



GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:3/RERA/Complaint (417)/2024/1090

Date: 14/08/2024

Dr. Nikhil N Sontakke and

Dr. Tripti Bansal,

H. No. 503, Building 2, Kamat Royal Apartment,
Caranzalem, Panaji, Goa-403002.

.....Complainants

Versus

1. M/s. Prestige Estates Projects Limited,

Office at 'Prestige Falcon Tower'
No. 19, Brunton Road Bangalore,
Karnataka-560025.

2. M/s. Mathias Constructions Private limited,

Having office at H.No. C-13/156 Mathias House,
Near Luis Gomes Garden,
Campal Panaji-Goa, 403001.

.....Respondents

ORDER

(Dated 14.08.2024)

This order shall dispose an application dated 08.08.2024 filed by respondent no. 1 seeking leave to examine its witness by exhibiting documents etc.

2. Heard Learned Advocate Ms. D. Valvaikar for respondent no. 1, Learned Advocate Shri D. D'Souza for respondent no.2, and Learned Advocate Shri M. Govekar for the complainants.

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3. Short point that arises for my determination is:-

Whether the request to examine witness by respondent no.1 by exhibiting documents is to be granted?

Ans: Partly in the affirmative.

REASONS

4. It is contention of respondent no. 1 that they want to examine Mr. Umesh Naik, authorized person of NITCO Company to identify and prove the certificate which pertain to the marble supplied to respondent no. 1 and which marbles were used in the unit of the complainants. This process will not cause any prejudice to the opponents as they will get chance to cross-examine witness.

5. Rule 6 of The Goa Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of complaints and Appeal etc.) Rules, 2017 is relevant. The clause (c) read with clause (d) of sub-Rule 2 of Rule 6 empowers Authority to order production of documents or other evidence or require the applicant and the respondent to give evidence or to produce any document which in the opinion of the Authority, may be useful for or relevant to the subject matter of the inquiry.

6. The affidavit in evidence which is sought to be produced in support of the certificate issued by NITCO Company is relevant to the subject matter of the inquiry being so the affidavit in evidence sought to be produced of Mr. Umesh Naik cannot be rejected.

7. As recorded herein above the respondent wish to exhibit certificate etc in evidence through witness on the premise that opponents will get opportunity to

cross-examine their witness. The Act does not prescribe procedure to adjudicate disputes by this Forum. However Rule-6 of the The Goa Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of complaints and Appeal etc.) Rules, 2017 prescribe summary procedure for enquiry before this Forum. In case of summary procedure, this Forum is not required to follow the regular formal procedure, but is authorized to follow a short and quick procedure for expeditious disposal of cases under the RERA Act for speedy dispute redressal in conformity with the object of the Act. Therefore examination in chief and cross-examination of a witness or a party before this Forum under the Act is not a rule. It is only an exception. If cross examination of a person is to be permitted in every case under the RERA Act, the whole object of the Act would be lost and there would hardly be any difference in proceedings before this Forum under this Act and a Civil Court.

8. The combine reading of clauses (c) and (d) of sub rule-2 of rule-6 shows that the Authority is required to carry out an inquiry on the basis of documents and submissions. Thus inquiry envisage under rules is restricted to the documents and submissions only. This is also in consonance with the object of the Act for speedy dispute redressal.

9. Moreover the disputes under the Act are document based disputes for the redressal of which examination in chief and cross-examination is not warranted.

10. Further, Section 38 of the Act empowers the Authority to regulate its own procedure. Following of the procedure by this Authority of dispensing with the lengthy chief and cross-examination of the witnesses is the best suited in cases of summary inquiries.

11. In view of above, I am not inclined to permit the exhibition of the documents by witness by putting the witness in the box nor wish to grant right to cross-examine witness by opponents. In view of above my answer to point for determination is partly in affirmative and following:-

ORDER

The Application dated 08.08.2024 filed by the respondent no. 1 to examine witness by producing affidavit in evidence on record is granted. The request to exhibit the document/ certificate by examining the witness is rejected.

4/11.08.2024
(Cholu M Gauns)
Member, Goa RERA