



GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:4/RERA/Adj. Matters (121)/2024/695

Date: 09/06/2025

BEFORE THE ADJUDICATING OFFICER

Mr. Prakash Balkrishna Naik,

s/o late Balkrishna Naik,

aged 68 years, married,

Retired, Indian National,

R/o Flat no. 607, 6th Floor,

Elements by Shantilal Co-Op

Housing Society Ltd.,

Near Joggers Park, Chicalim,

Mormugao, Goa, 403711.

.....Applicant

Versus

M/s Shantilal Real Estate Services,

Represented by partners,

1. Mr. Ashwin Cholera,

2. Hemant Cholera,

C/o 301, 3rd Floor, Anand Trade Centre,

Next to MMC building,

Vasco Da Gama, Goa 403802.

.....Respondent

Ld. Advocate Shri Narayan Pai representing the applicant.

Ld. Advocate Shri Parag Rao alongwith Ld.Adv. Shri Ajay Menon and Ld.Adv Meghana Naik for the respondent.

ORDER

(Delivered on this 9th day of the month of June, 2025)

The applicant filed the present application in Form 'B' against the respondent stating that he is a bonafide member of Elements by Shantilal Co-Op Housing Society Ltd. and Owner of all that Flat bearing no. 607, admeasuring an area of 109.93 sq. mts. of super built up area, situated on the 6th floor of building known as Elements by Shantilal at Chicalim, Mormugao, Goa.

2. That, the applicant entered into an agreement for sale dated 02.03.2019 for an amount of Rs. 44,50,000/-. Further, the applicant stated that first year after handover of the possession of the said flat it was noticed that there were several issues with the said flat, majority being the problem of leakages and dampness. That the issues of the said flat was brought to the notice of the respondent on several occasions, but despite several communications, the respondent has only shown moonshine concerns towards the issues.

3. The applicant stated further that the respondent only provided false assurance that the team of NINA Percepts Pvt. Ltd. who are concerned with respect to waterproofing of the entire building would rectify all the leakages problems as they have provided a 10 years warranty period for the work of water proofing done in the said project. That however, till date nothing has been done either by the respondent or Nina Percepts and that respondent started



blame game. The respondent being the builder/ developer giving inexcusable reasons time and again smacks lack of integrity in completing the promises which has resulted in complete despair, chaos and distress to the applicant.

4. The applicant further stated that in the year 2020 after formation of the co-operative Housing Society, the same was brought to the notice of the society and it was learned that similar issues are faced by many co-operative owners/ members of the society and major concerns of dampness and water leakage was all over the said building especially in the common area of society. The applicant further stated that to find a permanent solution and to know the extent of defect in the said premises the applicant hired a professional expert i.e. MACJ, a home Inspecting agency to assess the nature and extent of defect and damages after the assessment by home expert the applicant was shocked to know that within a span of a year there were serious defect pointed out to such an extent that if not rectified soon it could lead to further damage and collapse.

5. The applicant stated further that despite completely being aware of the seriousness of defect till date the opposite party has failed to take any steps to rectify the defects and the opposite has only managed to provide false assurances that the defects will be rectified by Nina Percepts but except for an inspection till date nothing is done. The applicant further stated that that act of the respondent of negligence, structural defects, use of sub-standard material for construction and shedding away from their responsibility of being responsible in



complying statutory obligations under the RERA Rules only makes it crystal clear that the respondent has failed in performance of their part of promise and is guilty of deficient services, unfair trade practice and negligence.

6. The applicant thus seeks compensation as under:-

(a) Order directing the respondents to pay an amount of Rs. 10,00,000/- (Rupees Ten Lakhs only) to the applicant which shall include the cost of repairs and as damages for mental torture, harassment and as a deterrent.

(b) Costs

(c) Any other order as deemed fit.

7. The respondent in their Affidavit-in-reply at exhibit 484/c has stated that there is no cause of grievance and that there were some minor teething issues in some of the other flats in the said project, which though did not qualify as 'defect' under the Act of 2016, however were promptly rectified by the respondent and as a measure of goodwill and by way of abundant caution, the respondent carried out grouting in balconies and toilets of all flats. That the respondent has had no occasion whatsoever to carry out any further repairs or rectifications as no issues that could qualify as leakages and dampness with any corroborative material whatsoever were reported to the respondent by the applicant except when the applicant communicated the issue of minor seepage from electrical conduits, which although did not qualify as a defect under the



Act of 2016 as a measure of goodwill by the respondent was rectified at the specific request of the applicant. Further that the applicant had only made vague claims, which were without any merit. That the report of Dr. K. G. Gupta along with the photographs clearly establishes that there are no leakages/ dampness in the said flat.

8. The respondent further stated that the amount indicated in the report of Rs. 29,000/- (Rupees Twenty Nine Thousand only) exclusive of tax in any case is exorbitant, assuming while not admitting the status of the flat is as reflected in the report. Further that in the absence of the actual status of the flat as on the date of filing of the complaint, such stale reports and stale photographs cannot be relied upon by this Hon'ble Authority, to arrive at a finding that there are damages, cracks, leakages and dampness in the flat or in the areas indicated in the photographs as on the date of the filing of the complaint, in fact, the report produced by the respondent indicates that there are no leakages, seepage as on the date of filing of the reply by the respondent. It is specifically denied that the act of the respondent of negligence, structural defects, use of sub-standard material for construction, and shedding away from their responsibility of being responsible in complying with statutory obligation only makes it clear that the respondent has failed in performance of their part of promise and is guilty of deficient services, unfair trade practices and negligence.



9. Both Parties filed their Affidavit- in –Evidence. During the proceedings, both the parties alongwith their respective Ld. Advocates, voluntarily and amicably settled the matter amongst themselves by filing duly signed Content Terms which are reproduced as under:-

CONSENT TERMS

“1.The applicant has received from the respondent, the sum of Rs. 50,000/- (Rupees Fifty Thousand only) vide cheque No. 000449 dated 04.06.2025 drawn on I.C.I.C.I. Bank towards full and final settlement of all demands/ grievances that the applicant has or has had in respect of the Apartment/Flat no. 607, which is the subject-matter of the present application/ complaint.

2. The applicant declares, accepts and admits that upon receipt of Rs. 50,000/- (Rupees Fifty Thousand only), the applicant has no claim whatsoever in respect of Apartment/ flat no. 607 against the respondent, and there are no claims pending in respect of Apartment/ Flat no. 607 before any other forum/ Court.

3. The applicant state that in light of receipt of the sum of Rs. 50,000/- mentioned hereinabove, the applicant discharges the respondent from all claims and demands in respect of the said flat forever i.e. for the present as well as for the future.

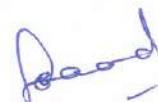


4. The applicant states that he shall himself, through his representative, heirs etc. or through the society, not raise any claim whatsoever either in respect of the said apartment or the said project.

5. The parties agree that the respondent has filed Writ petition No. 767/2024 [re-numbered from W.P. No. 2142/2024 (F)] before the Hon'ble High Court of Bombay at Goa challenging the Order dated 27.09.2024 to the extent that it directs the respondent to pay Rs. 20,000/- (Rupees Twenty Thousand only) to the applicant. The applicant has no objection whatsoever if such direction is quashed by the Hon'ble High Court of Bombay at Goa and the applicant undertake to give such no objection when the matter comes up before the Hon'ble High Court of Bombay at Goa.

6. The parties agree that upon execution of these terms, neither party shall file any litigation against each other with regards to the subject-matter contained in the present application/complaint nor any matter connected hereto.

7. The parties declare that the settlement has been arrived at by the applicant of his own volition and is free from force, coercion and pressure. Similarly, the decision makers of the respondent has arrived at settlement of their own volition, free for force, coercion and pressure.



8. The applicant and respondent jointly pray that the present matter may be disposed of by passing a Consent Order in terms of the present Consent Terms.”

10. I have perused the records and the above consent terms which has been filed by respective parties along with their Advocates, and I am satisfied that the Consent Terms have been filed voluntarily. As such, I pass the following:-

ORDER

In view of the consent terms above at exhibit 521/C, and duly signed by the parties along with their respective Ld. Advocates, I am satisfied that the parties have settled the matter voluntarily and amicably between themselves and the Consent Terms at exhibit 521/C, filed by the parties are accepted and the application in Form “B” for compensation filed by the applicant stands disposed off as per the aforesaid Consent Terms. Proceedings closed.


09/06/2025
(Sayonara Telles Laad)
Adjudicating Officer,
Goa RERA