for registration of real estate projects, completion of 05 projects mentioned in the list of complaints prior to the cutoff date and further application for registration of 02 real estate projects by the respondent and decision there off by the Authority, there is no violation of Sections 3, 4, 5, 6, 8, 9 and 10 of the Act.

8. **Whether the complaint is required to be heard jointly with Chairperson and other Member of the Authority?**

8.1. The contention of the complainant that the complaints have to be heard jointly with Chairman and other Member of the Authority is concerned has been examined. The contention has been rejected vide order dated 03.09.2020. The complainant has filed an appeal challenging the above order in the Hon'ble Real Estate Appellate Tribunal which is pending for decision.

8.2. Be that as may be, meanwhile, Hon'ble Supreme court of India in Civil Appeal No(s) 6745-6749 of 2021 arising out of SLP (Civil) No(s) 3711-3715 of 2021 in M/s Newtech promoters and Developers Pvt. Ltd. versus State of UP and others, the Court upheld the "Power of delegation under Section 81 of the Act by the Authority to one of its member for deciding applications/complaints under Section 31 of the Act is not only well

defined but expressly permissible and that cannot be said to be de hors the mandate of law". The Goa RERA has already issued a regulation to transact its business by exercising the powers vested to the Authority under the said provisions. Therefore, the contention of the complainant to hear the complaint(s) along with Chairman and Member of the Authority does not survive, hence rejected.

9. In the light of above, the contentions of the complainant regarding violation of provisions under section 3, 4, 5, 6, 8, 9 and 10 of the Real Estate (Regulation and Development) Act, 2016 has no merit. The complaint is decided accordingly.

  
**(S. Kumaraswamy, IAS (Retd.)**  
Chairperson (Goa RERA)