



## GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:3/RERA/Complaint (449)/2024/237

Date: 28/02/2025

### (BEFORE THE MEMBER SHRI VINCENT D'SILVA)

**Colva Civic and Consumer Forum,**  
Represented its President/Secretary,  
C/o Ms Judith Almeida/Ms. Shakuntala Mesquita,  
257/1, Bagdem, Ward 3, Colva,  
Salcete Goa- 403708.

.....Complainant

#### *Versus*

- 1. Ms. Sonia Lemos,**
- 2. Mr Tony Rodrigues**
- 3. T. R. Constructions**  
C/o T.R. Constructions,  
Fatima Chambers,  
F-1, Dr. A.B. Road,  
Panaji, Goa-403001.

.....Respondents

Ms. Judith Almeida along with Ms. Shakuntala Mesquita for the Complainant.  
Ld. Advocate Jonathan George for the respondents.

### **ORDER**

**(Delivered on this 28<sup>th</sup> day of the month of February, 2025)**

This order shall dispose of complaint filed under Section 31 of The Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the RERA Act').

2. Briefly stated, the case of the complainant is as follows:-

That there is a land under survey No. 119/2 with an area of 16725 sq.mts. at Colva, Salcete, partly a low lying land with contiguous water bodies, nalha and fields in the adjoining areas. The Complainant received an information of illegal land filling and as such immediately a complaint was filed with the Flying Squad and the site was inspected and a report was prepared that the activity was illegal and stop work order dated 10.10.2023 from the office of Deputy Collector, South Goa was issued for illegal land filling.

3. The Respondents have undertaken plotted development in two phases for a total area 16,725 sq. mts in Survey No. 119/2, Ward-I of Colva Village, Salcete and had allegedly sold the plots. There was no mandatory board at the site indicating the name of developer, licenses, and permissions etc., as per the rules. The Project is based on a proposed road of 6 mts. width towards the south and the existing access being only 3.50 mts. wide and to the north of the project, the existing access is only 4 mts. wide when the requirement of the proposed access is 10 mts wide. There are several houses and some boundary walls along both the main roads leaving no scope for road widening. A new internal road was constructed leading from the main road to the site, internal roads within the project under construction and sub-division of plots was marked on the ground.

4. That despite the contours of the land not supporting plotted development and lack of mandatory main access road, the TCP Margao in collusion with the respondents approved the plotted development land dated 20.04.2023. The respondents being in construction was well aware that they had not obtained prior permission for land filling or proper road access nor registered the project with the Real Estate Regulatory Authority prior to development of plots and sale of certain plots thus violating the rules of the said Act.

5. The Village Panchayat, Colva could not feign ignorance of the nature of the land, the requirement to obtain necessary land filling permission and proper road access, and went ahead and issued provisional license dated 17.07.2023. The respondents have obtained conversion sanad dated 06.07.2023 from the office of the Collector of South Goa. The respondents have repeatedly and blatantly violated the laws in force and failed to register with the RERA Authority and therefore, the sought reliefs as prayed.

6. The respondents no. 2 and 3 filed a reply inter-alia contending that the complaint is vague devoid of any specific allegations, without any merits and filed for the sole purpose of extorting money and harassing the respondents. The provision of Section 31 of the Act and the Rules and Regulations made thereunder is not applicable to the complainant as it has failed to show that it is an aggrieved person. The prayers in terms of Para 5 cannot be granted as they do not fall under



the ambit of the RERA Act and therefore, the Authority does not have jurisdiction to entertain or pass orders as prayed for. The complainant has approached the Authority with unclean hands without disclosing all the material facts relevant to the dispute.

7. The complainant do not have authority letter/sanction letter to show that the complainant has authorized Ms. Judith Almeida to file the present complaint and has failed to show any legally enforceable right existing in its favour. The respondents have obtained the necessary permissions on the basis of which the development of the land was being undertaken and therefore, the complaint has to be disposed of as respondent no. 1 has obtained all the permissions for undertaking the development. The respondent no. 1 has sold the land to respondent no. 2 and therefore, respondent no. 1 has no hand in the development.

8. The respondents due to inadvertent oversight and under bonafide belief that all the necessary permissions, licenses and approval for undertaking the development of the said land had been obtained, the respondent no. 2 proceeded with the sale of five plots within the said land to certain purchasers and at that time, respondent no. 2 was unaware of requirement to obtain prior registration under the provisions of RERA Act and the said oversight occurred despite respondent no. 2 making all the reasonable efforts to comply with the applicable laws and regulations including consulting legal and technical expert during the

development process and the failure to obtain registration was not intentional or motivated by any malafide intent and it was the result of honest misunderstanding regarding the applicability of RERA Act to the development and sale of plots within the said land and therefore, the respondent no. 2 initiated the process of obtaining requisite RERA registration certificate for the said project. The complaint therefore be dismissed.

9. Respondent no. 1 also filed a reply incorporating the same facts contained in reply filed by the respondent no. 2 and 3.

10. Argument heard. Notes of written arguments came to be filed by the complainant.

11. The points for my determination along with the reasons and findings thereon are as follows:-

Sr. No.	Points for determination	Findings
1.	Whether the complainant is entitled to direct the respondents to register the project with the Authority under Section 3 of the Act and consequential reliefs thereof?	In the affirmative.
2.	Whether the respondents prove that the complainant is not an aggrieved party under Section 31 of the Act?	In the negative

3.	What order? What reliefs?	As per final order.
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## REASONS

### Point no. 2

12. The above point is taken up as it touches upon the locus standi of the complainant in filing the present complaint under the RERA Act.
13. Ld. Advocate Jonathan George for the respondents has submitted that the attempt of the complainant to seek relief before the Hon'ble Authority is legally untenable as the complainant has failed to substantiate any legal right in its favour, besides the fact that there is no authority on behalf of said Ms. Judith Almeida to file the present complaint. The complainant has failed to plead and demonstrate the manner in which it has been aggrieved either in terms of the RERA Act or in terms of any agreement or sale deed. He further submitted that the explanation to Section 31 of the Act describe the term 'person' to include an association of allottees or any voluntary associations registered under the law. The complainant is neither an allottee, association of allottees or any voluntary consumer association registered under the law and therefore, the complainant has no locus standi to file the present complaint and in support thereof, he relied upon the case of *Dr. Yogesh Keshav Bele vs. Maharashtra Real Estate Regulatory Authority and Ors.* dated 25.08.2023 passed in Second Appeal no. 432 of 2023 by the Hon'ble High Court of Bombay.
14. On the converse, Ms. Judith Almeida for the complainant has submitted that no prior registration of the real estate project of plotted development has been undertaken by the respondents and with malafide intention attempted to circumvent statutory obligations without undertaking necessary prior registration of the real estate project. The locus standi of the complainant is clarified under



Section 31 of the RERA Act which states that any aggrieved person may file a complaint and the term 'person' under section 2(zg) includes the complainant herein. The complainant has produced on record a certificate from District Registrar (South)/Inspector General of Societies along with a resolution dated 20.12.2024 indicating that Ms. Judith Almeida, who is the President of the complainant forum is authorized to file proceedings before any Authority, Quasi-Judicial Authorities etc. The respondents having committed serious violations without prior registration have willfully and intentionally attempted to downplay in registering the project prior to development and sale of the plots.

15. Admittedly, Section 31 deals with filing of complaints by an "aggrieved person" with the Authority or the Adjudicating Officer for any violation or contravention of the provisions of the Act or the rules and regulations made thereunder against any promoter, allottee or real estate agent as the case may be. The explanation to Section 31 states that for the purpose of sub-section "person" shall include *the association of allottees or any voluntary consumer association registered under any law for the time being in force*. There is no dispute that the complainant is not an allottee or association of allottees, however the complainant has produced on record Certificate issued by District Registrar(South)/Inspector General of Societies, by which the complainant "Colva Civic & Consumer Forum" has been registered for the purpose of Section 3(B)(4) of the Societies Registration (Goa Second Amendment) Act, 1998 and the said registration is renewed till 20.11.2029, which is indication of the fact that the complainant is registered as 'voluntary consumer association' and is duly registered under the law for time being in force.

16. The complainant is therefore has a locus standi to file the complaint on behalf of the consumers/general public, it being voluntary consumer association

and therefore would encompass a 'person' whose right as an Consumer Association as per the Act has been infringed. The complainant cannot be said that it is unconnected or unrelated or that it is not an aggrieved person for the purpose of Section 31(1) of the RERA Act. The complainant is not a stranger but has satisfactorily shown that it falls within the category of 'aggrieved person' and therefore, it is covered by the RERA Act and hence, is entitled to take recourse to Section 31(1) of the RERA Act. The submission of the Ld. Advocate Jonathan George as stated above therefore cannot be accepted having any merits. Hence, the above is answered in the negative.

**Point No. 1 and 3**

17. The complainant has prayed for the following reliefs in Para 5 (i) to (x):-
- i) Direct the authorities to revoke all permissions, licenses etc.
  - ii) Direct the Dy. Collector Salcete and the TCPD to take action against the respondents as per laws in force for failing to obtain mandatory permissions prior to land filling activities.
  - iii) Initiate proceedings against the TCP officials for failure to inspect the site and the Dy. Town Planner, Margao for issuing approvals for plotted development without checking the contours and nature of the low lying area and lack of mandatory road access.
  - iv) Initiate proceedings against the Village Panchayat for failure to inspect the site and the Dy. Town Planner, Margao for issuing approvals for plotted development without checking the contours, nature of the low lying area and lack of mandatory road access.
  - v) Initiate criminal proceedings against all the officials including the Dy. Town Planner, Margao of the TCPD involved for dereliction of duties.



- vi) Initiate Criminal proceedings against the V. P. Colva for dereliction of duties.
- vii) Initiate criminal proceedings against the respondents for willfully violating the (RE (R & D)A 2016)
- viii) Conduct a thorough enquiry and take action under the Act.
- ix) To impose penalty as per laws in force on the Developer for not registering under RERA as per Section 3 of the Act.
- x) If the complaint is genuine to reimburse the fees paid by the complainant with costs.

18. The main grievance of the complainant is that the respondents have clandestinely developed and sold some of the plots without registering the project with RERA under Section 3 of the Act. Section 3 of the Act reads as follows:-

“(1) No promoter shall advertise, market, book, sell or offer for sale or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act.”

19. The Hon'ble Apex Court in Para 33 of *M/s. Newtech Promoters and Developers Pvt. Ltd. vs. State of UP & Ors. Etc* has observed that under Chapter II of the Act 2016, registration of real estate projects became mandatory and to make the statute applicable and to take its place under sub-section (1) of Section 3, it was made statutory that without registering the real estate project with a real estate regulatory authority established under the Act, no promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner a plot, apartment or building, as the case may be in any real estate project but with the aid of proviso to Section 3(1), it was mandated that such of the projects which are

ongoing on the date of commencement of the Act and more specifically the projects to which the completion certificate has not been issued, such promoters shall be under obligation to make an application to the authority for registration of the said project within a period of three months from the date of commencement of the Act. With certain exemptions being granted to such of the projects covered by sub-section (2) of Section 3 of the Act, as a consequence, all such home buyers agreements which has been executed by the parties inter se has to abide the legislative mandate in completion of their ongoing running projects.

20. Admittedly, the respondents have not registered with the Authority with respect to the project in which the respondents are carrying out plotted development of an area of 16,725 sq. mts. The respondents have admitted that out of 19 plots, 05 plots have been allotted under the consent terms and 05 plots have been sold without prior registration and the remaining have been unsold in the project by name 'Infant Jesus Royal Estate Phase-I' situated at Colva Village, Salcete, Goa under Survey No. 119/2. The respondent no. 2 filed an application for registration of the project on 25.01.2025 much after filing of the present case by the complainant on 30.10.2024. The respondents have willfully attempted to downplay that it was due to inadvertent oversight that they had not undertaken to register the project prior to the development and sale of plots, oblivious of the fact that respondent no. 2 had already registered a project under no. PRGO08211364 on 17.08.2021 titled 'Residential/ Group Housing' at Village Taleigao (og) (part) in North Goa with RERA and therefore, the claim of the respondents that due to honest misunderstanding they have not registered the project cannot be accepted. The respondents have suppressed the said fact of previous registration in the written statement filed by the respondents, although the respondents had filed for registration before the Authority on 17.08.2021 with respect to residential/group housing at Taleigao.



21. Needless to mention, it is mandatory for a promoter/builder to submit various documents enumerated in sub-section (2) of Section 3 for seeking registration of real estate project. If any person markets or sells plot or apartment in an unregistered project, it contravenes provisions of Section 3 of the RERA Act. The respondents have admitted that the said project has not been registered albeit unintentionally and that they have filed the application on 25.01.2025. It is also admitted by them that some plots have been sold, however no such details have been furnished by the respondents. The respondents have also not produced anything on record, although it is claimed that the Civil Judge Junior Division, Margao in RCS no 260/2017/C passed an order dated 07.09.2022 by which the parties have agreed to settle the matter by way of consent terms. However, it is unclear as to the area and number of plots actually granted under the consent terms to the parties.

22. Be that as it may, the fact remains that the respondents marketed and sold various plots to the unknown parties in an unregistered project and that application to that effect has been filed only after the complainant brought to the notice of the Authority regarding violation of Section 3 of the Act. The complainant is liable to maintain the complaint under Section 31 of the Act for compelling the respondents to comply with the provisions of the RERA Act and for punishment for non registration under Section 3 read with Section 59 of the Act. Section 59 of the Act states that:

“(1) If any promoter contravenes the provisions of Section 3, he shall be liable to a penalty which may extend up to ten per cent of the estimated cost of the real estate project as determined by the Authority”. The failure to register the project amounts to violation or contravention of provisions of RERA Act which can be punished under Section 59 of the Act.



23. The complainant is an 'aggrieved person' as discussed above. Even otherwise, it is well settled that the Authority does possess "suo motu" powers under the RERA Act, meaning thereby that it can initiate investigations or proceedings on its own accord without the formal complaint, particularly when it suspects non compliance with the Act or its regulations by a Promoter or a Real estate agent under Section 35 of the RERA Act, which allows the Authority to call for information or conduct inquiries based on its own assessment of the situation. The said powers are intended to ensure effective regulation of the real estate market by allowing the RERA to proactively address potential issues without waiting for a complaint to file. It is well settled in the case of "***Praveen Chhabra versus Real Estate Appellate Tribunal*** dated 26.05.2022 by the High Court of Delhi that the powers exercised by the *Authority* under Section 35 can be set in motion either on a complaint or by the Authority on its own motion when the mandatory provisions for registration of the project under the RERA has not been complied with.

24. In the instant case, the respondents have admittedly not registered the project as per Section 3 of the Act and have sold various plots to unknown purchasers without prior registration with less than 50% of the project left to be sold till the filing of the complaint. The respondents have willfully and intentionally attempted to downplay that it was due to oversight that they have not undertaken to register the project prior to development and sale of plots when the respondents themselves have registered a project on 17.08.2021 before the RERA Authority. The respondents have also raised various issues including jurisdictional bar, improper forum, improper prayers and that the complainant have no authority to file the complaint or that they have no legally enforceable right existing in its favour. It is also averred that the complainant filed the complaint merely for a fishing expedition for the sole purpose of extorting money from and harassing the

respondents, when the respondents themselves have violated the provisions of the Act, which is a serious lapse punishable under Section 59 of the Act.

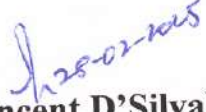
25. The complainant is however not entitled for reliefs as mentioned in Para 5 (i), (ii), (iii), (iv), (v), (vi) & (vii) of the complaint as they are not within the ambit of the Act nor the Authority has powers to grant the said reliefs as the granting of the above reliefs lies elsewhere. However, it is entitled for the reliefs as referred in Para 5(ix) and (x) of the complaint, namely (ix) to impose penalty as per law in force on the developer for not registering under RERA as per Section 3 of the Act and (x) for reimbursing the fees paid by the complainant along with cost. In short, besides payment of costs to the complainant, the respondents are liable to pay penalty under Section 59 of the RERA Act for contravening the provisions of the Act and also directing them not to proceed with marketing, booking, selling or offering for sale any plots from the said project namely "Infant Jesus Royal Estate Phase-I" situated at Colva Village, Salcete Taluka, Goa under Survey No. 119/2 till the said project is registered with the Authority. The complainant has therefore made out a case for the reliefs claimed. Hence, the above points are answered accordingly.

26. Having said so, I pass the following:-

**ORDER**

- i. The complaint stands allowed.
- ii. The respondents shall not proceed with marketing, booking, selling or offering for sale any plots from the said project namely "Infant Jesus Royal Estate Phase-I" situated at Colva Village, Salcete Taluka, Goa under Survey No. 119/2 till the said project is registered with the Goa Real Estate Authority established under the Act.

- iii. The respondents are directed to pay an amount of ₹. 5,00,000/- (Rupees five Lakhs only) before the Authority within 60 days of the passing of the order as penalty under Section 59 of the RERA Act, failing which necessary proceedings will be initiated against the respondents under the law in force.
- iv. The respondents shall pay a sum of ₹1,00,000/- (Rupees One Lakh only) as costs to the complainant.
- v. The respondents are directed to file compliance report of this order in the form of an affidavit within sixty days of this order, failing which further legal action will be initiated by the Authority under the RERA Act for execution of the order.

  
**(Vincent D'Silva)**  
**Member, Goa RERA**

Panaji, Goa.  
Date: 28.02.2025