



GOA REAL ESTATE REGULATORY AUTHORITY

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F. No: 3/RERA/Complaint(450)/2024/1509

Date: 14/11/2025

Prashant Kaul
S/O SH. S.S KAUL
R/O. C-149, Dashrath Marg,
Hanuman Nagar, Jaipur,
Rajasthan-302021.

Through It's a.R./SPA HOLDER
Ms. Gopika Kaul
D/o SH. S.S.KAUL
R/O H.No. 46, Sector-37, Noida,
Uttarpradesh-201301

.....Complainant

V/s

1. M/s Ryago Homes Pvt. Ltd (Landowner)

Through its Director:-
Mrs. Neelam Nagpal
Regi.Office Address:-
61, Viarj Silverene CHS Ltd,
321, Hill Road opp Mehboob Studio,
Bandra (W) Mumbai- 400050

2. M/s Vianaar Infra LLP

(Promoter/Developer)
Through Its Partner
Mrs. Akshay Chaudhary
Regi. Office Address:
E-210/176, Khalap Waddo,
Canca, North Goa , 403510

.....Respondents


13/11/25

ORDER
(13/11/2025)

This Order shall dispose off the application dated 17/10/2025 filed by the Respondents under Section 35 of the RERA Act, 2016 seeking Cross Examination of the complainant (CW-1Gopika Kaul).

- 2) The Respondents has stated that, while preparing for final arguments it was noticed that the foundation of the Complaint filed under Section 31 of the RERA Act, 2016 is based upon the allegations that certain representations were made to the complainant Prashant Kaul vis-à-vis the carpet area and the garden area of the unit at the time of signing of Application form dated 09/03/2020 based on which the investment was made by the complainant and the complainant kept on paying as and when demands were raised by the Respondents. The complainant has now alleged that while the carpet area was reduced from 1845 sq. feet to 1350 sq. mts, the garden area of 985 sq. promised to be part of the villa under exclusive ownership of the complainant, turned out to be non-saleable. The Respondents further submitted that it has also been alleged that the Complainant kept on requesting the Respondents to adjust the amount which was taken on the pretext of selling garden area of approximately 985 sq. feet at the rate of 2000 per sq. feet and despite various emails the same was not returned to the Complainant due to which the Complainant felt cheated.
- 3) It was further submitted that the Respondents in its Reply had already raised preliminary objections on the ground that the Special Power of Attorney holder Gopika Kaul has never had any interaction/email correspondence with the employees of the Respondents at any point of time and as such Ms. Gopika Kaul certainly does not have personal knowledge of any transactions with respect to booking and allotment of



Villa No. 11 in the project La Verona and that the transactions made by Prashant Kaul with the Respondents relate to events which had occurred since February to March 2020 which are exclusively within the knowledge of Prashant Kaul and the Special Power of Attorney has been given to Gopika Kaul on 03/08/2024 only.

- 4) The Respondents further submitted that despite the aforesaid preliminary objections raised by the Respondents the original allottee (Prashant Kaul) did not take steps to file his Affidavit-in-Evidence and instead Evidence by way of Affidavit was tendered by Gopika Kaul (CW-1) as a Attorney of the Complainant who was appointed by executing Special Power of Attorney in order to institute and prosecute the proceedings before the Goa Real Estate Regulatory Authority since the executant is ordinarily not a resident of India. Further it is not even the case of the Complainant that the transactions with the Respondents vis-vis the said Villa were made by Gopika Kaul in her capacity as Attorney and as such said Gopika Kaul had absolutely no knowledge about the nature of the transaction or representation made by the Respondents even otherwise the POA was executed on 03/08/2024 i.e. after making 95% of payment to the unit and the issue of misrepresentation is made after more than 4 years of allotment.
- 5) Respondents thus submitted that, it is evident that the Affidavit-in-Evidence of said Gopika Kaul which is tendered by administering oath & verified by stating that the contents of the said affidavit are true and correct to the best of her knowledge is totally false and as such, the cross examination of CW-1 is necessary and expedient since the fact of alleged misrepresentation is based on averment of CW-1 who was not even party to the original transaction.
- 6) The Respondents also relied upon the decision of the Hon'ble High Court of Bombay in the matter of M/s. T. Bhimjyani Realty Pvt. Ltd.

vs. Mr. Vineet Sachdeva & Anr. in Second Appeal No. 321 of 2022 dated 25/10/2024 wherein at para 35, it was observed as follow:-

"Thus, Section 35 read with Section 38 clearly show that the Authority has wide discretion based upon the facts of a particular case to decide the matter in which the inquiry is to be conducted. Sub Section 2 of Section 38 clearly provides that the Authority shall be guided by the principles of natural justice, and the Authority shall have powers to regulate its own procedure."

Referring to the provisions of sec 38 of the Act and above cited judgment, the Respondent also sought to submit that though the Authority is not bound by the strict rigours of the CPC or the Evidence Act but has the same powers as are vested in a civil court under the CPC inter alia for the purpose of receiving evidence on affidavits or issuing commissions for the examinations of witnesses or documents.

- 7) The Respondents further stressed that, even if there is a delay in making the present Application, the same has to be considered and decided since the aspect of personal knowledge of CW1 (Gopika Kaul) to file the Affidavit-in-Evidence goes to the root of the matter. Further, there is an interim relief operating in favour of the Complainant whereby the Respondents have agreed not to create 3rd party right. Hence, no prejudice can be caused to the Complainant if the Application for cross – examination is permitted. Subsequently, the Respondents also submitted an application for amendment of prayers dated 22/10/2025 praying for rejection of the Affidavit-in-



Evidence filed by Gopika Kaul (CW-1) the same being in admissible in law under Order XIII Rule 3 C.P.C.

- 8) Opposing the Application, the complainant has submitted that there is no justified basis or reason to file this application at this belated stage, as the Respondents has not mentioned even single para or fact which can be brought on record only through cross examination particularly when entire complaint is based upon documents placed already on record which were never objected to by the Respondents rather they accepted each and every documents and also have been relying upon the same documents i.e booking form, allotment letter, statement of account, legal notice, various emails etc. It was further submitted that as the draft of sale deed, sent to complainant was different from the booking form and the Area assured was reduced to 1350 Sq feet from 1845 Sq feet and garden area was not only reduced to 930 Sq feet from 985 Sq feet but also without transfer of ownership right on the said garden area. Accordingly, a legal notice was issued to the Respondent. The issuance of said legal notice is also accepted by Respondents hence there is no such fact which is contrary to documents and all the documents in this case have been accepted by Respondents. Besides, the Respondents have also accepted the fact that they accepted booking and part payment even before registration of their project and also received more than 10% part payment before registration of ATS, that they changed the layout of the project without consent of complainant as well as other allottees and also that they first time offered possession on 29.04.2024, after delay of 9 month from the date of giving possession.
- 9) It was further submitted that the reference by the Respondents to the provision of the Section 35 of RERA Act, to support the instant application, is misconceived and misused with ulterior motive. The

complainant also requested the Authority to order investigation /inquiry in the affairs of the project in view of the similar irregularities in case of many of the allottees and further requested for expeditious disposal of the complaint praying dismissal of application made under section 35 of RERA act with heavy cost.

- 10) I have gone through the pleadings filed on record by both the parties and heard the Arguments.
- 11) Apparently, the only ground stated by the Respondents for seeking cross examination of the complainant is that the issues related to the carpet area and garden area were explained to the complainant Mr. Prashant Kaul in person between February to March 2020 when these transactions made by Prashant Kaul with the Respondents had occurred and are exclusively within the knowledge of Prashant Kaul. Further, the Special Power of Attorney has been given to Gopika Kaul on 03/08/2024 only. At this stage it would be relevant to refer to para 7,9,10&11 of the reply to the complainant submitted by the Respondents which relate to these issues and read as under:-

“7. The Respondents state that full & complete disclosure was made to the Complainant & Mr. Nauhar Rana about the 8. The Respondents state that the Complainant accordingly submitted Application Form dated 09/03/2020 which contained the following details of the unit.

Unit details:

- Unit Type: Villa
- Unit Number: 11
- Unit Area: 1835 sq. ft.
- Floor: Villa
- Garden/Terrace area: 930 sq. ft.



9. The Application Form further stated that “I/we understand that the Company shall allot me/us the Unit at a Basic Selling Price (BSP) of Rs. 2,20,00,000/- (Rupees Two Crores & Twenty Lakhs only)”

10. The Respondents states that the Complainant was further explained “Unit Area” is the “super built up area” which is the built up area of the property along with the proportionate area of the common areas and facilities in the residential project. ‘Garden/Terrace Area’ on the other hand is demarcated land adjacent to each villa that is being developed as a garden and which is for the exclusive use of the buyer, and not for the common use of other buyers.

11. The Respondents state that it was further clarified that Sale Deed could not be executed for the ‘garden area’ since it was already explained to the Complainant at the time of filing Application Form dated 09/03/2020 that the garden area is not a common area but the exclusive right to use area of the concerned Villa and that each buyer would have the exclusive right to use the garden and the ownership of all gardens will be with the villa owners in the form of ‘undivided interest’.”

12) Further, the complaint reveals that these issues were raised by the complainant based upon the booking form issued by the Respondents which has not been specifically denied by the Respondents. Pertinently, the Respondents has placed copies of number of emails exchanged between Shradha Mathur and the complainant Mr. Prashant Kaul to controvert these issues raised by the complainant. It is further relevant to add that, the Respondents have already filed reply to the complaint, rejoinder to the replication filed by the complainant and also the written submissions. Similarly, the complainant has also filed its pleadings including the written submissions. The complainant has already advanced



its arguments and the arguments of the Respondents have also been already heard in part. Pertinently, the Respondents, did not file any such application earlier and only preferred preliminary objections as part of its reply on merits to the complaint/ written submissions where it inter alia referred to various documents to controvert these issues.

- 13) In above view of the matter, the averments of the complainant that there is no justified basis to file this application at this belated stage as the Respondents has not mentioned even single para or fact which can be brought on record only through cross examination particularly when entire complaint is based upon documents placed already on record which were never objected to by the Respondents rather they accepted each and every documents and also have been relying upon the same documents i.e booking form, allotment letter, statement of account, legal notice, various emails, etc; cannot be brushed aside and appears relevant.
- 14) Evidently, adequate opportunities have been afforded to both the parties in terms of the Act. There are admittedly no grievances as far as production of all the documents and filing of submission by the parties is concerned. There is also no allegation that the principles of natural justice have not been complied with, in the present proceedings except that the instant application seeking cross examination of the complaint is sought to be premised to be necessary by the Respondent for achieving the factual clarity despite responding to the issues in question by relying on various documents. The materials on record and the documents produced by both the parties appear sufficient in deciding the complaint and therefore, the application is not warranted.
- 15) Further, the reliance placed by the respondents upon the decision of the Hon'ble High Court of Bombay in the matter of M/s. T. Bhimjyani Realty Pvt. Ltd. vs. Mr. Vineet Sachdeva & Anr. in Second Appeal No. 321 of 2022 dated 25/10/2024 with regard to the powers and discretion of the



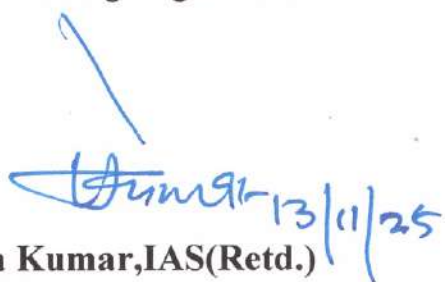
Authority under Section 35 & 38 of the Act is concerned, the same appears hardly of any help to the respondent as neither the applicability of the observations of Hon'ble High Court to the facts and circumstances of the present case; has been explained by the respondent nor it appears to be case otherwise.

- 16) Evidently, the RERA Act and the Rules including Rule 6 of the Goa Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine Payable, Forms of Complaints and Appeals etc.) Rules, 2017 do not provide for full-fledged trial with oral evidence and cross examination, unlike in the civil suits. The Hon'ble Bombay High Court in *Neelkamal Realtors Suburban Pvt. Ltd. vs. Union of India* (2018 SCC Online Bom 639) has held that RERA proceedings are summary in nature, distinct from civil suits. Even in Civil Suits the Hon'ble Supreme Court in *Newtech Promoters v. State of U.P.* [(2021) 10 SCC 263] observed that RERA is intended to be a special, expeditious remedy, and unnecessary procedural wrangles cannot be imported.
- 17) In the above context, it needs to be noted that Rule- 6 of The Goa Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of complaints and Appeal etc.) Rules, 2017 prescribe summary procedure for enquiry before this Forum. A bare reading of clauses (c) and (d) of sub rule-2 of rule-6 shows that the inquiry envisaged under rules is restricted to the documents and submissions only. This is also in consonance with the object of the Act for speedy dispute redressal. Thus, the instant proceedings are intended to be decided primarily on documentary evidence submissions made by the parties and both the parties have already filed their pleadings and placed on record their documents.
- 18) It is also well settled in the case of *The State of Maharashtra and another vs. Ishwar Piraji Kalpatri*, AIR 2002 Bom 423 that the party

have no vested rights to be tried by a particular procedure, so long as it does not interfere or alter with any of his vested or substantive rights. The Respondents therefore cannot have any vested right, other than the procedure contemplated under Rule 6 of the Goa Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine Payable, Forms of Complaints and Appeals etc.) Rules, 2017, according to which the complaint filed by the party for any violation under the Act or the rules and regulations made thereunder can be decided based on documents and submissions of the parties.

ORDER

In view of what has been observed herein above, it is apparent that the Respondents have failed to substantiate the basis on which they are seeking for cross examination of the complainant. Accordingly, the application filed by the Respondents seeking cross examination of the complainant stands dismissed. However, the Respondents are given liberty to file any additional submissions/documents if so required, by 23.11.2025 after serving a copy of the same upon the complainant and thereafter, the complainant would have equal opportunity for making any submission/filing of additional documents in next two days. The matter is thereafter fixed for final/concluding arguments on 27.11.2025.


Virendra Kumar, IAS(Retd.)
Member, Goa RERA