



GOA REAL ESTATE REGULATORY AUTHORITY
101, 1st Floor, 'SPACES' Building, Plot No. 40, EDC Patto Plaza, Panaji Goa 403001
www.rera.goa.gov.in

Tel: 0832-2437655; e-mail: goa-rera@gov.in
F. No: 3/RERA/Complaint(497)2025/208 Date: 09/02/2026

Mr Shane Francisco Dias
H. No. 531/2, Ribeiro Vaddo,
Socorro, Porvorim,
Bardez, Goa-403501.

Complainant

V/s

M/s Infinity Developers Pvt. Limited,
Through its Directors/ Authorized persons
Mr. Rahul Ramesh Shah, Authorised person
Mr. Ramesh Sumermal Shah, Project Member
Having office at A-203, Peninsula Corporate Park,
Ganpatrao Kadam Marg,
Lower Parel, Mumbai,
Mumbai City, Maharashtra-400013 **Respondent**

Ld. Adv. Sanjana Kakodkar for the Complainant.
Shri Alistar DSa Representative for Respondent's Company
along with Adv Ashish Jadhav from K C & Partners for
Respondent.

ORDER

(Delivered on this 9th day of the month of February , 2026)

1. The complainant/ applicant in this matter is one Mr. Shane Francisco Dias, who has identified himself as a 'developer', involved in construction of villas in the State of Goa. In his

K

capacity as a complainant, the complaint is directed against the promoter/respondent M/s Infinity Developer Private Limited, in particular project name “Co Exist Phase II” bearing RERA Goa registration no. PRGO08190805. Though a developer himself, yet in this particular matter he seeks the status of an ‘allottee’ having paid Rs. 5 lakh (booking), Rs. 2 Lakh (cash) on booking on 18.10.2016. He claims further transfer of Rs. 4,07,778/- (on 02.04.2019), Rs. 9,09,777/- (on 08.07.2019) and Rs. 3,03,259/- (on 04.01.2020). Thereafter, on 09.01.2020 a sum of Rs. 1,50,000/- was paid for car parking ‘7A’. The unit, in issue, was/is a 1BHK unit no. 202 admeasuring 73 sq. mts. super built up area and, unit measuring 54.88 sq. mts. on 2nd floor of ‘G wing’ in the project “Co-Exist”. That respondent had informed total consideration payable towards the said unit was Rs. 30,32,594/- under completion of 4th slab. Of which, as on date, complainant has paid Rs. 24,72,814/-. A Tax Invoice dated 13.12.2019 issued by Infinity Developer to Mr. Shane Dias is cited at Annexure 2 of the Complaint. It is noted that the narrative begins by mentioning 1BHK unit measuring 73 sq. mts. and unit measuring 54.88 sq. mts, however all mutual correspondence between complainant

and respondent discussed in subsequent paragraphs - consolidate the entire dispute into one unit.

2. Thereafter, the complaint narrates the manner in which the dispute unfolded, as follows:-

(a) The complainant states that concerned by the lack of activity on the said property, the complainant began to call and question the representatives of the respondent with regard to the development of the said property. However till date the complainant has not received any satisfactory replies.

(b) Then, the complainant began to send emails requesting the respondent for details with regard to the completion date and possession date of the said project and also details of the RERA registration and other details. (*It is noted Annexure 3 Colly is a detailed listing of exchange of emails from 01.01.2019 and upto 17.05.2025.*)

(c) The complainant states that the respondent began giving promises and assurances that the said project would be completed by 31.12.2022. The complainant states that the complainant believing the said assurances agreed to patiently wait for the completion of the said unit as the complainant's money was blocked with the respondent.

(It is noted that part of the assertion, in timelines, are covered by emails cited, part of time gaps are attempted to be inferred.)

(d) The complainant thereafter states that, by emails, the respondent under one excuse of the other, began to delay the construction and completion of the said project, thereby completely frustrating the complainant.

(e) The complainant then states that the respondent has failed to deliver on the promises and assurances given by the respondent to the complainant. The complainant states that till date, even after paying more than 75% of the consideration amount, no Agreement for Sale has been executed by the respondent in favour of the complainant.

(It is noted that no documentary evidence of a MOU or Agreement to Sell or other document generally listed in RERA framework or even pre RERA real estate framework, contemporary to the time of start of the transaction in 2016, is provided.)

(f) The complainant states that from the year 2019 till date, the complainant has given many reminders and notices to the respondent with regard to completion of the said project and the handing over of possession of the

complainant's apartment, however the respondent has failed miserably to act on the same.

3. Complainant then, in the above context, explains his decision to cancel the booking, as follows:-

(a) The complainant states that being frustrated by the excuses created by the respondent and his representatives, the complainant decided to cancel the booking of the said apartment and requested the respondent to refund the booking amount exclusive of GST. (*Emails dated 30.01.2025, 24.04.2025 and 25.04.2025 are on record.*)

(b) The complainant states that the respondent came forward and agreed to cancel the said booking and shared via email dated 25.04.2025, draft letter of cancellation. However the amounts reflected in the said letter as compared to those actually paid by the complainant were incorrect. The complainant states thereafter the respondent have stopped responding to the complainant and have not taken any further steps in the said matter. (*Emails dated 05.05.2025, 13.05.2025 and 17.05.2025 are on record.*)

(c) The complainant states that neither was the money of the complainant refunded nor further steps taken to cancel the said booking of the complainant. (**Emails as above are on record.**)

(d) The complainant states that the complainant addressed legal notice dated 15th June 2025 to the respondent thereby narrating the facts and withdrawing the request for cancellation of booking and refund of booking amount exclusive of GST (**Copy on record**).

(e) The complainant states that in said legal notice dated the complainant called upon the respondents to (i) give a time bound schedule for the delivery of possession of the complainant's apartment, (ii) pay the complainant an amount of Rs. 9,00,000/- (Rupees Nine Lakh only) as damages and compensation for delay in completion of the complainant's apartment from 01.01.2023 till date and an amount of Rs. 30,000/- (Rupees Thirty Thousand only) for every subsequent month of delay with interest at 18% per annum, (iii) pay the complainant an amount of Rs. 10,00,000/- towards loss in opportunities, mental stress and torture that are direct result of the conduct and the manner in which the respondent has dealt with the matter,

within a period of 15 days from the date of receiving the said notice, failing which the complainant would be compelled to initiate appropriate proceedings in the competent court of law.

4. The immediate/penultimate sequence, leading to filing of this complaint, is narrated in the complaint as follows:-

(a) The complainant states that the respondent through their lawyer (Adv Nidhi Jain) replied to the said legal notice of 15th June 2025 vide a reply letter dated 03.07.2025 (**Copy on record**). The complainant states that the respondents in the said reply to notice called upon the complainant to execute necessary documents to cancel the booking of the said apartment and inform the complainant that the respondents were ready and willing to refund an amount of Rs. 23,22,814/- (**Email on record**.)

(b) The complainant states that the complainant thereafter contacted a representative of the respondent with regard to the said notice reply, however the complainant was orally informed by the said representative that there were no instructions on the same.

(c) The complainant states that thereafter the complainant through his friends, lawyers, etc., began digging into the

affairs of the respondent, and found multiple irregularities with the respondent's business.

(d) The complainant states that as per the RERA website, the RERA extension permission of the said project expired on 30th September, 2024.

(e) The complainant states that the respondent has not updated their construction license or technical clearance with this authority and the same is shown as expired on the website of this Authority.

(f) The complainant thus concludes by asserting that in view of the above "the complaint is forced to cancel the said booking and is filing the complaint.

5. It is noted that the reading of emails dated 30.01.2025, 17.04.2025, 21.04.2025, 24.04.2025, 25.04.2025, 30.04.2025, 05.05.2025, 13.05.2025 and 17.05.2025; it appears that the complainant and the respondent, voluntarily, had arrived at a 'settlement' outside the RERA framework, in the following terms, as captured on a unsigned letter draft dated 25/04/2025, submitted by the complainant:

- (a) Apartment booking on 17.10.2016
- (b) Complainant made payment amounting to Rs. 22, 28,

793/-


(c) "As per our mutual understanding our booking stands cancelled".

(d) That after the refund Rs. 22,28,793/-, complainant will have no claims whatsoever pertaining to the apartment.

(e) That complainant will surrender the parking No. 7A.

(f) That the complainant will surrender his allotment cum invoice letter dated 13.12.2019.

(g) Complainant shall not initiate or claim any further compensation.

(h) Complainant would forfeit his full right pertaining to the subject.

6. The complainant states that the cause of action for the present proceedings arose on 15.06.2025, when the complainant issued legal notice to the respondent and the cause of action is recurring in nature, thus the said complaint is within the period of limitation. The complainant states that the complainant has not filed any other complaint with regard to the said cause of action or similar cause of action before this Commission or any other Commission.

7. The complainant filed the initial complaint on 31.08.2025. Thereafter he filed an application for amendment on 25.08.2025 and was so permitted. The amended complaint

with requisite documents/notarized were taken on record on 25.08.2025. Thereafter a notice was issued to the respondent on 25.08.2025. **In parallel, the complainant has filed for relief with the Adjudicating Officer.**

8. The reliefs sought are :-

- (i) That this Hon'ble Authority by judgment/ order direct the respondent to compensate the complainant to the tune of Rs. 9,00,000/- for delay in completion of complainant's apartment from 01/01/2023 till 30/06/2025 with interest @ 18% p.a. of the said amount and an amount Rs. 30,000/- p.m. for delay in completion of the complainant's apartment from 01/07/2025 till refund of the complainants amount along with interest @ 18% p.a. of the said amount.
- (ii) That this Hon'ble Authority by judgment/ order direct the respondent to compensation the complainant to the tune of Rs. 10,00,000/- with interest @ 18% p.a. towards loss in opportunities, mental stress and torture that are a direct result of the conduct and the manner the respondent has dealt with the matter from the date of the said legal notice dated 15.06.2025.

F

(iii) That this Hon'ble Authority by judgment/ order direct the respondent to refund the amount of RS. 24,72,814/- with interest @ 18% payable from 01/11/2023 until the date of payment.

(iv) Any other orders in the interest of justice.

9. The notice to the respondent was issued on 22.08.2025. There was delay in service of notice and finally in the Roznama noting of 03.10.2025, the complaint delivery was noted. On 10.10.2025 the authorized representative of the respondent company was present. A rejoinder was filed on 07.11.2025. Sur-rejoinder was filed on 20.11.2025. on 28.11.2025 arguments were heard. Both parties indicated that an attempt is on to reach a settlement and it was so recorded in Roznama of 28.11.2025.

REPLY OF THE RESPONDENT DATED 22.10.2025.

10. The Respondent challenged and disputed the claim of the complaint being an “allottee” within the meaning of Section 2(d) of RERA in the said project.

11. That complaint was using RERA Format to harass and to extort.

b

12.(a) That complaint is not maintainable as it does not conform to the prescribed format of *[Rule 6 of Goa Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable Forms of Complainants and Appeal etc.) Rule 2017]*.

(b) Citing an Order of Maha RERA in “*Soaniya Malempati vs. Pinnacle Vastunirman Private Limited dated 28.02.2025 in complaint no. CCI2401208* in which the Maha RERA dismissed inappropriately formatted complaint in the following terms:-

“10. The Authority noted that the Order No. 11 of Maha RERA dated 23.10.2019 pertaining to directions for filling of complaints specifically states that the complaints are to be filed in accordance with the provision of Section 31 of the said Act read along with Rule 6 and 7 of the said rules. It also states that if the complaints are not filed in accordance with Order No. 11 of MahaRERA dated 23.10.2019 then the same shall be liable for dismissal on the preliminary ground of maintainability.

11. In the current scenario, the complaints at Sr. No. 1 and 2 are not filed in the appropriate format as a result of which it is difficult to adjudicate and ascertain the veracity of the claims sought by the complainants.....”

13. That, the complainant in 2016 had approached the respondent company with an intention to invest in respondent's real estate project i.e. “Co- Exist Phase II”. The aim was to earn appropriate returns on such investment. That

the complainant has/was acting solely as an investor in the project.

14. This is evidenced further by the fact that the complainant by his own submissions and documents submitted, did not seek the issuance of an allotment letter and, nor was any Agreement for Sale executed between the respondent and complainant.
15. The tax invoice dated 13.12.2019 was issued in favour of the complainant but not as evidence of 'allotment' but done by respondent in 'good faith and with a view to safeguard the complainants investment in the project'.
16. That complainant has paid a total amount of Rs. 22,03,959/- till date as an investment and had chosen to stay as investor 'to enjoy hefty profits on successful completion of the project and not to accommodate the subject flat'.
17. That consistent with and in time the complainants approach as an investor, despite repeated request by the respondent, the complainant chose not to register the Agreement for Sale nor asked to issue Allotment Letter. Thus in pursuant of a hefty profit, even decided to evade the obligation of paying Stamp duty and registration charges.



18. That RERA recognizes only “the end user of the product as an allottee”. As complainant had purchased to further resale is thus not an ‘allottee under Section 2(d) of the RERA Act’.

19. Accepting that the payment of Rs. 5Lakh was made on 18.10.2016, it was nevertheless before RERA was enacted. Further at this stage it was a-priori to the sanction by Deputy Town Planner which was granted on 13. 04.2017. Further, the Construction License was issued only on 27.05.2017. The respondent therefore asserts that booking or payment made prior to grant of Commencement Certificate cannot confers the status of an allottee under Section 2(d) of the RERA Act.

20. That refund and interest cannot be granted as no agreement for sale is executed between complainant and respondent as per Section 18 of the RERA Act. In absence of Agreement for Sale and complainant’s status being that of an ‘investor’, the reliefs sought are not admissible. Citing the Section 18 of the RERA Act, the respondent asserts that not only there is no agreement for sale but no possession date was ever agreed between complainant and respondent since complainant was an investor and respondent RERA registration has not been revoked. To buttress their

contention, reliance was placed on Maha RERA in the case of "*Raj Mailaram vs. Lucina Land Developers Ltd.*" wherein it was observed that:-

"Since no Agreement for Sale has been executed and registered between the parties, provisions of Section 18 of the said act does not apply".

21. The respondent then resists the allegation of 'delay' in completion of the project and the complainant's prayer for payment of interest on account of "*unique factors, facts, circumstances, reasons, external causes, policy paralysis, no cooperation from the statutory authorities, Government Departments and force majeure situations*". And, that, in the prevailing real estate market in Goa, any order for payment of interest or refund of the investment would adversely impact the project and other innocent homebuyers.

22. Respondent thus raises the defense of conduct of complainant in the following terms:-

- (a) From 2016 complainant never came forward to execute the Agreement for Sale.
- (b) Sought cancellation of unit only in January 2025
- (c) Thus unexplained delay of 09 years in approaching RERA and,
- (d) Thus barred by time limitation

(e) That as an 'investor' complainant was fully aware of day-to-day affairs of the company.

(f) Had good investor relationships with the company and had access to all documents.

23. With this background respondent raises the substantive Bar of Article 54 of Limitation Act, whose time is in such facts would be 03 years. Respondent cites Hon'ble Supreme Court ruling in the case of "**K. Raheja Constructions Ltd. & Anr. v. Alliance Ministries & Ors. [1995] Supp (3) SCC 17] and T. L. Muddukrishna & Anr. v. L. Ramchandra Rao [1997] 2 SCC 611**", that any suit or proceeding seeking specific performance or similar reliefs must be filed within three (3) years from the date fixed for performance, or, where no such date is fixed, from the date on which the plaintiff first has notice of refusal or default.

24. Thereafter, respondent has cited:-

(a) Hon'ble Bombay High Court in Neelkamal Realtors case i.e. "It is possible that a genuine promoter, after making good efforts is unable to complete the project within the time stipulated at the time of initial declaration or under extended period. Considering the extent of power conferred on the authority under Section 7, we need to put up a harmonious construction on the provision of Section 6 of RERA. The law confers powers under Section 7 on the authority, in the larger public interest to regulate the real estate sector. The authority shall be entitled to take into

consideration reasons and circumstances due to which the project could not be completed within the extended aggregate period of one year as prescribed under Section 6. We, therefore, find that a balanced approach keeping in view the object and intent of the enactment and the rights and liabilities of promoter and allottee in larger public interest is to be adopted. The authority would exercise its discretion while dealing with the cases under Sections, 6, 7, 8 read with Section 37 of RERA."

(b) Hon'ble MREAT in its order dated 06.07.2020 in M/s. Theme Infra project Pvt. Ltd. Vs. Mr. Jitendra Shamdasani observed at page 12, 13, and 14 as :-

"RERA being an Act enacted for promotion of real estate sector, we feel that there is need to adopt a pragmatic approach favourable to the promoter where delay is not inordinate and the same occurs for reasons which are considered to be beyond control of promoter as per the terms of agreement.

It is unreal and too simplistic to assume that every real estate project once started would be completed like a mechanical process exactly on the agreed date/time without considering intervening odds beyond control of the developer. In our view, in such times concerned Authority needs to take a compassionate view at least to the extent of delay which is not caused due to own fault of the developer."

25. Respondent summarizes his defense in the following terms:-

(a) The complainant is not an allottee, as neither an Agreement for Sale has been executed nor an Allotment Letter issued in their favour. Consequently, the provisions of RERA are not applicable in the present case. Therefore, on this ground alone, the complaint is liable to be dismissed.



(b) The complainant has failed to prove violation by the respondent of any of the provision of RERA making this complaint liable to be dismissed.

(c) It is pertinent to note that Section 18 of RERA, 2016 grants interest only in event if date of possession is breached and/or discontinuance of business of the promoter, however, the complainant failed prove any of the aforementioned criteria.

(d) The complaint is time barred and hence liable to be dismissed.

(e) The complainant cannot be permitted to withdraw at this belated stage from the project since that would jeopardize the cash flow of the project and harm the completion of the same.

(f) The complainant is only an investor and not the end user of the Apartment, and therefore is not an Allottee or Consumer but a trader/ investor.

REJOINDER BY COMPLAINANT

26. In the rejoinder dated 05.11.2025, the complainant primarily reiterated his position in the complaint. The complainant reiterates that in the email correspondence, in particular email of 29.08.2019, 12.08.2021, and 13.08.2021, the

respondent clearly acknowledges the complainant as an allottee, seeks his consent as an allottee to ask for extension of registration of project, gives a schedule of payments, receives the payments, thus it conclusively establishes the complainant's status as an 'allottee'. The respondent has mischievously not come forward to execute Agreement for Sale and therefore cannot be permitted to take advantage of his own misdoings and breach, thus the correspondence between the parties and the letters would constitute the agreement between the parties.

27. Denying the allegation of evasion to sign the Agreement for Sale, citing Section 13(1) of the RERA Act, the complainant asserts that it is the sole responsibility of the respondent to sign the Agreement for Sale and not to accept more than 10% of the consideration. In this case, the respondent has received 75%.
28. Asserts that, complaint is in RERA format and denies exhibit 'A' of the respondent.
29. Writ judicial rulings cited by respondent, converse rulings of Maha RERA are cited at Para 24(a) and 24(b).

SUR-REJOINDER BY RESPONDENT

30. The respondent re-asserts his original reply/position as at Para 24(a) and 24(b) above.

31. Respondent invokes the observation of the Hon'ble Supreme Court in "*Mansi Brar Fernandes vs. Shubha Sharma and Anr.*", which held that:-

"18. Issue no. 1- Speculative Investors 18.1. The determination of whether an allottee is a speculative investor depends on the facts of each case. The inquiry must be contextual and guided by the intent of the parties. Indicative factors include: (i) the nature and terms of the contract; (ii) the number of units purchased; (iii) presence of assured returns or buybacks clauses; (iv) the stage of completion of the project at the time of investment; and (v) existence of alternative arrangements in lieu of possession. Possession of a dwelling unit remains the sine qua non of a genuine homebuyer's intent."

32. The respondent further relied upon the judgment of the Hon'ble Bombay High Court in "*Jagruti Rajesh Shah & Anr. vs. Mahek Developers & Ors., [2022 (3) ALL MR 648J*", which held that:-

"In the absence of sanctioned plans, commencement certificate, and demarcation of the specific unit, a reference to a future contract does not create any enforceable right. Such an agreement is merely to secure investment and is not a concluded contract."

Inaccurate/ incomplete citation in the documents of the Respondents

33. And whereas, during the course of proceeding on 09/01/2026 it was observed that, the para quoted by the Respondent with

respect to citation “**Jagruti Rajesh Shah V/s Mehek Developers & Others**” [2022(3)ALL MR 648] in the Affidavit in Sur rejoinder is not available on the copy of judgement produced. Further the para quoted in the judgement “**K Raheja Constructions Ltd V/s Alliance Ministers**” [(1995) Supp (3) SCC17] & “**T.L Muddukrishna & another V/s L Ramachandra Rao**” [(1997)2 SCC 611] cited in Affidavit in Reply is not furnished. The Respondents were asked to provide a clarification in this matter or remove the said citations from their submission on the next hearing.

34. On 10/01/2026 this office received an email from Adv Ashish Jadhav from KC & Partners informing that he is withdrawing his appearance for the respondents in the said matter before Goa RERA.

35. On 16/01/2026, during the hearing the respondents failed to provide any clarification in the said matter and submitted that the matter may be decided on the present status of the existing documents.

ISSUES

36. (1) Whether complainant is an allottee or an investor?

(2) Even if an allottee, whether time barred?

(3) Even if not time barred, is the complainant wrongly formatted?

(4) Impact of non-availability of an Agreement for Sale on Section 18 of the RERA Act.

- (5) Whether the respondent's explanation of facts leading to "delay" in project completion, justified to weigh in on the authority's decision on interest?
- (6) Exact amount that has been paid, including claim of cash?
- (7) Reliefs to be granted.

Issue (i): Whether complainant is an "allottee" within the meaning of Section 2(d) of RERA or, an investor?

37. It is noted that the email and other documents submitted by complainant and respondent are not being denied-but their 'meaning' is contested. The respondent has attempted to invoke the Apex Court recent ruling in "*Mansi Brar Fernandes*"(supra) to state that a legal categorization has come into being i.e. of an 'investor'. Respondent emphasizes the missing core documentation i.e. Agreement for Sale, recognized and mandated by RERA, coupled with the fact that the complainant has admitted that complainant is a builder by profession and therefore cannot make a credible claim of not knowing the RERA requirement or, for that matter even pre-RERA real estate transactional framework, which would establish a buyer-seller relationship ab-initio. Thus he hopes to foist his narrative of this being an

‘investor’-‘promoter’ relationship-not coverable under RERA.

38. The complainant emphasizes on ‘Tax Invoice’ dated 13.12.2019, emails dated 29.08.2019 and 12.08.2021, wherein the respondent specifically admits the complainant as an ‘allottee’; respondent seeking complainant’s ‘consent for extension of project’ and, upfront non-disclosure (at time of registration) of pre-existing relationship between complainant and respondent as an ‘investor’, if it was not an afterthought. In any case RERA, has no statutorily defined categorization of an ‘investor’. Thus all in all, it makes the ‘complainant’ clearly an ‘allottee’ with the meaning of Section 2(d) of RERA.

39. The Apex Court ruling cited mandates that the enquiry as to determination of “speculative investor” must be contextual and guided by the intent of the parties (Para 31 refers). The complainant’s conduct despite indicative of irresponsibility, if not ‘collusive’ behavior, yet cannot weigh in to deny the status of an ‘allottee’, with the RERA framework providing a sheet anchor to the complainant case. The respondent’s own conduct and documentation works towards the same. The statutory scheme of RERA does not delineate the

category of “speculative investor” from definition of someone who otherwise qualifies to be an “allottee”.

Further, as per the Explanation given under Section 14 the Real Estate (Regulation and Development)Act, 2016.

“For the purpose of this clause, the allottees, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, etc., by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.”

40.(A) Therefore, on issue no.1, the complainant status of an ‘allottee’ is taken as legally deemed.

40 .(B) However this determination, must necessarily come with the “**Rights and Duties of allottees**” in **Chapter V** of **RERA and in particular Section 19(6), (7) and (8).**

40. (C) Under the heading of “Rights and duties of allottees”, Section 19(6) casts an obligation on allottees, inter alia to make necessary payments as specified in the Agreement for Sale. Section 19(7) creates a liability on allottee to pay

✓

interest at such rates for delay as mentioned in Section 19(6).

Section 19(8), then concludes this string of clauses to state:

“The obligation of the allottee under sub-section (6) and the liability towards interest under sub-Section (7) may be reduced when mutually agreed to between the promoter and such allottee.”

40. (D) It is noted that none of the document on record mentions this converse liability of the complainant, qua an allottee.

41. As the ‘Tax Invoice’ [Refer to Para 46 below] is the document being relied upon now in this rulling, to confer a ‘deemed’ status of an allottee to the complainant in lieu of Agreement for Sale, the converse obligations of an allottee, therefore, are to be read with the facts and circumstances of the case.

Issue (2): Is the complaint time barred?

42. The respondent places emphasis on the 09 year delay with effect from the coming into being of the cause of action i.e. in 2016. Respondent emphasized on various emails in which the complainant shows knowledge of RERA framework, uses it as a ‘threat’/‘ultimatum’, but only files the complaint in 2025. Invoking Section 54 of the Limitation Act (see Para 23 above), respondent raises the bar of 03 year being the statutory limitation period. The complainant relies on RERA

being a self contained code, having no explicit timeline barring a complainant to file a complaint, while the project is still ongoing. The continuous exchange of e-mails/correspondence, right upto an agreement of cancellation in May 2025/ and then 03/07/2025 (by way of a reply to the legal notice), is a fair basis to conclude that the transaction/cause of action remains continuous and ongoing (voluntarily from both sides) since 2016 and, thus, the issue of a time bar of limitation does not arise.

Issue no. 3: Impact of non-availability of Agreement for Sale on invoking of Section 18?

43. Respondent has cited a Maha RERA ruling in the case of *“Raj Mailaram vs. Lucina Land Developers Ltd,”* wherein it was observed that:-

“Since no Agreement for Sale has been executed and registered between the parties, provisions of Section 18 of the said act does not apply”.

44. Complainant conversely has cited Maha REAT ruling in *Appeal no. AT 004000000031625 of 2019 in Sachin Tomar and Shivaji Tomar vs. Ensaara Metropark Luxora Infrastruture Pvt. Ltd. dated 01.03.2024.*

45. The Maha REAT ruling comprehensively assessed somewhat similar facts and, conclusively held:

(a) The Maha RERA's decision to deny applicability of Section 18 in absence of Agreement for Sale suffers from infirmity.

(b) Citing its own ruling in the case of '*Jyoti K. Narang and Anr. vs. CCI Projects Pvt. Ltd. in (appeal no. AT10841)*' and the Hon'ble Bombay High Court ruling dated 30.08.2021 in the case of '*The Bombay Dyeing & Manufacturing Company Limited vs. Ashok Narang and Ors.*' which in para 41 had held that

".....Section 18 read with Section 2(c) of the Act of 2016, which defines an agreement for sale in terms, do not provide for the requirement of a written agreement for sale..."

(c) That bare reading of Section 18(1) of the RERA Act also shows that:

"If the promoter fails to complete or is unable to give possession.

(a) In accordance with the terms of the agreement for sale or as the case may be duly completed by the date specified therein;"

(d) Thus it concluded that Agreement for Sale need not be in writing & any other document containing requisite contents of the Agreement will suffice.

46. Accordingly, the 'Tax Invoice' detailing a schedule of payment, email informing the complainant of RERA

registration, email seeking consent of complainant for promoter approaching RERA for extension of project-all combine yields the scenario envisaged in Para 42(d) above, for the present case. This is further reinforced by the 2025 e-mail exchanges, working out a mutually agreed settlement (which eventually did not pan-out) even before the parties approached RERA.

47. Thus, with regards to issue no. 4, Section 18 of the RERA Act will continue to operate even in the absence of Agreement for Sale in the instant case.

Issue no. 5: Whether the respondent's explanation of facts leading to "delay" in project completion, justified to weigh in on the authority's decision on interest?

Issue no. 6: Exact amount that has been paid, cash component in particular?

48. Respondent has raised this as an argument in the alternative, in case his other pleas fail to muster approval. Primarily the point being that the Authority has legitimate space to consider factors which reflect bonafide attempt on the part of the promoter for timely completion and thus take a non-mechanical view on quantum of interest to be

imposed. Promoter raises the concern of it having an adverse impact on project finances and derailed the project further putting other bonafide 'allottees' at risk.

49. Respondent merges his previously held position that complainant resisted any attempt at documentation and stubbornly refused to sign Sale Deed/Agreement for Sale etc. Respondent uses this as an argument of classifying complainant as an 'investor' which has been determined in Para 40 above.

50. From the evidence which has unfolded- (documents submitted by complainant have not been disputed by respondent), some key issues/facts crystallize which may have bearing on the issue of relief determination.

51. Thus:-

(a) Without doubt, a vital starting document i.e. Agreement for Sale is absent. Even pre-RERA, the contract law which occupied the field should law led to creation of a contract or Memorandum of Understanding or an Agreement for Sale or any document of such nature.

X

(b) From 2016 to 2019 all evidence is oral.(apart from cheque payments where evidence emerges via Tax Invoice in 2019).

(c) From 2019 to 2025-email exchanges and 'Tax Invoice' are the documentary evidence-which do show a mutually agreed sequence of dates/events. They indicate active knowledge of RERA framework by the complaint, yet unfold de-horing RERA.

(d) With regards to the amounts paid, the 'TAX INVOICE' dated 13.12.2019 is a reliable/conclusive document. The cash component does not find a mention. It fixes the value to the property as Rs. 30,32,594/- and stages of construction based payment schedule confirms receipts of Rs. 19,25,534/- (on 13.12.2019) out of receivable of Rs. 22,43,957/. Vide email of 30.01.2025, the complainant finally consolidates his refund to Rs. 23,22,814/- (including for car parking and Rs. 2 lakh in cash).

(e) Technically, the complaint by his own admission has not paid the full value of the flat and has stopped after paying 75%, as per his own admission. Vide email

dated 30.01.2025 the complainant initiated a process of cancellation:-

"After speaking to your office in Goa and getting confirmation from head office I would like to cancel my booking of apartment no. 202 on the second floor of the G wing of your project namely Coexist.

As you know the prices have doubled since the time I booked the said flat and it would be beneficial for both of us if the above matter can be resolved amicably. You will get much more in value for the said apartment and I will get my principal back (without any claims for interest).

(f) Vide email dated 21.04.2025, respondent agrees that:-

"We are willing to refund the amount as per your email received, we will share you a draft cancellation agreement and immediately close the transaction."

Vide email dated 24.04.2025, the Complainant responds:-

"Yes I am willing to take the refund and move ahead. Can you please expedite the process."

Vide email dated 25.04.2025, Respondent states:-

*"Kindly find attached herein the draft of the cancellation letter as requested.
Requesting you to confirm the same at the earliest to expedite the process of refund and cancellation and booking."*

(g) Thereafter, complainant on 25.04.2025 raises the issue of amount refundable i.e. Rs. 23,22,800/- and alleges that the respondent account shows the amount to be

refunded as Rs. 22,28, 792/- which is “Rs. 1 lakh less.”

(h) Respondent vide email dated 05.05.2025 confirms as:

*“This is no delay tactics.
We will be sending the chqs in this week to Goa.
Alister will call you close the formalities.”*

52. The ‘Tax Invoice’, is the crucial document which worked in favour of the complaint in this dispute. Thus, it has to be accepted in its entirety as it is the nearest document which has some semblance to the details which generally an Agreement for Sale contains (see Para 46 and Para 51(d) above). Accordingly, the amount paid is to be taken as Rs.23,22,814/-.

53. Coming to the issue of final financial relief, the evidence clearly and conclusively shows that the transaction, by self conduct of both complainant and respondent, dehors the full glare of the RERA framework. A mutually agreed settlement; voluntarily done; with no use of uneven power by the promoter (the complainant himself being a builder/developer in Goa); will always have an important value in such unusual facts to be placed/ read/ evaluated into the RERA framework .

54. In this regard Section 19(8) in particular refers. This has been discussed at Para 40(A), to 40(D) above. The fact that such a settlement could work was also indicated by the counsel for the complainant (Roznama Order dated 28/11/2025). It was not explicitly denied by the counsel for respondent. Accordingly, time was granted to both, to settle the issue as per agreed terms. However, it appears that respondent was not indicating a firm next step to achieve such a closure. The gap of Rs. 1 Lakh or so remained the hurdle.

55. Thus, in the totality of fact and circumstances, the amount of refund agreed to i.e. Rs. 23, 22, 814 (see Para 51(f) and 52 above) should be an equitable finding to conclude this aspect of the dispute, especially as it ensures that neither side is permitted to take advantage of their respective lapses and conduct. Further any calculation of interest must also reckon with 25.04.2025 i.e. the date on which the respondent agreed with the cancellation terms. In case of default the respondent will be liable to pay interest at the rate of 10.80% w.e.f 25/04/2025 (Email date) till payment of refund.

★

56. On 22/12/2025, the counsel for the Respondent remained absent however Shri Alister D Sa Authorized representative of the Company remained present and submitted that he is not in position to comply the Roznama dated 28/11/2025. Adv. Sanjana Kakodkar submitted that there was no progress in the settlement and requested for an order.

57. Accordingly I pass the following order

ORDER

(i) The respondent is directed to refund the amount of ₹23,22,814/- (Rupees Twenty Three Lakhs Twenty Two Thousand Eight Hundred and fourteen only) to the complainant, within a period of 30 days, from the date of this order. In case of default the respondent will be liable to pay interest at the rate of 10.80% as per the Real Estate Regulation and Development)Act, 2016 and RERA Rules w.e.f 25/04/2025 till payment of refund.

(ii) The complainant is at liberty to apply for appropriate compensation before the Adjudicating Officer in the manner as provided under this Act.

K

(iii) During the course of the proceedings, it was noted that the complainant has claimed to have paid a total amount of Rs.2,00,000/- on 18/10/2016 and Rs. 1,50,000/- for parking slot in cash to the respondent (as per email dated 30/01/2025) sent by complainant to the respondent. Accordingly, the matter needs to be referred to Jurisdictional Income Tax Authority as per Circular No. 1/15/2025-FIN(BUD)/17782, dated 19/05/2025 issued by Department of Finance, Goa and for taking further action as required in terms of the direction issued by Hon'ble Supreme Court of India vide its judgment in Civil Appeal No.5200 of 2025 (The correspondence, RBANMS Educational Institution vs B. Gunashekhar & Another) dated 16.04.2025. The Secretary Goa RERA is accordingly directed to issue an appropriate communication to the above effect enclosing there with a copy of this order and also the certified copy of email dated 30/01/2025 in respect of the total amount claimed to have been made in cash by the Complainant to the Respondent to

jurisdictional Income Tax Authority for taking further action as required in terms of the direction issued by Hon'ble Supreme Court of India vide its judgment in Civil Appeal No.5200 of 2025.

- (iv) The respondent is directed to file compliance report of the order in the form of an affidavit within 60 days of this order, failing which further legal action will be initiated by the Authority under the RERA Act, for execution of the order.



Dharmendra Sharma, IAS (Retd.)
Chairperson, Goa RERA