



GOA REAL ESTATE REGULATORY AUTHORITY

DEPARTMENT OF URBAN DEVELOPMENT

GOVERNMENT OF GOA

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

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Case No. 3/RERA/Complaint (45)/2019/701

Date: 25/11/2021

Tridib R. Dasgupta,

c/o Adv. Neelesh A. Manerkar,
G-6 Pinto Chambers,
Menezes Braganza Road
Panaji-Goa.

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Complainant

V/s

**Niche Developers Goa/ Divine Realtors
and Developers /Niche Construction**

F-3, First floor, Sacred World
Above KFC and McDonald's
JagtapChowk
Wanawadi, Pune 411040.

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Respondent

ORDER

Dated: 25/11/2021

On 17/09/2021, this Authority passed an order directing the respondent to pay penalty of Rs Five Lakhs for non registration of the project "Sky waters' in village Dabolim, Taluka Mormugao, Goa within two months of passing of that order and to get the said project registered with this Authority within two months of passing of that order, failing which further legal action will be initiated against the respondent as per RERA Act/Rules.

Though the aforesaid period of two months expired on 17/11/2021, the respondent only paid the penalty amount and did not get the project registered and hence violated the Authority's aforesaid order, regarding which the respondent was already warned vide the aforesaid order that in case the respondent fails to comply with the aforesaid order, "further legal action will be initiated against the respondent as per Rera Act/Rules".

On 11/11/2021, an Email was received by the Authority from the respondent interalia stating that "we are not able to register the project since the project is already completed and occupation/completion certificate issued and thus under section 4(2) (1) (c) we are not able to prescribe the due date of completion". From the aforesaid E-mail it is clear that the respondent refused to get the project

registered even though the order dated 17/09/2021 passed by this Authority clearly stated that though completion certificate/occupancy certificate is received regarding the said project, still it has to be registered as per law. Thus, the respondent willingly flouted this Authority's order to the extent of registration of the said project.

On 18/11/2021, this Authority received another E-mail from the respondent giving different reasons for non registration of the project i.e. "due to some urgent family function in my home and since my Chartered Accountant is also out of station and my Architect is also in Bombay, I am unable to register now in RERA Department". The respondent in this E-mail as well as in the E-mail dated 23/11/2021 requested for further time to get his project registered and requested 18-12-2021 to get his project registered.

The reasons given in the E-mail cannot be the grounds to flout the Authority's order dated 17/09/2021 and on the aforesaid grounds, the respondent's refusal to register the project attract section 63 and 59(2) of the Real Estate (Regulation and Development) Act 2016. The aforesaid sections are reproduced herein below for ready reference:-

"63. Penalty for failure to comply with orders of Authority by Promoter.- If any promoter, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five per cent., of the estimated cost of the real estate project as determined by the Authority".

"59. Punishment for non-registration under section 3.- (1) If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent. of the estimated cost of the real estate project as determined by the Authority.

(2) If any promoter does not comply with the orders, decisions or directions issued under sub-section (1) or continues to violate the provisions of section 3, he shall be punishable with imprisonment for a term which may extend up to three years or with fine which may extend up to a further ten per cent. of the estimated cost of the real estate project, or with both".

Since, the respondent has prayed for further time i.e. till 18th December 2021 to register his project, this Authority, at this stage is not taking legal action under



section 59(2) of the Act to get the respondent imprisoned, however, at this stage only penalty is imposed under section 63 of the Act for failure to comply with the order of Authority.

Heard the arguments of the respondent today. As stated above, at present, legal action under section 63 of the Act will serve the purpose of Act. **It is worth mentioning here that under section 34 (g) of the Act, the functions of the Authority includes “to ensure compliance of its regulations or orders or directions made in exercise of its powers under this Act”**

In view of the aforesaid, I pass the following order:-

As per section 63 of the Act, the respondent is ordered to pay penalty for every day during which default continues and accordingly the respondent is directed to deposit in this Authority Rs 1,000 (Rupees one thousand) for everyday starting from 18/11/2021 onwards(as the time limit for registration of project expired on 17/11/2021) till the registration of the said project, which registration will not be later than 17/12/2021, failing which further legal action against the respondent will be taken as per RERA Act/Rules. Thus the respondent is directed to pay the aforesaid penalty/arrears of penalty and get the project registered latest by 17/12/2021.



Vijaya D. Pol
25/11/2021
(Vijaya D. Pol)
Member, Goa RERA

To,
1. Tridib R. Dasgupta,
c/o Adv. Neelesh A. Manerkar,
G-6 Pinto Chambers,
Menezes Braganza Road
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