



GOA REAL ESTATE REGULATORY AUTHORITY

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

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F.No:3/RERA/Complaint (443)/2024/ 472

Date: 03/2026
24/03/2026

Kenneth G Ursula De Souza
House No E 262,
Dr Cunha Gonsalves Road,
Panaji, Tiswadi, Goa, 403001.

.....Complainant

V/s

1) Gera Developments Private Limited

Alternate address Gera Developments Private Limited
1st Floor, Gera's Imperium Grand, Patto Plaza,
Panjim, Goa- 403001.

2) Union Bank Of India

Represented by its Authorized Signatories Mr. Saurabh Gandhi,
Having Office at GKP Complex, Shop No. 23,24,25, and 26
Baga Road, Cobrawado, Calangute,
Goa – 403516

..... Respondents

ORDER

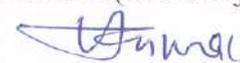
(24.03.2026)

1. This order disposes of the online complaint No.3/RERA/Complaint (443)/2024 filed by Mr. Kenneth G Ursula De Souza (complainant) before the Goa Real Estate Regulatory Authority (Goa RERA) against the M/s. Gera Development Pvt. Ltd. (Respondent) under Section 31 of RERA Act, 2016, primarily alleging that the Respondent has failed to allot stilt/covered parking to the complainant and has further not come forward to execute deed of sale of the subject property in terms of the Letter of offer of

V. J. Amar

Allotment dated 30/11/2017 read with Gera's River of Joy Apartments Articles of Agreement (agreement for Sale) dated 20.06.2020 (hereinafter referred to as the agreement dated 20.06.2020) till date, resulting in violation and contravention of the responsibilities, obligations and functions of the promoter as per the provisions of the Real Estate (Regulation and Development) Act, 2016(hereinafter referred to as the Act of 2016).

2. The case of the Complainant is that he with his brother Mr. Mark Anthony Ursula De Souza approached the Respondent to purchase an apartment in the project of the Respondent, namely "**Gera's River of Joy**" bearing RERA registration no. PRGO03180092 and after viewing the brochures/prospectus of the said project, and negotiating on the same, the Complainant's brother Mr. Mark Anthony Ursula De Souza by a Letter of offer for Allotment of residential premises dated 30/11/2017, preferred to purchase Unit no. T1-503 on the 5th floor, Block T1, admeasuring 59.90 sq.mts carpet area (referred to as the subject property) from the Respondent. The complainant has further stated that due to some intervening circumstances, the complainant agreed to take over the allotment of his brother Mr. Mark Anthony Ursula De Souza and consequent to the issuance of the said allotment letter dated 30/11/2017, also entered into agreement for sale dated 20/06/2020 with the respondents in respect of the subject property. The said letter of offer for allotment of residential premises which was in a format prescribed, prepared on the letter head of the Respondent and was further shared by the Respondent; described the cost towards the Unit no. T1-503 to be Rs. 43,95,560/-. Besides additional costs i.e. Cost towards GED (lump sum basis) Rs. 1,00,000/-; Cost towards TP (town planning) and Panchayat permission and charges (Lumpsum Basis) Rs.25,000/-; Cost towards club charges (Lump sum basis) Rs.1,75,000/- and the Cost towards allotment charges (Lump sum basis towards exclusive rights to use car parking) Rs.2,75,000/- and thus the total consideration amount as per letter of offer for allotment of residential premises(the subject property)



came to Rs.49,03,954/-. In addition CG ST- Rs.2,94,237/- and SGST- Rs.2,94,237/-was to be paid by the complainant.It was further submitted that consequent upon the issue of allotment letter, an agreement for sale dated 20.06.2020i.e 'GERA's River of Joy Apartments Articles of Agreement' was executed between the Respondent and the Complainant and registered before the Sub-Registrar at Panaji on 22nd June 2020 where by the Complainant agreed to purchase the subject property having carpet area 59.90 sq.mts with 16.91 sq.mts proportionate share in common areas and one covered parking/ stilt parking for the consideration of Rs.49,03,954/-.It was further submitted that the said covered/stilt parking was thus included in the total consideration as per the letter of offer for allotment of residential premises dated 30/11/2017read with the agreement dated 20/06/2020. The complainant also placed a copy of offer letter for allotment of residential premises dated 30/11/2017 as well as the agreement dated 20/06/2020on record.

3. The Complainant further stated that as it availed a loan facility for the purchase of the said apartment from Union bank of India the payments for the said apartment were released timely by the said bank in favour of the Respondent upon completion of various stages of construction in terms of the Agreement dated 20/06/2020.It was further stated that though the date of delivering the possession of the subject property to the complainant was promised to be on or before April 2021,the Respondent, however, delayed completion of the said buildings which lead to delay in handing over the possession of the subject property to the complainant in the month of October/November 2022. Further even after the delayed possession of the said apartment, the Complainant has not been allotted the covered parking/stilt parking in terms of the offer letter and agreement for sale till date for which the complaint has paid for in full i.e. Rs.2,75,000/- +GST.
4. The Complainant further stated that noticing that other apartment owners were being allotted parking spots, the Complainant began corresponding with



the representatives of the Respondent over email for the allotment of paid covered/stilt parking for which it received vague answers, thereby forcing the Complainant to send and resend repeated emails and reminders. Also stated that as per the approved plans for the part of the project/the portion of the project where the said apartment is situated, there are 76 stilt/covered parking and 87 open/surface parking which in terms of the approved plans and TCP regulations cannot be covered. Besides, the Respondent has also not come forward to execute Deed of Sale for the said apartment due to its failure to allot stilt/covered parking to the Complainant. It was further stated that the Respondent in between have verbally offered complainant open/surface parking slot and an extra slot in exchange for complainants' stilt/covered parking, which the Complainant refused to accept.

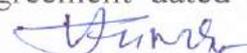
5. The Complainant further stated that it also sent Legal Notice dated 03/07/2024, to the Respondent seeking allotment and handing over of the stilt/covered parking slot as well as execution of the deed of sale for the said apartment, besides payment of compensation of Rs. 3,50,000/-, towards delay in allotment of stilt/covered parking, towards losses suffered by the Complainant since the said apartment could not be rented out without the said covered/stilt parking's as well as towards mental torture etc. However, the Respondent in reply dated 24/07/2024 denied charging for covered parking in spite of the fact that document titled Letter of offer for Allotment of residential premises dated 30/11/2017, clearly shows that an amount of Rs. 2,75,000/- was charged towards allotment charges (Lump sum basis towards exclusive rights to use car parking). Furthermore, the total consideration as per the Letter of offer for Allotment of residential premises dated 30/11/2017 tallies with the total consideration in terms of the GERA's River of Joy Apartments Articles of Agreement (agreement for sale), dated 20/06/2020, thereby confirming the fact that the Respondent has indeed charged the Complainant for parking. The Respondent also attributed the delay in



execution of the Deed of Sale to the complainant for not submitting documents despite the fact that all the requisite documents for execution of Deed of Sale were already handed over to the Respondent at the time of execution of the Agreement dated 20/06/2020 and no further documents were required from the Complainant.

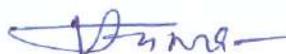
6. The Complainant also submitted that the Promoter Respondent has thus failed to allot covered/stilt parking to the Complainant and has also failed to execute Deed of Sale of the subject property in favour of the Complainant till date on false pretexts of not receiving requisite documents, etc. despite of receiving the entire consideration from the Complainant. This constitutes violation and contravention of the responsibilities, obligations and functions of the promoter as per the Agreement and as per the provisions of the Section 11(4) of RERA Act and regulations particularly when covered/stilt parking to other persons who have purchased flats/apartments in the said development, have already been allotted. Thus, the said violations on the part of the Respondent have resulted in losses being suffered by the Complainant being unable to find suitable individuals to rent the said apartment or to further sell the said apartment besides mental torture and agony to the Complainant. The complainant thus prayed for issuance of an Order directing the Respondent to allot covered/stilt parking to the Complainant or alternatively to allot parking to the Complainant close to Block T1, wherein the said apartment is situated and also to execute Deed of Sale for the said apartment, in favour of the Complainant.

7. Per Contra, the Respondent while denying each and every allegation of the Applicant which was not specifically dealt with in its reply or was inconsistent with and contrary to the submission of the Respondent, stated that the present complaint has been filed on a misconception of fact that the Applicant has been 'sold/charged' for a covered/stilt parking spot by the Respondent. However, a bare perusal of the Agreement dated 20.06.2020

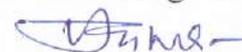


would reveal that that there has been no 'sale' of any parking slot to the Applicant or that any cost of parking slot was included in total cost and even the said Letter of Offer of Allotment mentions the sum of Rs.2,75,000/- as payable towards allotment charges (towards rights to use car park) and not towards the cost of parking slot. It was further submitted that the Complainant has attempted to mislead this Authority by using the words 'stilt parking', which is nowhere used either in the Letter of Offer of Allotment or in the Articles of Agreement and what is mentioned in both the documents is the word covered parking which is being allotted and not sold. Also, the request by the Applicant is to earmark one stilt/covered car park to him. Thus the complainant was entitled to be allotted a 'covered parking' spot for which he later started demanding that he be allotted only a 'stilt parking' spot. It was further submitted that the Letter of Offer of Allotment is a unilateral letter addressed by the Applicant to the Respondent which itself mentions that till such time as the standard agreement is executed between the Applicant and the Respondent, the matter shall only be at a negotiating stage and as such, no terms mentioned in the said Letter can be held to be binding on the Respondent, especially when the same have not been signed by the Respondent.

8. The Respondent also denied having taken any consideration for selection of parking spaces by the purchasers. it was also submitted that perusal of the Agreement dated 20th June 2020 not only indicates that the total amount of the apartment does not include any component for the 'purchase' of any parking space but also that the allotment of parking spaces is not to be deemed as a sale and that the sale price agreed is only for the Apartment and that the Applicant shall have no claim on any common areas/parking areas etc and the same shall remain the property of the Respondent till the structure of the building is finally transferred.

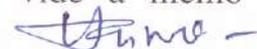


9. The respondent also denied the contention of the Applicant that there was delay in handing over possession by the Respondent and further stated that the Applicant himself defaulted in making timely payments and the possession was immediately handed over to the Applicant once payments as per the said Articles of Agreement dated 20th June 2020 were made by him. Further, the Applicant has nowhere stated in his application that he has diligently adhered to the timeline given by the Applicant to do the payment and in fact failed to comply with his obligation as per the provisions of Section 19(6) of the RERA Act.
10. The respondent in support of his submissions, also provided the details of the dates on which the demands for payment were made through the invoices raised towards consideration and GST and the dates on which the payments were made by the Applicant. It was further submitted that the complainant still has an outstanding amount payable towards *Common area maintenance charges (as per clause 14.1 of the agreement read with the four schedule point C)* for the periods 01.04.2023 To 30.09.2024 amounting to Rs. 76,787.06/- 01.10.2024 To 31.03.2025 amounting to Rs. 53,832.09/-, (deficit) 01.04.2025 to 30.09.2025, amounting to Rs. 30,958.27/-, (deficit) and also the Interest for the period from 01.04.2023 to 19.08.2025 amounting to Rs.55,017.32/- as well as an amount of Rs.29,084/- towards GST. Besides, the outstanding house tax charges for the said apartment is required to be paid at actuals by the Applicant.
11. The Respondent further claimed that though the Complainant was offered a parking spot of his choosing, which was to be covered by the Respondent after obtaining due permissions, but the complainant instead started demanding that he be allotted a parking space only in the stilt parking area and refused to accept any other parking slot. Further stated that it is due to this insistence that despite being requested by the Respondent to execute a sale deed, the Complainant has refused to appear for executing the same and



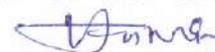
is now shifting the blame upon the Respondent for delaying the same. In support of his submissions that it was always ready and willing to execute the sale deed, the Respondent also referred to an email sent to the Complainant in November 2022 requesting him to come forward with the necessary documents in order to complete the sale deed formalities and further stated that the same is not denied by the Complainant. Further also added that the documents furnished by the Applicant were utilized for the registration of the Agreement dated 20.06.2020 and despite the Applicant being aware of the same, has till date not furnished the documents required for the execution of the sale deed and has also not replied to the mail sent in November 2022. Besides, the Applicant was required to pay the requisite balance stamp duty amounting to Rs. 4700/-, registration charges amounting to Rs.1,47,120/- (Rupees One Lakh Forty Seven Thousand One Hundred and Twenty only) and nominal processing fee in order to register the sale deed in addition to clearing the other outstanding dues i.e. maintenance charges, remainder of GST etc. before execution of the sale deed. It was also pointed out that the Complainant has been regularly using vacant parking spots available in the complex till today to park his four wheeler vehicle and the same is not objected to by the Respondent.

12. During the proceedings, the Complainants filed rejoinder to the reply filed by the Respondents, followed by a sur-rejoinder thereto filed by the Respondents. Both parties also filed affidavit in evidence as well as additional affidavits/ submissions. Consequently, the arguments advanced by both parties were heard as well as the written argument/submissions were also placed on record by the parties.
13. The matter after being heard was kept for orders. However before the orders qua the said proceeding could be issued, it was brought to the notice of this forum by Shri Dwarkanath Rao (Authorized representative of the Respondents Gera Developments Private Limited) vide a memo dated



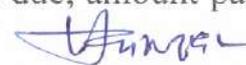
08/01/2026 that a Notice dated 07/01/2026 was published in the daily newspaper "The Navhind Times" dated 08/01/2026 issued by the Authorised Officer, Union Bank of India under the provisions of Section 8(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002 whereby, the symbolic possession of the property subject matter of the said complaint was taken over by the Union Bank of India. A copy of the said notice placed on record, further revealed that the general public was also cautioned not to deal with the property.

14. In view of the matter, it was considered that, the Authorized Officer (Union Bank Of India (Baga Road Branch)) becomes a necessary party to the said proceedings on account of issuance of the said notice dated 07/01/2026. Accordingly, a notice was issued for their say / reply to be sent to Goa RERA and the Complainant and Respondent were also afforded opportunity to file their reply/response to the same after serving a copy upon the Authorized Officer of the Bank through email.
15. In response, a reply was filed on behalf of the Respondent No.2. The Authorized Officer of Union Bank of India inter-alia stating that the Complainant had earlier committed defaults in repayment obligations, due to which the loan account was classified as Non-Performing Asset (NPA) on 07/09/2025 and proceedings under the SARFAESI Act were initiated inter-alia issuing notice u/s 13(4) of SARFAESI ACT on 08.09.2025 and taking symbolic possession of the secured asset on 07.01.2026. Subsequently, the bank had issued sale notice of the secured asset on 13.02.2026 and the same was published on bank's online portal and published on local newspaper "Gomantak" on 14.02.2026. It was further informed that prior to filing of the present reply, the Complainant approached Respondent No. 2 and cleared the overdue amount and upon payment of the overdue amount, the loan account has been regularised and standardised in the books of the Bank/respondent no. 2. Further, the Bank has initiated withdrawal of the SARFAESI

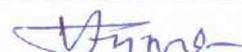


proceedings initiated earlier and has also published the Sale Notice withdrawal dated 07.03.2026 in the Local Newspaper thereby withdrawing the Sale notice and the SARFAESI proceedings initiated earlier, in accordance with the law.

16. It was further submitted that the security interest created in favour of Respondent No. 2 over the subject unit however, continues to subsist until full and final repayment of the loan amount in accordance with the loan agreement and in the event this Authority grants any relief in favour of the Complainant, the same must be subject to and without prejudice to Respondent No. 2's subsisting security interest and contractual rights under the loan agreement. Adv. for complainant also submitted Account Statement of the complaint which is inconsonance with the submissions of the Bank.
17. **As the bank has already** published the Sale Notice withdrawal dated 07.03.2026 in the Local Newspaper thereby withdrawing the Sale notice and the SARFAESI proceedings initiated earlier; the notice dated 19.01.2026 issued in the context of notice u/s 13(4) of SARFAESI ACT issued by the Respondent No.2 whereby the symbolic possession of the property subject matter of the said complaint was taken over by the Union Bank of India, stands disposed off in terms of settlement of the issue between the Bank and the complainant herein and also no further directions are required to be issued qua this point except that the security interest created in favour of Respondent No. 2 over the subject unit however, continues to subsist until full and final repayment of the loan amount in accordance with the loan agreement. Having dealt with the issue, I now advert to the main complaint, the factual matrix of which in terms of submission of the complainant has already been noted above in succinct.
18. The respondent also submitted a summary of payments dated 20.03.2026 received providing the details of due date and amount due, amount paid, and payment date.



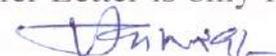
	instant project could plausibly refer only to parking slots in the stilts	
B.	Whether the complainant has paid the entire amount as payable in terms of the provisions of Gera's River of Joy Apartments Articles of Agreement (agreement for Sale) dated 20.06.2020 or there were instances of delayed payments and some balance is still due and payable by the complainant?	As per para 15 of the order
C.	Whether the completion as well as handing over of the possession of the subject property (taken over sans the provision of one covered parking, by the complainant in October /November 2022) was delayed and the action for providing a covered car parking to the allottee in terms of Third Schedule A(ii) is yet to be completed and the allotment/possession of the same to the allottee has also been delayed ? Whether in view of the above, the respondent is liable to pay monthly interest in terms of section 18(1) of the Act?	As per para 16 of the order
	Whether the respondent is liable to immediately execute the sale deed of the subject property specifically	In affirmative and As per para 17 of the order



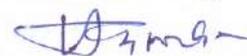
D.	mentioning therein the details of the provision of one covered parking in terms of Third Schedule A(ii) as the part possession of the subject property was taken over by the complainant in October/November 2022?	
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20. Point No. A

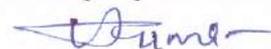
- (i) With regard to the issue noted at Point A(1), it is observed that the case of the complainant is that the Agreement dated 20.06.2020 and letter of offer dated 30.11.2017, both state that the total consideration amount i.e. Rs. 49,03,954/- paid for the subject property also includes share in common areas and one covered parking/stilt parking. Additionally, the said offer letter also enumerates that Rs.2,75,000/- is paid by the complainant towards allotment charges i.e. Lump sum basis towards exclusive rights to use car parking. The complainant also emphasized that the said offer letter was in a format prescribed, prepared and shared by the respondent and on the letter head of the respondent and further the said offer letter and its contents therein were accepted by the respondent, and only thereafter the Articles of Agreement (agreement for sale) dated 20.06.2020 was executed between the respondent and complainant. Further, paragraph A(ii) of the Third Schedule of the agreement dated 20.06.2020 expressly states that the Complainant and Respondent together agree that the Complainant is entitled to be allotted one “covered” parking.
- (ii) Per contra, the respondent plea is that the contention of the Complainant that a stilt parking spot was ‘sold’ to him as per Offer Letter dated 30/11/2017, is hardly tenable in view of clauses (1), (4), (5) and (17) of the said Offer letter itself whereby it is clearly stipulated that the said Offer Letter is only for the



purpose of negotiations and does not bind the parties. Pertinently, the said Offer Letter was unilaterally addressed by the Complainant to the Respondent inter-alia requesting to allot an Open or Covered car parking upon payment of an amount of Rs.2,75,000/-.Further, the said Offer letter was in the nature of a Request for Proposal (RFP) which has to be filled up by any individual wanting to be allotted an apartment. The same is then subject to negotiations by the parties and finally culminates into the Articles for Agreement. In this regard, the Respondent referred to the judgement in case titled 'PSA Mumbai Investments PTE Ltd v/s Board of Trustees of the Jawaharlal Nehru Port Trust &Anr' {(2018) 10 SCC 525}.Referring to various clauses of the agreement dated 20.06.2020, the respondent stated a perusal of various clauses i.e. Clause G of the recitals, Clause 1 (b),Clauses (4), (5) (a) and (c) read with Third Schedule clause (A) (i) in the Articles of Agreement would clearly disclose that what was sold to the Complainant is only the Apartment and the Respondent has not taken any amounts towards either for the sale or allotment of a parking slot from the Complainant. Further, Clause (13) para 2 clearly states that the allotment of the parking areas is being done by the Respondent on a purely ex-gratia or gratuitous basis and no consideration has been taken from the Complainant. The said clause further clearly stipulates that the same cannot be deemed to be a sale and that if for any reason it is held that such allotment is held to be not proper, then the Complainant shall not be entitled for any refund or compensation since the price paid is only for the apartment and not for allotment or sale of a parking slot. Similarly, it is categorically mentioned in Fourth Schedule that the proportionate price towards the common parking area has been considered as NIL. The Respondent thus sought to submit that while the Complainant vide Offer Letter sought to purchase a open/closed parking slot for Rs.2,75,000.00 the Agreement provides for a gratuitous allotment of the covered parking slot.



(iii) The contention of the complainant that it paid an amount of Rs.2,75,000/- against an item listed as **‘Towards allotment charges (lumpsum basis towards the exclusive right to use car parking)’** as part of the total consideration of Rs. 49,03,954/- for the subject property as mentioned in letter of offer of allotment of residential premises dated 30.11.2017 which further tallies with the total consideration of Rs. 49,03,954/- as noted at Fourth Schedule appended to the agreement for sale dated 20.06.2020 and that the initial offer as reflected in the said offer letter dated 30.11.2017 and its acceptance by the Respondent Promoter was taken to its logical conclusion by way of execution of agreement for sale dated 20.06.2020 and thus both documents have to be read in continuity and conjunction with each other though appears convincing when seen in the context of factual matrix of the case and also the trade practice; it however, does not get supported in terms of various clauses of the agreement for sale dated 20.06.2020 particularly those as referred to by the respondent in preceding sub para. Further, provisions of Section 50 (1) of The Registration Act stipulate that a duly registered document would take effect as regards the property comprised therein, against every unregistered document relating to the same property. Notably, the said agreement dated 20.06.2020 was executed and registered subsequent to issuance of the said offer letter dated 30.11.2017. It is relevant to note that though the Third Schedule of the said agreement dated 20.06.2020 provides for description of the subject property which apart from details of area of the subject property, {A(i)} also includes the right to use one covered parking; {A(ii)}; the Fourth schedule of the agreement, however, specifies the consideration payable (the purchase price of the subject property) in terms of the Third Schedule (A)(i) excluding the said Right to use one covered parking and thus implying that no consideration has been asked for or received by the Respondent for the said purpose. In fact, it is categorically mentioned in Fourth Schedule that the proportionate price



towards the common parking area has been considered as NIL. Thus, the contention of the Respondent as noted at sub para(ii) above that what was sold to the Complainant is only the Apartment and the Respondent has not taken any specific amounts towards either for the sale or allotment of a parking slot from the Complainant though prima facie appears anomalous, but gets supported by the specific provisions of the Agreement for sale dated 20.06.2020.

(iv) Before proceeding further with the matter, it is relevant to note that the real estate agreements are normally drafted at the end of the promoter and at times with a view to protect its interests, these documents could be so tweaked by the promoter so as to adversely impact the legitimate expectations and rights of the flat purchases. While developers may argue that the agreements were mutually accepted, the reality is that flat purchasers either may not understand various clauses of such agreements or comprehend its complexity or may not be fully and properly explained/answered by the promoter, as to the implications of specific clauses of such agreements where purchaser has some reservations. Thus a consumer of real estate is more often than not, persuaded to accept the document as prepared and to sign on the dotted lines. The courts have recognized this imbalance and taking note of these aspects, have often stepped in with a balanced and equitable interpretation of such agreements and related provisions of law; prioritizing the protection of consumer interest over the sanctity of one-sided contractual terms.

(v) At this stage, it would be expedient to comprehend the description of the subject property (Apartment) as detailed at Third Schedule A {A(i)& A(ii)} as well as in clause 1(b) of the Agreement and the implication of qualification of the same in terms of clause 4& 5 and also the Fourth schedule of the said agreement dated 20.06.2020. Pertinently, the heading of Third Schedule 'A'



reads as **‘DESCRIPTION OF THE APARTMENT’** and records at A(i) the details of the area of the Apartment (subject property) as consisting of carpet area of the Apartment, usable area of balcony & utility along with the proportionate share of 16.91 sq. meters in the common areas and also provides for **‘The right to use one covered parking’** at A(ii). The Apartment (subject property) is also defined in similar terms under the **‘DEFINITION’** clause 1(b) of the agreement dated 20.06.2020 which states that the apartment means the apartment agreed to be purchased by the purchaser with carpet area of the apartment, Usable area, proportionate share in General areas, Common parking areas and right to use Common amenities/areas/facilities which is more particularly described in Third Schedule ‘A’. The contents of Third Schedule ‘A’ are extracted here below for the convenience of reference:

THIRD SCHEDULE

A. DESCRIPTION OF THE APARTMENT

(i) The proposed Apartment bearing No. 503, on 5th floor, of the building No.T1.

The details of the area of the Apartment is as under:

1. Carpet area of the Apartment 59.90 square meters (i.e. 644.76 square feet)
2. Usable area of balcony 5.78 square meters (i.e. 62.21 square feet)
3. Usable area of utility 1.94 square meters (i.e. 20.88 square feet)

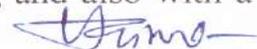
Along with the proportionate share in the common areas of the Project taken as 16.91 square meters (i.e. 182.01 square feet).

(ii). The right to use One Open/Covered parking”



(vi) Further, Clause 4&5(a) of the said agreement which deal with the purchase of the Apartment and purchase price/ consideration payable for the same; however, restrict the description of the apartment in terms of Clause A(i) only thereby excluding Clause A (ii) of Third Schedule i.e. '**The right to use one covered parking**' from the description of the apartment for the purpose, implying that no consideration has been asked for or received by the Respondent for the said right to use of one covered parking granted to the complainant Allottee. This dichotomy as to the scope of the term 'Apartment' as defined and described under clause 1(b) read with Third Schedule 'A' {A(i)&A(ii)} whereby the Apartment (subject property) is contemplated to be inclusive of the '**The right to use one covered parking**' and the description of the term 'Apartment' under clause 4 and 5(a) and also the Fourth Schedule which excludes the said **right to use one covered parking** from the scope of the term 'Apartment'; needs to be resolved to arrive at the exact scope of the term 'Apartment' so as to facilitate the disposal of the present list.

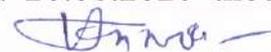
(vii) In view of the above, it is apparent that while the definition of the apartment in clause 1(b) and the description of the apartment in the third schedule A of the agreement indicates that the apartment in question (subject property) was inclusive of the right to use one covered parking, the same was excluded from the definition of the apartment while specifying the purchase and consideration payable for the same under clause 4&5 of the agreement dated 20.06.2020, without providing any explanation and through a kind of legal fiction whereby the total consideration charged under the Agreement For Sale dated 20.06.2020 of subject property is rendered relatable only to a part of the subject property instead of being acknowledged for the whole property. Further, the same appears to have been done presumably for limited purpose of emphasizing that no separate cost has been charged towards the said right to use one covered parking and also with a view to



avoid any liability for any claim for specific performance or refund and compensation etc. This point of view gets amply supported from the provisions of Clause 13(2) of the said agreement which clearly states that the allotment of the parking areas is being done purely on gratuitous basis and the Complainant shall not be entitled for any refund or compensation on any count. Pertinently, Fourth Schedule makes a specific mention that the proportionate price towards the common parking area has been **considered as NIL**.

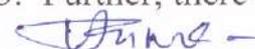
- (viii) However, it is evident that the Promoter has not controverted the claim of the Complainant for allotment of one covered parking space which is well supported in terms of the clause 22 (d) of the said agreement (clause 22 relates to **RIGHTS, DECLARATION, REPRESENTATIONS, COVENANTS AND OBLIGATIONS OF THE PURCHASER ALLOTTEE**) read with the description of the apartment in Third Schedule A(ii) i.e. **the right to use one covered parking**’ where use of the word ‘one’ read with restriction of usage of specified/allotted car parking space by the complainant allottee for his own vehicles etc.; clearly reveals that the Promoter in the instant case was mandated to provide for usage of one covered parking space to the complainant herein whether or not any specific amount towards either for the sale or for allotment of a parking slot from the Complainant was received by the respondent. Pertinently, the Promoter Respondent has also not controverted the assertion of the Complainant that paragraph A(ii) of the Third Schedule of the agreement dated 20.06.2020 expressly states that the Complainant and Respondent together agree that the Complainant is entitled to be allotted one “covered” parking and in fact has already proceeded to provide for the same by already obtaining Technical Clearance and has also applied for Construction License for construction of a covered parking.
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(ix) Further, the claim of the Respondent that the allotment of the said covered parking is being done purely on gratuitous basis, does not appear to be in consonance with the various provisions of the agreement dated 20.06.2020 particularly when the provisions of the Third Schedule{A(i)& A(ii)} read with Clause 1(b)of the said agreement define and describe the‘Apartment’(subject property)as inclusive of the ‘**The right to use one covered parking**’ and clause 22(d) of the argument dated 20.06.2020 indicate a specific parking slots was to be allotted to complainant qua its right to use one covered parking. Even the specific mention in Fourth Schedule that the proportionate price towards the common parking area has been **considered** as NIL; does not imply that the allotment of the covered parking slot is being done purely on gratuitous basis or there are no costs/expenses incurred and relatable to the provision of parking or a proportionate parts of the total composite consideration charged for the subject property (the apartment) would not relate to the same. Further, none of the other provision of the said agreement dated 20.06.2020 expressly states or even implies that the total consideration charged for the subject property or the overall cost of the project does not take into account the expenses incurred for the provision of the covered or open parking or explains the basis of the allotment of parking on an entirely gratuitous basis. It goes without saying that the provision of covered or open car parking cannot be made without incurring expenses on the land and development component of the same and the same would be accounted for while deciding the total consideration to be charged for the subject property particularly when the said provision of covered parking is claimed to have not been charged for separately and specifically. This view get further supported from the fact that no criterion of allotment of open parking vis a vis covered parking and also the grant of exclusive right to use a covered parking; has been elaborated in any of the provision of the said agreement dated 20.06.2020 though the



apartments of same type and location having the same carpet area would be priced differently based upon the type of parking allotted, at the stage of initial offer itself.

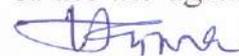
- (x) In above view of the matter it cannot be though ruled out that a certain portion of the total composite consideration charged by/amount paid to the promoter, would be apportion able and relatable to the said right of use of one covered parking; this however, also needs to be validated in terms of mutually agreed understanding as to the provision of the said covered parking between the parties as obtaining at the time of issuance of the said offer letter dated 30.11.2017 and also at the time of execution of the agreement dated 20.06.2020.
- (xi) In this regard, it is noted that the initial letter of offer for allotment of residential premises dated 30.11.2017 clearly reveal that the said covered parking was included in the residential premises and an amount of Rs.2,75,000/- was also noted as part of the total **CONSIDERATION** of Rs.49,03,954/- payable for the purpose. Further, the said letter of offer of allotment of residential premise was on the letter head of the respondent and as claimed by the complainant, in a format prescribed, prepared and shared by the respondent. This claim of the Complainant carries weight being in consonance with the trade practice being followed in natural course of business. It is also evident that the contents of said offer letter were agreed to by both parties and was not modified in any manner in the intervening period of 30 months till the execution and registration of the agreement dated 20.06.2020. The plea of the Respondent that the said offer letter constitutes an unilateral offer letter and does not bind the Respondent; also does not hold any water in as much as the said offer by complainant was accepted by the Respondent as is manifest from the acceptance of part of consideration and a specific allotment of the Apartment No.T1-503. Further, there appears



to be a case of distinct continuity in both these documents in terms of the description of subject property including exact No. and Location of flat i.e T1-503, key specifications, total consideration i.e Rs.49,03,954/- etc. and also with regard to the provision of one car parking to the complainant. Also, the respondent while pleading that the said offer letter was in the nature of a Request for Proposal(RFP) which was subject to further negotiations by the parties, also submitted that the same finally culminated into the Articles for Agreement thereby further implying continuity of the process. These details which are not disputed by the Respondent, evidently support the contention of the complainant that the agreement to sale dated 20.06.2020 is in continuation of the offer letter dated 30.11.2017 and thus both of these documents, needs to be read in conjunct with each other.

(xii) It is thus evident from the above that the broad contours of the initial offer and acceptance as happened between the Complainant allottee and the Respondent leading to issuance of said letter dated 30.11.2017 including the provision of one car parking to the complainant; were continued even with the execution and registration of the agreement dated 20.06.2020. Further, as noted herein at sub para(x) above, some part of composite consideration charged for the Apartment (subject property) would be apportionable towards the provision of one covered car parking to the complainant which for the purpose of examining the liability of the promoter under section 18(1) of the Act, would to be ascertained in succeeding paras separately.

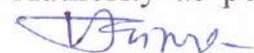
(xiii) In above view of the matter, it would be expedient to infer that the Respondent irrespective of receipt of any specific payment towards right to use one covered parking or there is some proportionate part of the total composite consideration relatable to that; is obligated to provide one covered car parking to the complainant Allottee for exercising the right of its use by the complainant in terms of Third Schedule A(ii) of the the agreement dated



20.06.2020. Pertinently, the Respondent as noted at sub para (viii) above, has already taken steps to meet this obligation. Since it has been held that a certain part of the composite consideration paid for the subject property is relatable to the provision of right to use one covered parking, the said right thereby acquire a definite value being attached to the subject property becomes part and parcel of the same. Thus, in the facts and circumstances of the case, the said **'right to use one covered parking'** constitutes an appurtenance to the subject property and thereby forms an integral and inseparable part of the subject property which would get transferred with the sale of the subject property.

The point A(1) is thus answered in above terms.

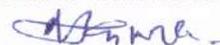
- (xiv) The other issue under the point 'A(2)' which needs to be determined is whether the covered parking in the context of approved plan of the instant project could plausibly refer only to parking slots in the stilts. In this regard, the plea of the respondent is that the word 'Stilt Parking' is nowhere used either in the Letter of Offer of Allotment or in the Articles of Agreement and what is mentioned in both the documents is the word 'covered parking' and the Complainant has attempted to mislead this Authority by using the words 'stilt parking'. Per Contra, the complainant while referring to approved plans of the project in question has sought to submit that there exist only two types of parking in the said project i.e. open/surface level parking located between and around the buildings and covered parking which is the parking slots in the stilts and thus the covered parking referred to in the Agreement of Sale can only be construed to be the covered parking in the stilts. The complainant in support of his contention also referred to Rule 2 (j) of the Goa Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate agents, Rates of Interest and Disclosures on Website) Rules, 2017 which describes covered parking as an area provided with a roof as approved by the Competent Authority as per the



applicable Development Control Regulations for parking of vehicles of the allottees which may be in basements and/ /or stilt and/or podium and/or space provided by mechanised parking arrangements but shall not include open parking..

(xv) At this stage, it is noted that both parties during the course of the proceedings sought repeated adjournments and undertook a long drawn mutual settlement process inter-alia considering construction of a covered parking in the existing parking area. The Respondent during the course of the proceedings vide memo dated 18.11.2025 informed that it has already obtained Technical Clearance Order dated 12/11/2025 from the Town & Country Planning Department for the construction of an extension of unstoried parking for the Complainant in at Slot No: 22 admeasuring 2.5m x 5.0 m totaling to 12.5 sq.mts and has also applied for Construction License to the Village Panchayat Se Old Goa and once received, the same will be constructed and handed over to the Complainant. In response as submitted vide para 8 of its written argument dated 27/11/2025, the Complainant did not deny the offer of the Respondent but stated that the recent efforts by the promoter in terms of obtaining the said Technical Clearance Order dated 12/11/2025 from the Town & Country Planning Department and further applying for permissions to construct a covered parking, has been done though during the pendency of the present proceedings but after years of inconvenience, hardship and legal cost and financial loss incurred by the complainant. Further, the Complainant during the course of oral arguments prayed for issue of specific directions to the Respondent to complete the process of construction of covered parking and provide the same for usage of the Complainant in a time bound manner.

(xvi) In view of what has been noted and discussed herein above and both parties agreeing to the arrangement; it appears just and fair to issue directions to the Respondent as prayed for by the complainant. Accordingly, no further

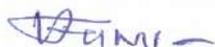


deliberations on the issue are called for and a specific direction as above, to the Respondent is being incorporated under the heading 'DIRECTIONS' .

Thus Point No. A(2) is answered in above terms.

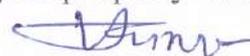
21. Point No. B

- (i) The consideration (purchase price) payable for the subject property as per Fourth Schedule of Agreement dated 20.06.2020, is Rs.49,03,954/- plus government taxes as applicable including GST. The complainant has claimed to have paid the total consideration amount of Rs.49,03,954/-, besides paying the maintenance charges until the year 2023 despite the fact that allotment of covered parking and execution of sale deed were still awaited. While the respondent has not denied or controverted the above claim of the complainant in any manner, but has pointed out that the complainant has defaulted in making timely payments and also cited few instances giving the details i.e. the date of issue of demand letter, the amount due and also date of making of the payment demanded, whether paid in full or in part or no payment made at all. The complainant has generally denied any delay in making of the payments as and when these were due.
- (ii) As far as making of delayed payments is concerned, the same is defined to be default in terms of Clause 1(j) of the agreement for sale date 20.06.2020 and in case the delayed payment is not cleared by the date mentioned in Cure notice, the same is categorized as terminable default vide Clause 1(Z) (ac) of the said agreement entitling the promoter to terminate the said agreement. Pertinently, clause 35 of the said agreement also provides that if any amount due and payable by the Purchaser/Allottee/s remains unpaid then the Owner/Developer/Promoter at its discretion and without prejudice to its other rights shall be entitled to adjust and satisfy such dues from any other amount paid by the Purchaser/Allottee/s or from any amount payable to the Purchaser/Allottee/s and adjust the account accordingly and in case still



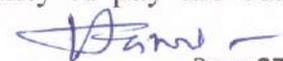
there are dues from Purchaser/Allottee/s shall raise demand accordingly. The said clause also provides that if a defaulting party completely cures the default within the stipulated period, the default shall then cease to be a default.

- (iii) It is further noted that the respondent apart from merely citing certain instances of delayed payments, has neither furnished any details of completion of respective milestones upon which the payment at various stages was contingent as per Fifth Schedule nor it has claimed interest liability if any. Further, the respondent has also not placed on record any document i.e. demand letter/cure notice specifying the amount due and interest claimed or any notice issued in case the default. The additional submissions submitted by the respondent on 20.03.2026 also does not provide any further details. Perusal of the said statement dated 20.03.2026 which is also accompanied with copies of tax invoice (demands) as well as the copies of the receipts corresponding there to; further reveals that neither any claim as to the interest liability with regard to delayed payments were made in the tax invoice nor there is any mention in the receipts stating that the payment received was only against the principal amount due. It is further relevant to note that, a note at the bottom of the tax invoice also states that dues not cleared in time will attract interest as stated in our agreement/application. It would also be expedient to refer to the provisions of section 19(8) of the Act which provides that the obligations of the allottee under sub-section (6) and the liability towards interest under sub-section(7) may be reduced when mutually agreed to between promoter and such allottee. Pertinently, the respondent has vide para 13 of its reply to complaint, has clearly stated that the possession was immediately handed over to the complainant once payments as per the terms of said agreement dated 20.06.2020 were paid. On the other hand, the complainant has pleaded that it had availed loan for the purchase of the subject property which operates on



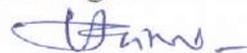
an automated system of fund disbursement by the said bank in favour of the respondent upon completion of the slabs in terms of the agreement dated 20.06.2020 and thus the allegation of delayed payment of consideration in fact amount to admission of delayed works by the respondent. In view of what has been observed herein above, the contention of the respondent as to delayed payments, is apparently not well supported with requisite details and documents and thus needs no further consideration.

- (iv) The respondent has further stated that an amount of Rs.2,16,594.74/- including interest (till 30.09.2025), was also still due in respect of maintenance charges from the complainant besides, an amount of Rs.29,084/- towards GST as well as house tax charges as per actuals. Further, the respondent had also claimed that the complainant would be liable to pay the requisite balance stamp duty amounting to Rs.4,700/-, registration charges amounting to Rs.1,47,120/- and nominal processing fee at the time of the registration of the sale deed. In this regard, the complainant has stated that despite the fact that allotment of covered parking and execution of sale deed were still awaited, the maintenance charges until the year 2023 have been paid by him corresponding to the time at which the Respondent is statutorily bound to register Deed of Sale with the complainant. The complainant further sought to plead that the respondent has been charging maintenance in excess of the amounts mentioned in the agreement without providing any explanation or breakdown and further that since no emails or invoices regarding maintenance charges were received from the respondent since 2023 hence no interest arises on the amount of the maintenance as being claimed. However, the complainant has not controverted the claim of the respondent as to amount due towards GST and also its liability to pay the house tax except that the same would be paid by him directly to Panchayat Authority. Besides, the complainant has also not objected to/ controverted in any manner its liability to pay the balance



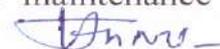
stamp duty, registration charges and processing fee as noted above and payable at the time of the registration of the sale deed.

- (v) It is noted that the complainant has not given any details to substantiate his claim as to the charging of maintenance in excess of the amounts mentioned in the agreement and also as to how the pendency of allotment of covered parking and execution of sale deed despite of his taking over the possession of the subject property sans the provision of a covered parking; impacts his liability to pay maintenance charges as noted under Section 19(6) of the Act. Pertinently, clause 14(1) of the agreement dated 20.06.2020 puts the liability to pay the maintenance charges on the purchaser/allottee with effect from the date of completion or date of possession whichever is earlier. However, it has been repeatedly held that the liability for maintenance of the unit purchased by the purchaser/allottee should commence from the date of handing over of the possession of the said unit after grant of occupancy certificate for the project. This is not only logical but appears to be appropriate in the instant case where the grant of occupancy certificate and handing over of the possession was delayed for more than a year (the date of obtaining the occupancy certificate and handing over of the possession as promised by the promoter respondent as per sixth schedule appended to the agreement, was on or before October 2020 and April 2021 respectively while actual date of issue of Occupancy Certificate and handing over of the possession are 07.01.2022 and October/ November 2022). It is further noted that while the complainant has stated that it was given possession in the month of October/November 2022, the respondent has not controverted the same. In view of what has been noted above, the liability to pay the maintenance charges by the complainant in the instant case would commence only from the date of handing over of the possession and any excess amount paid by the complainant would have to be refunded or adjusted against the amount of maintenance charges due on the part of the



complainant. Further, the interest liability of the complainant sustains as per copies of emails (placed on record) sent by respondent to the complainant claiming the maintenance charges and also the interest liability.

- (vi) The contention of the complainant that it has paid the maintenance charges as demanded, despite the pendency of allotment of covered parking and execution of sale deed, however appears relevant for ascertaining the total maintenance charges due and payable by him. The issue needs to be considered in the context of the definition of the '**Common Areas**' as available in clause 1(d) of the Agreement dated 20.06.2020 which states that the common areas shall mean the common general areas of the project plus the common parking areas of the project and also the common amenities areas of the project, the total of which is to be conveyed with proportional title to the purchaser allottee. Further the '**Common Parking Areas**' (clause 1(h)) has been defined to mean the aggregate parking area (open and covered at all levels) and which is to be conveyed with proportional title to the purchaser allottee. Keeping in view that the entire consideration for the subject property to which the right of use of covered parking slot is appurtenant, has already been paid by the complainant and a covered parking slot for the purpose is yet to be provided to the complainant and also the proportionate title of the same is also yet to be conveyed to the purchaser allottee; the liability of the purchaser allottee to pay the common area maintenance charges has to be proportionately reduced/ adjusted till the date of providing of one covered parking slot to the complainant for the right of use in terms of Third Schedule A(ii) of the agreement. Considering the fact that the common areas maintenance charges relate to the common general areas of the project, the common parking areas of the project as well as the common amenities areas of the project and the amount spent upon the maintenance of common general areas and common amenities area would ordinarily be higher than what is required for maintenance of common



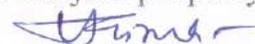
parking areas; it would be fair and reasonable to grant a rebate of 25% in respect of the common areas maintenance charges payable/paid by the purchaser allottee in the instant case till the date of providing of one covered parking slot by the Respondent to him as above.

- (vii) In above view of the matter and taking note of the fact that the possession of the subject property stands handed over to the complainant since October/ November 2022 without providing for one covered parking slot for right of use by the complainant ,it can be safely concluded that the complainant is liable to pay pending maintenance charges of Rs.2,16,594.74/- (as due till 30-09-2025) and also for the period upto the date of execution of sale deed and providing for one covered parking slot for right of its use by the complainant in terms of Third Schedule A(ii) of the agreement dated 20.06.2020;at the rate as applicable for the period 01.04.2025 to 30.09.2025 after deducting/ adjusting the amount of rebate of 25% and excess maintenance charges if any. Similarly, the complainant is also required to pay an amount of Rs.29,084/- towards GST as well as discharge its liability towards house tax charges as per actuals,by paying directly to Panchayat Authority or to the promoter for depositing the same with concerned authority, as the case may be. Further, the complainant would also be liable to pay the requisite balance stamp duty amounting to Rs.4,700/-, registration charges amounting to Rs.1,47,120/- and nominal processing fee at the time of the registration of the sale deed.

The point 'B' is answered in above terms.

22.Point No. C

- (i) At the outset, it is noted that as per the Sixth Schedule of the Agreement for Sale dated 20.06.2020, the possession of the subject property complete in all respects, was to be handed over to the complainant allottee, on or before April2021. It is also not contested that the possession of the subject property



has been taken over by the complainant in October/November 2022, sans the provision of one covered parking for the right of its use by the complainant in terms of the Third Schedule A(ii) of the said Agreement.

(ii) Evidently, the possession of the subject property taken over by the complainant in October/ November 2022 as against the promised date of on or before April, 2021; was not only delayed but being sans the provision of one covered parking for exercising the right of its use by the complainant, was also partial and incomplete to that extent. Besides, the completion of the project was also delayed as the completion certificate of the project was granted on 21.12.2021, after 08 months of the promised date of possession. Admittedly, the Respondent has failed to complete the project in time and also to hand over the possession of the duly completed subject property as it failed to provide one covered car parking for exercising the right of its use by the complainant till date and has thereby committed gross violation of the Agreement of Sale and obligations of a promoter as per the Act attracting liability under Section 18(1) of the Act. On perusal of Section 18(1) of the Act read with the proviso appended to it, it is clear that if Promoter fails to complete the project or is unable to deliver possession of the duly completed apartment, plot or building in accordance with the terms of the Agreement for sale to the allottee and the allottee does not intend to withdraw from the project which is the case herein, Promoter shall pay interest for every month of delay till the handing over of the possession, to Allottee at such rate as may be prescribed. Further, such delay in handing over the possession has to be assessed in terms of the Agreement for Sale.

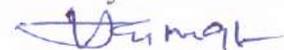
(iii) On the issue, Maha REAT vide its order dated 14.06.2023 in Appeal No. AT006000000133980 while observing that Section 18 of the Act specifically delineates the importance of Agreement for Sale for the purpose of assessing delay in handing over of the possession, referred to para 25 and 78 of the Judgment of Hon'ble Supreme Court in the case of M/s Newtech Promoters



and Developers Pvt. Ltd vs. State of Uttar Pradesh & Ors and vide para 15 of the said order further observed as follows:

“the Hon’ble Supreme Court in para Nos. 25 and 78 of its judgment dated November 11,2021, in the case of M/s Newtech Promoters and Developers Pvt. Ltd vs. State of Uttar Pradesh & Ors, (supra) dated 11th November 2021 has clarified that “if the Promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement, then, Allottee’s right under the Act to seek refund/claim interest for delay is unconditional & absolute, regardless of unforeseen events or stay orders of the Court/Tribunal.”

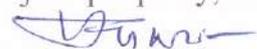
- (iv) A similar provision is also incorporated in clause 11.4(a) of the Agreement for Sale dated 20.06.2020. Thus, the promoter in the instant case is under a statutory obligation and bounden duty in terms of the provisions of section 18(1) of the act as well as clause 11.4(a) of the Agreement for Sale dated 20.06.2020, to pay interest for every month of delay, till the handing over of the possession of the subject property to the allottee. Pertinently, the right of the complainant to interest is a statutory right which has been held to be absolute and unconditional by the Hon’ble Apex Court.
- (v) It is further relevant to note that, the prayer of the complainant is limited to delay in allotment and handing over of possession of one covered parking (for exercising the right of its use by the complainant in terms of Third Schedule A(ii) of the agreement dated 20.06.2020) besides execution of sale deed of the subject property in favour of the complainant allottee. It is also relevant to note that the complainant despite being vested with the right to claim interest for delay under Section 18(1) of the Act, has neither made any submission seeking interest for delay in completion and handing over of possession of the subject property (possession of which was taken over by him sans the



provision of one covered parking in October/ November 2022 as against due date of April 2021) nor has apart from stating that it had already paid the entire consideration, submitted any details as to the payments made on respective dates etc. or the compliance of the requirements stipulated including clearing of all dues as per the agreement dated 20.06.2020 qua the handing over of the possession of the subject property. Strangely enough, while the complainant has claimed to have taken over the possession of the subject property in October/ November 2022 without mentioning a specific date, the Respondent has also not provided any specific details in this regard apart from stating that the possession was immediately handed over to the Applicant once payments as per the Agreement dated 20th June 2020 were made. Also while alleging delayed payments by the complainant, the respondent as already noted herein above, apart from merely citing certain instances of delayed payments, failed to provide requisite details to support its claim. Thus, neither the Complainant nor the Respondent has provided the requisite information which could facilitate further enquiry into the aspect of interest liability of either of the party. That being the case, the issue of liability of promoter to pay monthly interest for the period of delay in handing over of the possession of the subject property (possession of which was taken over by the Complainant sans the provision of one covered parking in October/ November 2022 as against due date of April 2021); cannot be considered any further at this stage.

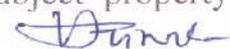
Further, the claim of the Respondent was also not found tenable as noted under point 'B' above.

- (vi) However, the issue relating to liability of promoter to pay monthly interest for the period of delay in providing for one covered parking which has been held to constitute an appurtenance to the subject property and thereby an integral and inseparable part of the subject property, could



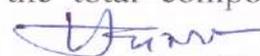
be decided to a substantial extent by assigning proportionate cost to the provision of covered parking (part of the subject property, of which the possession is yet to be handed over); and with the limited details as made available by the parties. As already noted in previous para, the possession of the subject property taken over by the complainant in October/ November 2022 as against the promised date of on or before April, 2021 and being sans the provision of one covered parking; was partial and incomplete to that extent. Further, as noted in the preceding para, the aspect of liability of promoter to pay monthly interest in this regard for the period of delay from 30th April, 2021 to 01.11.2022 (which could be deemed as date of possession since falling in the middle of the period October/November 2022 when the possession of the subject property was taken over partially by the Complainant); cannot be examined presently for want of details. It is however, feasible to decide the liability of promoter to pay monthly interest for the remaining period particularly when the claim of the complainant of having taken over the possession of the subject property in October/ November 2022, has not been controverted by the Respondent and who has also further confirmed the receipt the requisite payments due at the time of possession. Thus, it can be safely inferred that the interest liability of the promoter with regard to period of delay in providing for one covered parking would be for the period commencing from 01.11.2022 till the provision of one covered parking for exercising the right of its use by the complainant; is made by the promoter. The other related aspect in this regard is to ascertain the proportionate part of the total composite consideration relatable to the provision of one covered car parking.

- (vii) As held at para 14 (xiii) under Point No. A, the 'right to use one covered parking' constitutes an appurtenance to the subject property and thereby forms an integral and inseparable part of the subject property which



would get transferred with the sale of the subject property and thereby, the said right acquires an inherent value being attached to the subject property. It has also been held at para 14 above that a certain part of the composite consideration paid for the subject property is relatable to the provision of right to use one covered parking though no specific consideration is claimed to have been charged by the Respondent qua the 'right to use one covered parking'. Further, the said right on account of its nature itself must be of some value even at the allotment stage in as much as the total consideration charged for an apartment having such right, should ordinarily be higher than an apartment not having such right attached to it and thereby a proportionate part of the total composite consideration relatable to the expenses incurred for the provision of one covered parking; could be deemed to have been charged for the purpose.

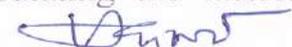
- (viii) A perusal of the clause 5 of the agreement dated 20/06/2020 reveals that the total consideration paid for the apartment is inclusive of the proportionate cost towards common areas and also the club membership charges, TCP and Panchayat charge, GED charges besides cost of the apartment. However with regard to the cost of covered parking, the fourth schedule dealing with the consideration payable states that the consideration with regard to the parking areas has been considered as nil. Further, none of the other provision of the said agreement dated 20.06.2020 states or even implies that the total consideration charged for the subject property or the overall cost of the project does not take into account the expenses incurred for the provision of the covered or open parking or explains the basis of the allotment of parking on an entirely gratuitous basis. It goes without saying that the provision of covered or open car parking cannot be made without incurring expenses on the land and development component of the same. In above view of the matter, it would be safe to infer that a certain portion of the total composite



consideration charged by/amount paid to the promoter, would be apportionable and relatable to the said right of use of one covered parking.

- (ix) It is relevant to observe that while as per the offer letter dated 30.11.2017, a cost of Rs.2,75,000/- was to be paid towards the exclusive rights to use car parking and the assertion of the respondent that it has not received any consideration either for sale or allocation of covered parking is well entrenched in various provisions of the said agreement dated 20.06.2020; the said agreement also does not provide any details so as to ascertain the amount paid as part of total consideration which could be deemed as relatable to the provision of the parking. Strangely enough, no criterion of allotment of open parking vis a vis covered parking and also the grant of exclusive right to use a covered parking; has been elaborated in any of the provision of the said agreement dated 20.06.2020 though the apartments of same type and location having the same carpet area would be priced differently based upon the type of parking allotted, at the stage of initial offer itself. That being the case, this forum was constrained to check the same through AI mode of Google search which in view of the information available at various websites; i has suggested the cost of a covered parking for a 2BHK apartment in Goa costing approximately ₹50 lakh should be in the range of ₹2 lakhs to ₹5 lakhs. Keeping in view the location of the project on highway and also the well developed markets and schools in the vicinity, I consider it appropriate to apportion a cost of Rs.3.5 lakhs out of the total consideration of Rs. 49,03,954+ GST etc. for the purposes of providing a dedicated covered car parking.

- (x) In view of above, it could be inferred that while the said cost of parking as noted above should form a reasonable basis for calculating the interest liability of the promoter in terms of section 18(1) of the Act of 2016, the relevant period of delay for the purposes of calculating the interest



liability of the promoter for delay in handing over of the possession of the part of the subject property (one covered parking qua the right of its use by the Complainant); would be for the period commencing from 01.11.2022 till the provision of one covered parking for exercising the right of its use by the complainant; is made by the promoter. Further, Rules 18 of the Goa Real Estate (Regulation and Development) (Registration of Real Estate projects, Registration of Real Estate agents, Rates of Interest and Disclosure on websites) Rules, 2017 prescribes the sale of interest payable by the promoter as follows:-

Rule 18 Rate of interest payable by the promoter and the allottee.—“The rate of interest payable by the promoter and the allottee shall be the State Bank of India highest Marginal Cost of Lending Rate (MCLR) plus two percent.”

Since the highest SBI MCLR as applicable on date happens to be 8.8% (revised since 15.02.2026) and as such, the interest on the amount to be refunded would be leviable at the rate of 10.8 %.

- (xi) In view of what has been discussed and noted herein above, the promoter in the above context, shall be liable to pay interest under Section 18(1) of the Act at the rate of 10.8% on an amount of Rs.3.5 lakhs for the period commencing from 01.11.2022 till the provision of a covered car parking is made available to the complainant, for exercising its rights to use the same.

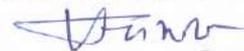
The point ‘C’ is thus answered in above terms.

23. Point No. D

- (i) Admittedly, the possession of the subject property sans the provision of one covered parking in terms of the provision of Third Schedule A(ii) was taken over by the complainant in October/November 2022, but the sale deed of the subject property is yet to be executed and registered. In this regard, the respondent has sought to plead that the complainant was yet to make the balance payment in respect of maintenance charges, GST and house tax and

also did not furnish the requisite documents to facilitate execution and registration of sale deed besides making the payments related to requisite balance stamp duty amounting to Rs.4,700/-, registration charges amounting to Rs.1,47,120/- and nominal processing fee. The respondent also claimed that it had sent an email to the complainant in November, 2022. However, it has not provided a copy of the same nor has even specified the exact date of the said communication. The plea of the complainant is that it has been continuously pursuing the matter of allotment of covered parking as well as execution of sale deed with the respondent and furnished copies of number of emails in this regard starting from 29.08.2023 till sometime before the filing of this complaint. The complainant also sent a legal notice dated 03.07.2024 to the respondent which was replied to by the respondent vide communication dated 24.07.2024. The complainant also submitted that non submission of documents by him is just an excuse on the part of the respondent as the soft copies of said documents were already submitted by the complainant at the time of registration of the Agreement for Sale dated 20.06.2020.

- (ii) As per the Gera's River of Joy Apartments Articles of Agreement executed between the complainant and the respondent herein on 20.06.2020 and further registered on 20.06.2020; the respondent was mandated to offer the possession of the subject property to the complainant allottee upon payment of the total amount due as per the said agreement and upon obtaining the occupancy certificate. As noted herein above the occupancy certificate for the project in question has already been granted on 07.01.2022. As held at point B(vii), the complainant is liable to pay Rs.2,16,594.74/- in respect of pending maintenance charges and interest thereon (as due till 30-09-2025) and also for the period upto the date of execution of sale deed and providing for one covered parking slot for right of its use by the complainant in terms of Third Schedule A(ii) of the agreement dated 20.06.2020, at the rate as

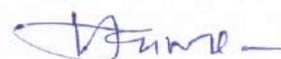


applicable for the period 01.04.2025 to 30.09.2025 after deducting/ adjusting the amount of rebate of 25% and excess maintenance charges if any. Similarly, the complainant is also required to pay an amount of Rs.29,084/- towards GST as well as discharge its liability towards house tax charges as per actuals, by paying directly to Panchayat Authority or to the promoter for depositing the same with concerned authority, as the case may be. Further the respondent had also claimed that the complainant would be liable to pay the requisite balance stamp duty amounting to Rs.4,700/-, registration charges amounting to Rs.1,47,120/- and nominal processing fee at the time of the registration of the sale deed. As the said payments related to registration charges and stamp duty has not been objected to/ controverted in any manner by the complainant; he would be liable to ensure that the said payments are made to the respondent atleast a week before the date of registration of sale deed as and when fixed.

- (iii) In view of the above, it is clear that once the complainant has paid total amount as noted herein above or the same has been settled after adjusting against the liability of the promoter to pay interest as noted at Point 'C' above, the respondent is liable to hand over possession of the subject property and also to execute sale deed of the subject property in favour of the complainant in terms of section 17 of the act.

Section 17 of the RERA Act reads as follows:-

“17. Transfer of title.-(1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate



project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.”

- (iv) Keeping in view the fact that the occupancy certificate for the project **“Gera’s River of Joy”** was granted on 07.01.2022 and the possession of the subject property sans the provision of one covered parking has already been taken over by the complainant in October/November, 2022, the Promoter is required to provide for a specific parking slots to complainant qua its right to use one covered parking in terms of Third Schedule A(ii) of the Agreement; within 15 days of receipt of this order without seeking any further payment from the complainant and thereafter execute a sale deed in terms of section 17 of the act in respect of the Unit No.T1-503, 5th floor, Block T1 admeasuring 59.90sq.mts. carpet area located at **“Gera’s River of Joy”** (subject property) in favour of the complainant as per the Agreement for sale registered on 20.06.2020 and also clearly mentioning therein the specific details of provision of parking slot specified for the complainant qua its right to use one covered parking as per Third Schedule; immediately and in any case within 45 days of the receipt/ adjustment of the balance due.

The point No. 'D' is thus answered in affirmative and in above terms.



24.Directions

In view of the findings arrived at in respect of various points of determination listed from para 14 to 17, it will be just to issue the following directions in the matter.

- (i) Since the Occupancy Certificate for the project “**Gera’s River of Joy**” was granted on 07.01.2022 and the possession of the subject property sans the provision of one covered parking has already been taken over by the complainant in October/November, 2022, the Promoter is required to provide for a specific parking slots by way of allotment/ handing over of the same to complainant qua its right to use one covered parking in terms of Third Schedule A(ii) of the Agreement; within 15 days of receipt of this order without seeking any further payment from the complainant.
- (ii) Further, the promoter shall be liable to pay interest at the rate of 10.8% on an amount of Rs.3.5 lakhs for the period of delay (in providing for a covered parking) commencing from 01.11.2022 till the provision of a covered car parking is made available to the complainant as above, for excising its rights to use the same in terms of Third Schedule A(ii) of the Agreement dated 20.06.2020; within 02 weeks from the receipt of this order or adjust/settle the same against the liability of the Complainant Allottee in respect of the balance due as noted in the succeeding sub para.
- (iii) It is directed that the Complainant within 03 weeks from the date of receipt of the order, shall pay to the Respondent Rs.2,16,594.74/- in respect of pending maintenance charges (including interest) as due till 30-09-2025 and also for the period upto the date of execution of sale deed at the same rate as applicable for the period 01.04.2025 till 30.09.2025, after deducting the amount of rebate of 25% and excess maintenance charges if any. Similarly, the complainant is also required to pay an amount of



Rs.29,084/- towards GST as well as discharge its liability towards house tax charges as per actuals, by paying directly to Panchayat Authority or to the promoter for depositing the same with concerned authority, as the case may be. Further the complainant would also be liable to pay the requisite balance stamp duty amounting to Rs.4,700/-, registration charges amounting to Rs.1,47,120/- and the processing fee or as per actual to the respondent atleast a week before the date of registration of sale deed as and when fixed. The complainant may also adjust/settle the amount due as noted herein above, against the interest liability of the promoter for delay in providing for a covered parking to the Complainant Allottee as noted at sub para (ii) above in case the same has not been done by the Promoter.

- (iv) Since the occupancy certificate in respect of the project **“Gera’s River of Joy”** as well as the subject property has already been granted on 07.01.2022, the respondent is directed in terms of Section 17 of the RERA Act, to execute a sale deed in respect of the Unit No.T1-503, 5th floor, Block T1 admeasuring 59.90sq.mts. carpet area located at **“Gera’s River of Joy” (subject property)** in favour of the complainant as per the Agreement for sale registered on 20.06.2020 and clearly mentioning therein the details of provision of specific parking slot provided for the complainant qua its right to use one covered parking as per Third Schedule; immediately upon settlement of dues by the complainant and compliance of the directions noted at sub para (i) above and in any case within 45 days of the receipt/ adjustment of the balance due as from the complainant.
- (v) The respondents are directed to file compliance report of this order in the form of an affidavit within sixty five days of receipt of this order, failing which further legal action will be initiated by the Authority under the RERA Act for execution of the order.



- (vi) It is noted that the complainant has already filed a separate claim before Adjudicating Officer for seeking compensation in this regard.


Virendra Kumar, IAS(Retd) 24/03/26
Member, Goa RERA