



GOA REAL ESTATE REGULATORY AUTHORITY

101, 1st Floor, 'SPACES' Building, Plot No. 40, EDC Patto Plaza, Panaji 403 001 Goa
www.rera.goa.gov.in

Tel: 0832-2437655; e-mail: goa-rera@gov.in

F.No:3/RERA/Complaint(319)(320)(321)(322)(326)/2022/319

Date: 25/04/2023

Case No. 3/RERA/Complaint(321)/2022

1. **Mr. Heramb Raghunath Watve,**
H.No. 22-B, 15 Golna, Pomburpa,
Bardez, Goa-403508.

Case No. 3/RERA/Complaint(319)/2022

2. **Ms. Sufal Ramakant Pednekar,**
aged about 40 years, r/o H.No. 103,
Khorlim Kasarwada, Mapusa Bardez, Goa, 403507.

Case No. 3/RERA/Complaint(320)/2022

3. (a) **Mr. Narayan Bhat,**
aged about 67 years, r/o H.No. C. G. 1 Gangadhar Apts
Near Ganpati Temple, Khorlim, Mapusa, Bardez, Goa, 403507.

(b) **Mrs. Laxmi N Bhat,**
aged about 64 years, r/o H.No. C. G. 1 Gangadhar Apts
Near Ganpati Temple, Khorlim, Mapusa, Bardez, Goa, 403507.

(c) **Mr. Ganesh N Bhat,**
aged about 34 years, r/o H.No. C. G. 1, Gangadhar Apts,
Near Ganpati Temple, Khorlim, Mapusa, Bardez, Goa-403507.

Case No. 3/RERA/Complaint(322)/2022

4. **Mr. Roque Rodrigues,**
aged about 59 years, r/o Room No. 401,
St. Anthony Co. Housing Society
Bhavani Sharukar Road, Near Shardashram School,

Dadar West-Mumbai-Maharashtra 400028.

Case No. 3/RERA/Complaint(326)/2022

- 5. Mr. Sunny Kalidas Vernekar,**
aged about 32 years, r/o H.No. 476,
Oxel Bhatti, Siolim, Bardez, Goa-403507.

.....Complainant(s)

Versus

1. Mr.Suresh R. Gawandalkar and his wife Mrs. Sushma Suresh Gawandalkar,
both since deceased, represented through their legal heirs

- (i) **Mr. Sudesh Suresh Gawandalkar,**
son of late Mr. Suresh Gawandalkar, aged 46 years,
r/o E-5/32, Ward No.9, Mapusa, Goa, 403507.
- (ii) **Mrs. Swati Sudesh Gawandalkar,**
wife of Mr. Sudesh Suresh Gawandalkar,
aged 40 years, r/o E-5/32,
Ward No. 9, Mapusa, Goa, 403507.
- (iii) **Mr. Swapnil Suresh Gawandalkar,**
son of Mr. Suresh Gawandalkar,
Aged 43 years, r/o E-5/32,
ward no. 9, Mapusa, Goa, 403507.
- (iv) **Mrs. Siya Swapnil Gawandalkar,**
wife of Mr. Swapnil Gawandalkar,
aged 40 years, r/o E-5/32,
Ward No. 9, Mapusa, Goa, 403507.
- (v) **Mr. Vinit Gurunath Swar,**
son of Mr.Ghanashyam Swar, aged 51 years,
R/o H.No. 114/BAR/64/1036, Mapusa, Goa, 403507.

(vi) **Mrs. Poonam Vinit Swar,**
wife of Mr, Vinit Swar, aged 39 years,
r/o H.No. 114/BAR/64/1036,
Mapusa, Goa, 403507.

2. M/s S.V. Developers Partnership Firm,

Mr. Kiran Dabolkar, r/o Shree Samrudhi 95 c/5 Alto Guimaies,
Altinho, Panaji-Goa, 403001.

.....Respondent(s)

INTERIM ORDER
(Dated 25.04.2023)

These 05 complaints have been filed by the complainants mentioned in the cause list against the respondents under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the 'RERA Act'). During the course of proceedings, it came to the notice that two of the original respondents were expired and hence there was need to bring their legal heirs on record. Accordingly, efforts were made in this regard. Legal heirs were brought on record and amended cause title was made. During the course of proceedings, a point was raised regarding registration of the project. It was contented that this project is not a registered project though it was on-going project at the time of commencement of the RERA Act.

2. On 17.03.2023, the day fixed for hearing, the matter of registration was argued by the parties. Since, all these 05 complaints have been filed in respect of the same project and promoter/ respondents are same in all the 05 cases, it is

thought fit to club all these 05 cases to decide the matter of registration under Section 3 of the RERA Act.

3. The Ld. Advocate for the complainants pointed out that this project had not received the completion certificate before 23.03.2018 and hence action should be taken against the promoter under Section 59(1) of the RERA Act. The respondents made the plea that there was civil dispute pending in the court and hence the respondents/promoter have not applied for the registration under Section 3(1) of the RERA Act.
4. I have considered the case and gone through the provisions of Act and Rules. Provision in respect of registration of Real Estate project has been incorporated u/s 3 of the RERA Act. The relevant portion of the said provision Section 3(1) is as follows:-


“3. Prior registration of real estate project with Real Estate Regulatory Authority.-

(1)No promoter shall 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, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an

application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

5. Para 2 of the above mentioned section 3(1) is related with the registration of ongoing projects. As per this, the projects that were ongoing before commencement of the Act and for which Completion Certificate was not issued, was coming under the category which require registration. This section 3 came in force on 01.05.2017. However, in Goa, Rules were framed only on 24.11.2017 and Interim Authority was established after that. Interim Authority by order No.11/35/2017-DMA dated 23.03.2018 as the last date for filing application for ongoing Real Estate Projects. In this case, Completion Certificate was obtained on 05.12.2018. Hence it is clear that this project comes under the category of being registered under the Act.
6. Section 59 of the RERA Act deals with punishment for non registration under Section 3 of the Act. This provision is as follows:-



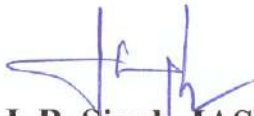
“59. Punishment for non-registration under Section 3.- (1) If any promoter contravenes the provisions of Section 3, he shall be liable to a penalty which may extend up to ten percent of the estimated cost of the real estate project as determined by the Authority.”

7. From the above, it is clear that the promoter has violated the provisions of the Act by not registering it. He should have made application for registration

before 23.03.2018 but he failed to do so. It is a fit case for action u/s 59(1) of the Act. As per this Section, the promoter can be penalized upto 10% of the project cost. However, taking into account the facts and circumstances of the case and considering the precedence of the past cases of similar nature, I feel that penalty of Rs. 5,00,000/- (Rupees Five Lakhs only) should be imposed on promoter.

8. Accordingly, promoter is directed to pay Rs. 5,00,000/- (Rupees Five Lakhs only) and make an application with all the required documents and fees within 30 (Thirty) days, failing which he will be liable for further action and penalty under Section 59(2) of the Act.
9. Next date of hearing for arguments on merit in all these 05 cases is fixed on 10.05.2023 at 4.00 p.m.

Order accordingly,


J. B. Singh, IAS(Retd.)
Member, Goa RERA

- To,**
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