



GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:3/RERA/Complaint (467)/2025/324

Date: 27/02/2026

(BEFORE THE MEMBER SHRI VINCENT D'SILVA)

Mr. Milind V. Shankhwalker,

Age: 58 years,

R/o H.No. E-123, Nr. J. B. Stores

Fontainhas, Panaji, Goa, 403001.

.....Complainant

Versus

1. Ashvem Spa and Resorts Private Limited,

Represented by its Director,

Mr. Verner Velho,

Age: 55 years

H.No. 183/2, Sonar Bhat,

Verem, Bardez, Goa, 403109.

2. Adwalpalkar Constructions & Resorts Pvt. Ltd.,

Represented by its Director,

Shri Mahesh R. Adwalpalkar,

Age: 69 years

Having office at Adwalpalkar Avenue,

St. Inez, Panaji, Goa-403001.

.....Respondents

Ld. Advocate Shri Pritesh Shetty for the complainant.

Ld. Advocate Shri N. P. Kamat along with Ld. Adv. Smita Gawas for
respondent no. 1.

Ld. Advocate Shri M.S. Joshi along with Ld. Advocate Shri Hirbarao Rane Sardesai for respondent no. 2.

ORDER

(Delivered on this 27th day of the month of February, 2026)

This is a complaint filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016.

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

The complainant is a Chartered Accountant intended to purchase a residential premises. The respondent no. 1 approached the complainant offering a unit in the project "Ashvem Spa and Resorts" and had offered to sell a residential premises admeasuring 143 sq. mts. or thereabout for a consideration of ₹50,05,000/-. The respondent had informed the complainant that the project was in the process of getting registered with RERA and also obtaining necessary permissions from various authorities for construction, etc. as such the complainant accepted the offer and an agreement for sale dated 31.03.2015 came to be registered before the Sub-Registrar.

3. The complainant had paid the entire agreed consideration to respondent no. 1 at the time of registering of the said agreement and as per clause 3(a) of the agreement dated 31.03.2015, the respondent

no. 1 was under an obligation to complete and deliver the residential premises within 30 months from the date of signing of the agreement with an extension of only 06 months however, the respondent no. 1 failed to fulfill the statutory obligation of registering the project with RERA or intimating the allottee within the prescribed time. The respondent no. 1 also failed to construct and deliver the residential unit within the agreed timeline, thereby breaching the terms of the agreement.

4. The complainant has recently discovered that the respondent no. 1 had entered into an agreement for development and construction dated 20.04.2015 with respondent no. 2, which fact was fraudulently concealed by respondent no. 1. The respondent no. 2 obtained necessary licenses, approved the plans and registered the project with RERA in the year 2018. The respondent no. 1 has failed to inform that they entered into agreement with respondent no. 2, who was supposed to obtain necessary permissions/approvals from various authorities and also carry out construction of the project and to handover possession to the purchasers with occupancy certificate within the time period as per clause 2(c) of the agreement for sale.

5. The agreement dated 31.03.2015 between complainant and respondent no. 1 is binding on respondent no. 2, since respondent no. 2 had agreed to complete the construction within timeline and to deliver possession of the premises with occupancy certificate. The respondent no. 1 has failed and neglected to deliver possession by March 2018, inspite of constant follow-up with respondent no.1, but only false promises were made that the residential unit would be delivered soon.

6. The respondent no. 1 vide allotment letter dated 07.03.2022 has specified the details of the flats to be allotted to the complainant namely flat no. C-603, admeasuring 160 sq. mts., located on the sixth floor in Block C of 'Adwalpalkar Stellar', Taleigao with basement parking. The respondent no. 1 even after the allotment letter has been giving false assurances regarding timeline for completion and possession. The respondents have sold the ground floor premises to commercial establishment and have obtained part occupancy from the authorities for the same. The complainant apprehends that the respondents would harass by not registering a sale deed for the said unit as both the respondents are responsible to deliver the possession of the said residential unit, complete in all regards and also

responsible to jointly pay interest till the possession of the unit is delivered to the complainant. Hence, the complaint.

7. The complainant prayed for the following reliefs:-

- a) The respondents be directed to immediately handover possession of the allotted residential premises being the Flat No. C-603, admeasuring 160 sq. mts. located on 6th Floor, in Block 'C' of "ADWALPALKAR STELLAR", Taleigao, Goa, completed in all regards with basement parking along with occupancy certificate.
- b) The respondents be directed to register Sale Deed of the said Residential premises in favour of the complainant once occupancy and possession is handed over to the complainants.
- c) The respondents be jointly directed to pay interest @ 18% on amount of ₹50,05,000/- (Rupees fifty lakh five thousand only) for every month of delay in handing over the possession to the complainant from the date of delivery of possession i.e. March 2018, till valid possession is delivered.
- d) Any other order/s relief as this Hon'ble Court may deem fit.

8. The respondent no. 1 filed a reply inter-alia contending that respondent is a land owner and is sole and exclusive owner of the

property where the residential complex was constructed. The complainant vide agreement for sale dated 31.03.2015 desired to purchase a built-up premises admeasuring 143 sq. mts for consideration of ₹50,05,000/-. The respondent no. 1 agreed with respondent no. 2 dated 20.04.2015 for joint development of the said property. The respondent no. 2 was bound to construct and develop the residential property within 36 months of obtaining requisite approvals and licenses failing which, legally obligated to liquidated damages of ₹50,000/- per day to respondent no. 1. The respondent no. 2 for unjustifiable reasons delayed the construction which caused a severe financial burden to respondent no.1. The respondent no.2 being a developer, is covered within the definition of the terms 'Promoter' and therefore, liable for the functions and responsibilities specified under the Act and hence, the complaint deserves to be dismissed.

9. The respondent no. 2 also filed a reply inter-alia contending that an agreement for sale dated 31.03.2015 was entered between the complainant and respondent no. 1 and as per the said agreement, the respondent no. 1 agreed to construct and sell to the complainant residential premises 143 sq. mts. for consideration of ₹. 50,05,000/-. The respondent no. 2 thereafter entered into a Joint development

agreement dated 22.02.2018 with respondent no. 1 wherein the respondent no. 2 was assigned the task of construction of the building as per which the respondent no. 1 was entitled to 50% of the FAR and the balance 50% was of respondent no. 1. The agreement dated 30.03.2015 entered with the complainant and respondent no. 1 is not binding on respondent no. 2 as respondent no. 2 was unaware of the fact that the agreement for sale was signed between the complainant and respondent no. 1.

10. The respondent no. 2 registered the said project before the Authority. The respondent no. 2 and respondent no 1 entered into an Addendum agreement wherein built-up areas of respondent no. 2 and respondent no. 1 were identified and demarcated on the building plans whilst factoring in the additional FARs available to both the parties. The said premises in respect of which agreement for sale was executed by and between the complainant and the respondent no. 1, is located in block 'B' and respondent no. 1 has not mentioned about the said agreement. The respondent no. 2 in terms of the Addendum agreement completed a part construction and also obtained part occupancy certificate to shops in Block 'B' and few other units in Block A and B and thereafter, vide possession letter dated 30.08.2021

handed over possession of shop no. 7 to 11 on the ground floor in Block B and other units to respondent no. 1. The respondent no. 2 have not committed any violation of RERA Act and is not liable for claims made by complainant as the development is carried as per the procedures and laws applicable in Goa.

11. Arguments heard. The respondent no. 1 filed notes of written arguments. Synopsis of chronology of dates and events as well as written arguments has been filed by respondent no. 2.

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

Sr. No.	Points for determination	Findings
1.	Whether the respondents are liable to handover possession of residential premises, as stated above, completed in all respect to the complainant?	In the affirmative,
2.	Whether the respondents are liable to register a sale deed of the said residential premises, as stated above, in favour of the complainant?	In the affirmative.

3.	Whether the respondents are liable to pay interest on the consideration amount for every month of delay in handing over possession of the said premises to the complainant from date of delivery of possession, in March 2018, till possession is delivered?	In the affirmative.
4.	Whether respondents are liable to pay costs and penalty for violation of the provisions of RERA Act?	In the affirmative.
5.	What relief? What order?	As per final order.

REASONS

Point No. 1 and 2

13. The Hon'ble Supreme Court in the case of *M/s Newtech Promoters and Developers Pvt. Ltd. vs. State of UP and Others, 2021 SCC Online SC1044* has clarified that 'if the promoter fails to give possession of the apartments, 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 and

absolute, regardless of unforeseen events or stay orders of the Court/Tribunal'. The relevant abstract is reproduced below for ready reference:

“25. The unqualified right of the Allottee to seek refund referred to under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the Allottee, if the Promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement, regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the Allottee/ home buyer, the Promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act *with the proviso that if the Allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed.*”

14. The functions and duties of the promoter have been elucidated in Section 11 of the Act. Section 11(4)(a) refers to responsibilities and obligations to the home buyers till the conveyances are executed. Section 11(4)(b) refers to obtaining completion or occupancy

certificate from the relevant competent authority by the promoter and Section 11(4)(f) refers to duty of the promoter to execute a conveyance deed. The promoter is duty bound to complete the project in all respects in accordance with the terms of the agreement for sale, deliver possession to the allottees, failing which he is liable to pay delayed interest, at such rate as may be prescribed in the behalf in the manner provided under the Act.

15. Having regard to the above judgment of the Hon'ble Apex Court and the relevant provisions of the RERA Act, it is apposite to advert to the case of the parties. Admittedly, the complainant and the respondent no. 1 had entered into an agreement for sale dated 31.03.2015 and in view of Article 2(c) of the agreement, the said consideration includes the undivided share of the land proportionate to the super-built up area of the said residential premises and as per clause 3(a) of the agreement, the respondent no. 1 was under a contract to complete construction and handover possession of the residential premises within 30 months and had agreed to deliver possession on or before March 2018 as the total consideration of ₹.50,05,000/- was paid to the respondent no. 1, as early as in the year 2015.

16. There is also no dispute that respondent no. 2 had entered into Joint development agreements and Addendum agreement with respondent no. 1 for construction of the building in the subject property, in which 50% of the built-up area was to be allotted to respondent no. 1 and the remaining to respondent no. 2. The Allotment Letter dated 07.03.2022 by the respondent no. 1 to the complainant refers to allotment of Flat No. C-603, on the 6th Floor, admeasuring 160 sq. mtrs., in Block C, at "Adwalpalkar Stellar" in Taleigao, Goa for a total consideration of Rs. 50,00,000/- which includes basement parking. The email dated 31.07.2018, 17.09.2018 and 29.11.2018 between the complainant and Respondent No. 1 also refers to above subject matter, whereby the Respondent No. 1 had waived any claim for additional area referred in allotment letter dated 07.03.2022.

17. Ld. Advocate Shri Pritesh Shetty for the complainant has submitted that the complainant has paid entire consideration of ₹. 50,05,000/- to the respondent no. 1 for purchase of residential premises and an Agreement for sale dated 31.03.2015 has been entered between the parties, according to which the respondent no. 1 was under an obligation to deliver the said premises by March 2018,

however, it was learnt that the respondent no. 1 had entered into an Agreement for development with respondent no. 2 dated 20.04.2015 however, till date the possession and the occupancy of the said project is not ready in terms of the agreement and hence, both the respondents are responsible to deliver the possession of the said unit, complete in all regards and are also responsible to pay interest till the possession of the unit is delivered to the complainant. He relied upon the case of *Wadhwa Group Housing Private Ltd. vs. Vijay Choksi and Ors.* MANU/MH/1177/2024.

18. Ld. Advocate Shri N. P. Kamat for respondent no. 1 has also submitted that the respondent no. 1 and respondent no. 2 had entered into an Agreement for development and that respondent no. 2 for unjustifiable reasons delayed the construction, which caused severe financial burden to respondent no. 1 and therefore, respondent no. 2 is equally liable for inaction in delivering the possession to the complainant, in terms of the judgment delivered by the Hon'ble High Court of Bombay in the case of *Wadhwa Group Housing Private Ltd.*, (supra). He further submitted that the core issue involved in the present proceedings is whether the respondent no.1 falls within the definition of an 'allottee' or a 'promoter', which is pending before the

Authority in Complaint no. 3/RERA/COMPLAINT(509)/2025 and the present case is dependent on the outcome of the said case filed by respondent no.1 against respondent no.2.

19. Ld. Advocate Shri M. S. Joshi for respondent no. 2 has submitted that the respondent no. 2 had entered into Joint development agreements with respondent no. 1 for construction of the building in the subject property, in which 50% of the built-up area, was to be allotted to respondent no. 1 and the remaining to respondent no. 2. The respondent no. 2 has completed the project as per the agreement and allotted the premises to the respondent no. 1 in Block 'B' after obtaining the occupancy certificate. The respondent no.2 has no privity of contract nor received any consideration amount from the complainant and has suppressed the Agreements for sale entered into with the Complainant and therefore, is not at all responsible for the delay nor liable for the claims made by the complainant and in support thereof, he relied upon the case of *'Cyril Harold Moraes vs. Conoor Builder, 2020 SCC Online Mah. RERA 55.*

20. The Hon'ble Bombay High Court in a case *Wadhwa Group Housing Private Ltd.* supra has observed as under:

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“The Appellant’s contention about absence of privity of contract between it and the complainant is totally misplaced. Definition of the term ‘promoter’ under section 2(zk) of the RERA would indicate that even persons/entities with whom a flat purchaser does not enter into contract are also covered by definition of the term ‘promoter’. Therefore, it is not necessary that there has to be an agreement between every Promoter and the flat purchaser. As observed above, it is a matter of indoor management between the Promoters and the flat purchaser who is not supposed to know the intricacies of the arrangements made between several promoters amongst themselves. When a claim is raised in respect of a real estate project by a flat purchaser, all promoters become jointly liable qua that flat purchasers, irrespective of whether there is privity of contract with each of the promoter or not. This is the scheme of RERA and mere absence of privity of contract with a particular promoter does not relieve such promoter in respect of the liabilities under RERA.

It is also held that under Section 18(1)(b) of RERA Act the Promoter (landowner) along with the other Promoter (developer) is liable to refund the amount along with the interest irrespective of who received the amount from the flat owner.

21. Admittedly, the complainant who is seeking reliefs have paid the entire consideration to the respondent no. 1, who had promised to deliver the possession to the complainant with no extra cost as stated in the agreement for sale dated 31.03.2015 and the allotment letter dated 07.03.2022 and e-mails produced on record. The respondent no. 2, who is the developer, had entered into the Development agreements and Addendum agreement with respondent no.1. The respondent no. 2, who is the 'promoter/developer' in the present case cannot claim that the respondent no. 1 is solely responsible for the reliefs prayed in the complaint or/that it is in no way concerned about the delivery of the flat to the complainant, on the specious plea that there is no privity of contract nor received any consideration amount from the complainant.

22. The Hon'ble High Court of Bombay in the above case of *Wadhwa Group Housing Private Ltd.* supra has clearly held that the

account in which monies are received by the promoters is irrelevant for the purpose of determining joint liability of the promoters under Section 18 of the Act. The term 'Promoter' under Section 2 (zk) of RERA would indicate that even persons/entities with whom a flat purchaser does not enter into contract are also covered by the definition 'Promoter'. It is not necessary that there has to be an agreement between every Promoter and the flat purchaser. It is a matter of indoor management between the Promoters and the flat purchaser is not supposed to know the intricacies of the arrangements made between several promoters amongst themselves and that when a claim is raised in respect of a real estate project by a flat purchaser, all promoters become jointly liable qua that flat purchasers, irrespective of whether there is privity of contract with each of the promoter or not or as to who received the amount from the flat owner. It is therefore both the respondent no. 1, being landowner as well as the respondent no. 2 being developer are jointly liable to ensure transfer of title of the said premises in favour of the complainant and also pay delayed interest in terms of Section 18 of the RERA Act.

23. The respondents were bound to give possession of the said premises and the garage with delayed interest to the complainant, duly

completed in all respects on or before March, 2018 but till date, neither the possession is given nor registered the sale deed in respect of the said premises. It is thus evident that the respondents have failed in their obligations, responsibility and functions under the provision of the Act in handing over the possession as well as registering the sale in terms of the said agreement and the allotment letter. It is thus the objections as articulated by the respondents for delay in delivering the possession to the complainant, and execution of the sale deed, will not come to the rescue of both the respondents, from legal liabilities and corresponding legal rights accrued to the complainant under the RERA Act. The submissions of Ld. Adv Shri N. P. Kamat as stated above, as well as the submissions of Ld. Adv. Shri. M. S. Joshi and reliance placed on *Cyril Harold Moraes, supra* cannot sustain in view of clear pronouncement by the Hon'ble High Court of Bombay in the above case of *Wadhwa Group Housing Private Ltd. supra*, as observed above. Hence, point no. 1 & 2 are answered accordingly.

Point No. 3, 4 and 5

24. Under Section 18 of the RERA Act, if the promoter fails to complete or is unable to give possession of an apartment, plot or building, (a) *in accordance with the terms of the agreement for sale*

or, as the case may be, duly completed by the date specified therein;
or (b) due to discontinuance of his business as a developer on account
of suspension or revocation of the registration under this Act or for
any other reason, he shall be liable on demand to the allottees, in case
the allottee wishes to withdraw from the project, without prejudice to
any other remedy available, to return the amount received by him in
respect of that apartment, plot, building, as the case may be, with
interest at such rate as may be prescribed in this behalf including
compensation in the manner as provided under this Act. Provided that
where an allottee does not intend to withdraw from the project, he
shall be paid, by the promoter, interest of every month of delay, till the
handing over of the possession, at such rate as may be prescribed.

25. Rule 18 of The Goa Real Estate (Regulation and Development)
(Registration of Real Estate projects, Registration of Real Estate
agents, Rates of Interest and Disclosures on websites) Rules, 2017:-

“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 plus two
percent, provided that in case the State Bank of India
Marginal Cost of Lending Rate is not in use, it would

be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.”

26. Presently, the State Bank of India highest Marginal Cost of Lending Rate plus two percent i.e. (8.80 plus 2%) is 10.80% per annum.

27. Discernibly, the respondents have failed in their obligations, responsibility and functions under the provisions of the Act in handing over the possession after obtaining necessary occupancy certificate as well as registering the sale in terms of the agreement to sale, inspite of several opportunities and filing of the complaint, on vague grounds as reflected in the defence raised by the respondents as it is well settled that RERA does not demarcate or restrict liabilities of different promoters in different areas. It is therefore once the respondents have failed to adhere to their contractual and statutory obligations under Section 18, read with 11(4)(a)(b) and (f) and Section 17 of the RERA Act, both the respondents cannot escape the liability of payment of penalty and costs, as well as payment of interest @ 10.80% per annum, for every month of delay, from March

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2018 till effectual possession of the premises to the complainant is delivered. Hence, the above points are answered accordingly.

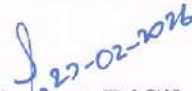
28. Having said so, I pass the following

ORDER

- i. The respondents are directed to handover possession of the residential premises being the Flat No. C-603, admeasuring 160 sq. mts. located on 6th Floor, in Block 'C' of "ADWALPALKAR STELLAR", Taleigao, Goa, to the complainant, along with occupancy certificate, completed in all respects, with basement parking, within sixty days of passing of the order.
- ii. The respondents are also directed to register the Sale Deed of the said Residential premises, being the Flat No. C-603, admeasuring 160 sq. mts. located on 6th Floor, in Block 'C' of "ADWALPALKAR STELLAR", Taleigao, Goa in favour of the complainant, within sixty days of passing of the order.
- iii. The respondents are directed to pay interest @ 10.80% on amount of ₹50,05,000/- (Rupees fifty lakh five thousand only) for every month of delay in handing over the possession to the

complainant from the date of delivery of possession i.e. March 2018, till valid possession of the said premises is delivered to the complainant.

- iv. The respondents are also directed to pay ₹2,00,000/- (Rupees Two Lakhs only) as penalty under Section 61 of the Act for violation of Section 18 read with 11(4)(a)(b) and (f) and Section 17 of the RERA Act. The amount shall be deposited into the bank account of the Authority within sixty days of the order, failing which necessary proceedings will be initiated against the respondent.
- v. The respondents shall pay a sum of ₹1,00,000/- (Rupees One Lakh only) as costs to the complainant.
- vi. 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: 27.02.2026