



GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:3/RERA/Complaint (444)/2024/900

Date: 21/07/2025

Mr. Vishnu Suryakant Mavalankar,
H No 198, Nanachepani,
Varconda Pernem Goa, 403512.

.....Complainant

V/s

M/s S.V. Developers,
A Partnership firm having its Office at
Shree Vastu Garden,
Kadapwado, Chalta No 103, PT Sheet No 5,
Cunchelim, Mapusa, Bardez, Goa- 403507

Through authorized person,
Mr Kirankumar Dabholkar @ Kiran Dabholkar

.....Respondent

ORDER

(21/07/2025)

- 1) This order disposes of the online complaint dated 14/09/2024 filed by Mr. Vishnu Suryakant Mavalankar (complainant) before the Goa Real Estate Regulatory Authority (Goa RERA) against the M/s S.V. Developers, Represented by Authorized person Mr. Kiran Dabholkar (Respondent) under Section 31 of Real Estate (Regulation and Development) Act, 2016 (herein after referred to as 'the Act'), alleging that the Respondent has failed to complete the

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project "SHREE VASTU GARDEN" and hand over the possession of duly completed flat with all the basic amenities and necessities as agreed between parties to the Agreement for Sale dated 10/06/2019. It was inter alia also alleged that the respondents has fraudulently added additional amount in the said agreement defrauding the complainants and overburdening them with financial liability. Seeking withdrawal from the said project, the complainant has sought relief u/s 18(1) of 'the Act' by way of refund of the entire amount paid to Respondent towards purchase of the flat along with prescribed interest. Besides, the complainant has also sought refund of stamp duty, registration charges and processing fee paid in respect of the registration of the said agreement, expenses of fixing grills in the apartment, legal fees and cost of proceedings as well as the compensation towards mental harassment and the rent amount of the premises rented since may 2020.

2) Consequent upon filing of online complaint and also the hard copies of notarized complaint and other supporting documents by the complainant, a notice was initially issued to the respondent for appearance and reply on 05.11.2024 and further proceedings were continued on various dates thereafter. During the proceedings, the respondent filed reply to the complaint, to which a rejoinder was filed by the complainant. Both parties filed affidavit in evidence as well as additional affidavits pursuant to the directions providing further details as sought.

3) The submissions made by the complainant are summed up as under:-

a) The Complainant stated that he came across an advertisement in local news paper in the year 2018 regarding proposed residential cum commercial project named "SHREE VASTU GARDEN", located at Chalta No.103, P.T.Sheet No.5 of Cunchelim , Mapusa Bardez Goa by M/s. S.V. Developers. When the Complainants

approached the office of M/s. S.V. Developer's, the Respondent marketed/ promoted the said project claiming to offer the said flat No. S3 with one free stilt parking and the amenities as also later mentioned in Agreement of finance and Sale executed on 10/06/2019 and further registered on 24/07/2019 (herein after referred to as 'the said agreement') which inter alia included 24 hours water supply, Lift with DG Backup, Gym & Club House, CCTV Surveillance system, Street Lights, Ample parking space, etc. The completion of the project and handing over of the said flat was promised on or before 15/05/2020 (as also later recorded under the heading "Completion and Delivery" clause 6.1 of the said Agreement) for a total consideration of Rs. 35,00,000/- Rupees Thirty Five Lakhs only). Apart from the above amount, Rs. 30,000/- (Rupees Thirty thousand only) towards electrical and water connection, Rs.1,00,000/- (Rupees One Lakh only) for maintenance charges for five years and also the government taxes as applicable, were also agreed to be paid by the Purchaser at the time of possession.

b) On the basis of the assurances made by Respondent, the Complainants signed the offer letter dated 18/03/2018 for purchasing the said flat by advancing an amount of Rs. 5,00,000/- (Rupees Five Lakhs only) by two different cheques i.e. Cheque No. 554676 of Rs. 2,00,000/- and Cheque No. 554677 of Rs. 3,00,000/-. Pertinently, the said project was registered with RERA on 03/05/2019. Thus the Respondent demanded and accepted advance amount of Rs. 5,00,000/- in the month of March, 2018, much prior to the registration of the said project thereby violating the provisions of Section 3 of the Act as well as section 13 of the Act since the said amount was more than 10% of the cost of the Apartment and was taken prior to entering in to Agreement for Sale on 10.06.2019. It was also stated that the complainant further paid an amount of Rs.5,00,000/- (Rupees Five Lakhs only) in cash demanded by the respondent at the time of signing of new offer letter


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dated 18.05.2019 and an acknowledgement receipt dated 17.06.2019 for the purpose signed by the respondent was also issued.

(c) The Complainant during the year 2020 made payment of Rs. 26,85,000/- (Rupees Twenty six Lakhs Eighty-Five Thousand only) to the Respondent/Promoter from the loan amount within the stipulated time provided in the said Agreement. The complainants claimed to have paid total amount of Rs.36,85,000/— (Rupees Thirty-Six Lakhs Eighty Five Thousand only). The Copies of the demand letters issued by the Respondent and bank loan statement from Bank of India were also submitted along with the complaint besides other supporting documents referred to in the complaint.

(d) Thereafter the complainants made several requests to the Respondent for handing over the possession of the duly completed flat, however the Respondent prolonged the date of possession according to his wish and neglected to complete the project.

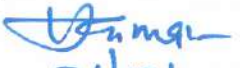
(e) The Complainant has further stated that The Respondent on 14/09/2023 addressed a letter seeking payment of outstanding amount of Rs.6,84,116/- (Rupees Six Lakhs Eighty Four Thousand One hundred and sixteen) due from the Complainant, which did not form part of Schedule IV (Schedule of Payment) of the said Agreement and the same was fraudulently added without knowledge of the Complainants in the clauses 10 and 11 of the said Agreement. The Complainants were astounded to notice additional charges in Clause 10 and 11 of the said Agreement which amounts to more than Rs. 4,00,000/- (Rupees Four Lakhs only) which were never discussed by Respondent in any of the meetings neither mentioned in the offer letter that was signed by them nor was a part of said draft of agreement that was shared by respondent before entering into the said agreement.


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The Respondent further informed the Complainants that the completion certificate and occupancy certificate is obtained and the said flat is ready to use but on inspection of the site, the complainants found that the said project lacked basic necessities as well as all amenities. Accordingly, the complainant through letter dated 06/10/2023 brought to the notice of the Respondent all irregularities observed by him and also, specifically requested for operational lift as an exigence for the complainant's family member.

(f) The complainants through a legal notice dated 01/04/2024 again requested for handing over possession of duly completed flat, denying to pay any additional amount apart from the amount mentioned in the Schedule of payment (schedule IV) in the said Agreement. It was further submitted that through Respondent's reply-cum-legal notice dated 10/05/24, it is clear that the Respondent was not inclined to complete the said project even after being in violation of the various provisions of the said Act and the Said Agreement. Respondent also addressed Legal Notice dated 04/07/24 to Complainants, compelling them to make additional payment of Rs. 8,59,325/- (Rupees Eight Lakhs Fifty Nine Thousand Three Hundred and Twenty Five only) (principal+ interest) as outstanding amount payable which has led to mental harassment/agonny to the Complainants.

(g) It was thus alleged that the Respondents in view of the above has indulged in unfair practices by demanding and accepting advance amount of Rs.5,00,000/- in the month of March, 2018 much prior to the registration of the said project and by demanding and accepting more than 10% prior to entering into the said agreement and defrauding the complaints by increasing the amount in clause 10 and 11 of the said agreement. Further, the Respondent even after unlawful extension of time has failed to complete the said project and has been compelling the complainant to



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accept possession of said flat and execute sale deed even though projects lack basic necessities and all the amenities promised are still incomplete thereby violating Section 3, 11, 12, 13 and 14 of the Real Estate (Regulation and Regulation) Act.

(h) The submissions made by the respondent are summed up as under:

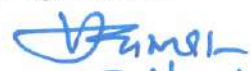
(i) The respondent while referring to the signing of the offer letter dated 18.03.2018 by the complainants, admitted that the complainants had paid a total amount of Rs. 5,00,000/- in the form of 2 Cheques for which 2 separate receipts were issued by the respondent. Further denied that the complainants were lured by tall claims and that the complainants have signed the offer letter on their own accord without the coercion of the Respondent.

(ii) It was further stated that the new offer letter dated 18.05.2019 was issued as the previous offer letter dated 18.03.2018 had expired on 15.04.2018 being valid only for one month and denied that the respondent had demanded a sum amount of Rs. 5,00,000/- and that the same were paid in cash. Further stated that the complainant had requested a receipt for a sum of Rs.5,00,000/- as the complainant needed the same to reproduce it to the bank for sanction of loan and the Respondent had issued the consolidated receipt dated 17.06.2019 as an act of goodwill acknowledging the two payments made by cheque bearing cheque No.554676 and 554677 made in the year 2018 and no amount was actually received towards the receipt dated 17.06.2019. The Respondent placing reliance on the copy of the receipts dated 17.06.2019 attached to the complaint wherein it is specifically mentioned that the payment made was by cheque and not by cash as claimed by the complainant, highlighted that as per the said agreement other than the booking amount of the complainants to the tune of Rs.5,00,000/-, the complainants did not pay the either part or the


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entire amount until 27.07.2020 when Complainant paid an amount of Rs.11,80,000/-. Also that the complainant has failed to follow the schedule of payment agreed to by him vide agreements of finance and sale dated 10.06.2019. That complainants are fraudulently claiming to have paid a total amount of Rs. 10,00,000/- (Rupees Ten Lakhs Only) towards the booking amount, by claiming the receipt issued by the Respondent dated 17.06.2019 as another payment. Further also denied that the complainant has paid a total amount of Rs. 36,85,000/- and stated that a sum of Rs.31,85,000/- only was paid to the Respondent in principal for the purchase of the flat.

(iii) Respondent denied that the said project was not duly complete and lacked basic necessities and further stated that out of the 29 flats built, 19 units have been sold and Purchasers have duly taken possession of their respective flats and the building complex has been functional since being granted the occupancy certificate by the concerned authorities on 14.09.2023. Also denied that the Respondent has fraudulently added additional amounts without the knowledge of the complainants in clause 10 and 11 of the said agreement, draft of which was shared with the complainant and agreed to by him. In any case, the stand of the complainant is contradictory as the complainant has admitted that Rs.30,000/- towards the electrical and water connection and Rs. 1,00,000/- as maintenance charges for 5 years and government taxes as applicable were agreed to be paid by the complainant and thus he had knowledge about the said amounts in Clause 10 and 11 of the agreement and further reiterated that the outstanding amount of Rs. 6,84,116/- is as per the amounts agreed to by the complainant in the said agreement dated 10.06.2019.


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(iv) While denying that he failed to handover the possession of the said flat, respondent stated that the said flat could not be completed in a timely manner as a global pandemic was declared which was only lifted in 2022 and denied that there is a delay of more than 4 years in the completion of the said project. Besides, respondent also sought to draw support from clause 6.1 & 6.2 of the said agreement. It was stated that the occupancy certificate was issued on 14.09.2023 after which it is the complainants who refused to take possession of the said flat and Respondent cannot be made liable for the failure of the complainant in taking possession of the said flat and thus is not liable to pay any compensation of any sought for the apparent rent incurred by the complainants.


(v) Respondent also stated that multiple reminders were issued to the complainant to take possession of the said flat after receiving occupancy certificate dated 14.09.2023 and referred to the letter dated 14.09.2023, 03.10.2023 and legal notice dated 10.05.2024 and 04.07.2024 sent by the Respondent which have been produced by the complainant in the complaint. However, neither the possession was taken by the complainant (referred to Section 19(10) of the Act in this regard) nor he made payment of dues as specified in the said agreement and in consonance with the provisions of section 19(6) of the Act which clearly states that the allottee i.e. the complainant shall be responsible to make timely payments as per the agreement of sale and also pay the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent and other charges if any. Further stated that the complainants have been avoiding to pay the Respondent since the last one year.


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4) Issues raised

After going through the entire records of the case, the points which arise for my consideration and findings thereon for the reasons to follow are as under:-

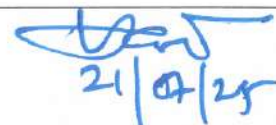
Sr. No.	Points for determination	Findings
1.	(i) Whether clause 10 and 11 of the agreement of finance and sale registered on 24.07.2019 differ with the draft of the said agreement shared with the complainant and were inserted without the knowledge and consent of the complainant and (ii) whether the amount/charges prescribed for various services/actions in said clause 10 & 11 were exorbitant and unreasonable and further whether these are not in consonance with the provisions of Section 19(6) of the Act?	Sub Para 1(a) is answered as per para 5(b) of the Order. Para 1(ii) is answered in affirmative as per para 5(g) of the Order.


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2.	<p>(i) Whether there was any delay in making of the payments by Complainant as per schedule IV of the Agreement of Finance and Sale('the said agreement') registered on 24.07.2019 and in response to various demand letters issued by the Respondent and</p> <p>(ii) whether the complainant has actually made total payment of Rs.36,85,000/- including the alleged payment of Rs. 5,00,000/- made in cash though the Respondent Promoter has acknowledged to have received only Rs.31,85,000/- as the total payment while denying the said payment of Rs. 5,00,000/- made in cash by the complainant.</p>	<p>Para 2(i) is answered in negative</p> <p>Para 2(ii) is answered in affirmative.</p>
3.	<p>Whether the Respondent was justified in demanding further payment of Rs. 6,84,116/- vide letter dated 14.09.2023 and further of Rs. 8,59,235/- vide legal notice dated 04.07.2024?</p>	<p>In negative</p>

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4.	Whether the Promoter Respondent failed to complete the projects and has not been able to give possession of the duly completed flat booked by the allottee by the date specified and in accordance with the terms of the Agreement of Finance and Sale registered on 24.07.2019.	In Affirmative
5.	Whether the Respondent is liable to refund the entire amount received by him to the Complainant along with interest from the date of payment of respective amounts under section 18(1) the Act and such rights of allottees is unconditional & absolute.	In Affirmative
6.	Whether the Respondent is liable pay penalty under section 59 of the Act for violation of Section 3(1) of the Act.	In Affirmative
7.	Whether the Respondent is liable pay penalty under section 61 of the Act for violation of Section 13(1) of the Act for demanding more than 10% as booking amount before entering into an the Agreement of Finance and Sale and registration of the said Agreement?	In Affirmative



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8.	Whether the Respondent is liable for lapses and penalty under Section 11, 12 & 14 of the Act?	As per para 12 of the Order
9.	Whether the Respondent is liable to refund stamp duty, registration charges and processing fee amounting to Rs.1,02,940/- incurred/paid by Complainant at the time of signing the Agreement for Sale dated 10/06/2019?	In affirmative and as per para 13 of the Order
10.	Whether the Respondent is liable pay legal fees amounting to Rs. 30,000/- and cost of proceeding amounting to Rs. 5,000/-?	In affirmative and as per para 14 of the Order.
11.	Whether the Complainant are entitled to claim compensation for mental harassment, rent amount payment of expenses of fixing grills etc. under the Act?	In Affirmative

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Analysis and Findings

5) Point No. 1(i) & (ii)

(a) The complainant has averred that Clause 10 and 11 of the said agreement were added without his knowledge and consent and the said agreement differs with the draft of the same as shared by the respondent with the complainant. While denying the same, the respondent has stated that the said agreement is as per draft shared with the complainant and the same was also agreed to by him. Also, the stand of the complainant is contradictory as the complainant while objecting to clause 10 and 11 has admitted that Rs.30,000/- towards the electrical and water connection and Rs. 1,00,000/- as maintenance charges for 5 years and also the government taxes as applicable; were agreed to be paid by the complainant which also form part of Clause 10 and 11 of the said agreement. In response to the query raised during the proceedings, both parties stated that besides making the respective averment on the point of alleged difference between the draft of the agreement shared and the copy of the agreement registered with Sub Registrar on 24.07.2019, they have no additional document to support their respective submissions as the draft of the said agreement was given by hand to the complainant and not conveyed by email etc. Besides, the Advocate for complainant stated that the said agreement also differs with the terms and conditions of the offer letter.

(b) In the above context, it is noted that agreement of finance and sale executed on 10.06.2019 and further registered on 24.07.2019 of which clause No.10 and 11 has been objected to by the complainant; has been executed by both the parties voluntarily by putting their signatures on each page of the said agreement. Thus, the contentions of the complainant that he was not aware of the said clauses which were added without his knowledge and consent at the time of execution of the


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document and that the said agreement differs from the draft shared as well as from the terms and conditions of the offer letter do not hold water particularly in the absence of any allegation of compulsion or duress etc. and also in view of the provisions of Section 50 of the Registration Act which provides that a duly registered document takes effect as against every unregistered document relating to the same property. The contention of the respondent about the complainant agreeing to payment of Rs.30,000/- towards the electrical and water connection and Rs. 1,00,000/- as maintenance charges for 5 years and also the government taxes as applicable; being as per the offer letters issued by it to the complainant/allottee also are of no help to reach at a logical conclusion.

(c) Another plea raised by the complainant is that the amounts/ charges prescribed for various actions/services mentioned in clause 10 & 11 of the said agreement are exorbitant and unreasonable. Per contra, the respondent has sought to defend the provisions of clause 10 & 11 of the said agreement in terms of the provisions of the Section 19(6) of the Act which provides that the allottee i.e. the complainant shall be responsible to make timely payments as per the agreement of sale *and also pay the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent and other charges if any.*

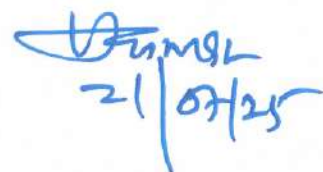
(d) The Respondent further did not give any specific response to the allegation of the complainant that the amounts prescribed under clause 10 and 11 of the said Agreement were exorbitant and unreasonable and also did not clarify the basis of calculations of these amounts/charges.

(e) As Section 19(6) specifically prescribes that besides payment for the cost of the flat, other charges are to be borne by the allottee as per his share in the total charges on various items mentioned in Section 19(6) of the Act and thus has to be realistic and reasonable being based on the actuals. A perusal of clause 10 & 11 of

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the said Agreement registered on 24.07.2019 which as claimed by Respondent are in respect of charges prescribed under Section 19(6) of the Act; reveals that many of the amounts demanded are not only repetitive but also prima facie exorbitant. For example, the amounts charged in respect of the formation and registration of the association are mentioned under four heads namely (i) Rs. 10,000/- for share money, application entrance fee of the Association; (ii) Rs. 5,000/- for formation and registration of the Association; (iii) Rs. 10,000/- for proportionate share of taxes and other charges/ levies in respect of the Association; (ix) Rs. 5,000/- as Corpus in respect of the Association. Similarly, at point no. 7 of the clause 10, there is a mention of Rs. 12,000/- as legal charges and clause 11 of the said agreement also stipulates a sum of Rs. 3,20,750/- for meeting all legal costs, charges and expenses, including professional costs of the legal practitioners/ Advocates in connection with formation of the association, preparing its rules, regulations and bye laws and the cost of preparing and engrossing the conveyance or assignment of lease.

(f) It is well known that the real estate agreements are normally drafted at the end of the promoter and at times with a view to protect its interests, these documents could be so tweaked by the promoter so as to adversely impact the legitimate expectations and rights of the flat purchasers. While developers may argue that the agreements were mutually accepted, the reality is that flat purchasers often have no choice but to sign on the dotted line. The courts have recognized this imbalance and taking note of these aspects, have often stepped in with a balanced and equitable interpretation of such agreement and related provisions of law; prioritizing the protection of consumer interests over the sanctity of one-sided contractual terms.


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(g) Evidently, the amounts prescribed as charges for various services/ actions under clause 10 and 11 of the said agreement do not appear to be based on actuals and are prima facie inflated, exorbitant and unreasonable particularly on account of sheer multiplicity of charges for same or similar activities. Accordingly, the said charges are also not in consonance with the provisions of sec 19(6) of the Act as noted herein above.

(h) Thus point No.1 is answered in above terms at sub para (b) & (g) above, interalia answering the allegations of the complainant as to the amounts/ charges prescribed for various services/actions under clauses 10 and 11 of the said Agreement registered on 24/07/2019 were exorbitant and unreasonable; in affirmative.

6) Point No. 2(i)&2(ii)

(a) As far as the issues relating to delay in making of the payments due and also the difference between the payment made by the complainant allottee and the payment received by the respondent promoter are concerned, it is observed that while the complainant has claimed to have made all the payment in time and to the extent of Rs.36,85,000/-; the respondent has admitted the receipt of only Rs. 31,85,000/- and has further alleged delay with regard to the payment of Rs. 11,80,000/- received on 27.07.2020 and has also vehemently denied and opposed assertion of the complainant for having made payment of Rs.5,00,000/- in cash pertaining to receipt dated 17.06.2019.

(b) It is observed that a total payment of Rs. 35,00,000/- was to be made by the complainant to the respondent in terms of the schedule IV appended to the said agreement for which the respondent issued various demand letters from time to

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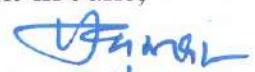
time indicating the payment due. Since the complainant has claimed to have made all the payment in time and to the extent of Rs.36,85,000/- and the respondent has admitted the receipt of only Rs. 31,85,000/-only, both parties were asked to submit details of payment made including the date of issue of demand letter, amount demanded and payment made by the complainant to the respondent along with date of payment. Barring the details of two payments one of Rs. 5,00,000/- claimed to have been paid in cash by the complainant & disputed to have been received by the respondent and the other relating to Rs. 11,80,000/- where complainant claims having received demand notice in July 2020 and making of payment of 24.07.2020 while the respondent accepts receipt of the said payment but claims that the demand was raised on 15.05.2020 and has also claimed interest for the period from 15.05.2020 till the making of payment on 24.07.2020. With regard to latter payment of Rs. 11,80,000/-, neither respondent nor the complainant has filed a copy of the demand letter and the Respondent also failed to show any communication/demand notice seeking interest for the said delay from the complainant. In view of the above and also taking note of specific clause no. 2.2 in the said agreement whereby delay of more than 15 days in payment of any such installment or part thereof is to deemed reasonable and also the provisions of Section 19(8) of the Act whereby interest liability of the allottees could be reduced by promoter; the contention of the promoter for interest liability of the complainant on account of delay in making of the said payment payment of Rs. 11,80,000/- is apparently devoid of any merit particularly when neither any delay in the said payment of Rs. 11,80,000/- could be established by the promoter and nor any demand of the said interest levied vide any earlier communications to the allottee has been cited in support of his submissions.


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(c) With regard to the issue relating to payment of Rs. 5,00,000/- made in cash, the complainant has stated that he paid an amount of Rs.5,00,000/- (Rupees Five Lakhs only) in cash demanded by the respondent at the time of signing of new offer letter dated 18.05.2019 and an acknowledgement receipt dated 17.06.2019 for the purpose signed by the respondent was also issued.

(d) Per contra, the respondent has stated that the complainant had requested a receipt for a sum of Rs.5,00,000/- as the complainant needed the same to submit it to the bank for sanction of loan and the Respondent had issued the consolidated receipt dated 17.06.2019 as an act of goodwill acknowledging the two payments made earlier by complainant in March 2018 by cheque bearing cheque No.554676 and 554677 and no amount was actually received towards the receipt dated 17.06.2019. The Respondent referring to the copy of the receipts dated 17.06.2019 placed on record by the complainant stated that the said receipt clearly reveals that the payment made was by cheque and not by cash as claimed by the complainant, and also that as per the said agreement, the complainants had paid Rs.5,00,000/- only to the Promoter till the date of execution of the said Agreement. That complainants are fraudulently claiming to have paid a total amount of Rs. 10,00,000/- (Rupees Ten Lakhs Only) towards the booking amount, by claiming the receipt issued by the Respondent dated 17.06.2019 as another payment.

(e) The complainant by way of rejoinder denied the submissions made in reply to complaint by the Respondent and further submitted that the Respondent has failed to produce before the Authority any documentary evidence to prove that the Complainant had requested a receipt for a sum of Rs. 5,00,000/- to produce the same before the Bank for sanctioning of his home loan. The Complainant further submitted that while the receipt in question was issued by the Respondent in June,


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2019. The loan was applied in the year 2020. Further, the Complainant produced before this Hon'ble court letter from the Bank of India showing the documents required for sanctioning of home loan and the loan application of the Complainant in the 2020 wherein no such requirements is reflected. It was also pointed out that the receipt dated 17/06/2019 doesn't mention any relevant details of the two cheques issued in the year 2018, and instead mentions "Cheque dated 17/06/2019" which clearly reveals the malafide intention of the Respondent. The Complainant specifically denied that the said receipt dated 17/06/2019 was issued at his request for the purposes of obtaining the banking loan or as an act of goodwill or as consolidated receipt acknowledging the two payments made earlier by complainant in March 2018 by cheque bearing cheque No.554676 and 554677 and that no payment was received by the respondent through the said receipt.

(f) The complainant has also placed on record the three receipts, pertaining to the payment of the booking amount of Rs. 10,00,000/- claimed by him having been paid to the respondent. A perusal of these three receipts reveals that the first receipt is dated 18.03.2018 for Rs. 2,00,000/- paid vide cheque no. 554676, second receipt is dated 24.03.2018 for Rs. 3,00,000/- paid vide cheque no. 554677 and these two receipts are also admitted by the respondent. The third receipt dated 17.06.2019 for Rs. 5,00,000/- claimed by complainant to have been paid in cash has been disputed by the respondent. In the said receipt though the said amount is shown to have been paid vide cheque but no cheque No. or particulars of the bank etc. are recorded in the space meant for such particulars and only date of payment/ cheque i.e. 17.06.2019 is written. Further, all three receipts are issued on the letter head of the Promoter and signed by the Respondent/Promoter by affixing signatures on the revenue stamp and the issuance of none of the three receipts had been denied by the respondent. Thus the contentions of the Respondent that the receipt dated

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17.06.2019 was a consolidated receipt in lieu of the earlier receipt dated 18.03.2018 and 24.03.2018 is without any basis whatsoever as the receipt dated 17.06.2019 neither refers to earlier receipt by providing receipt No. and date nor provides details of the necessary particulars relating to amount, Cheque No. and date etc.

(g) The other plea raised by the respondent in this regard is that the said receipt dated 17.06.2019 was issued by him as an act of good will to facilitate the sanction of loan from the bank to the complainant and no amount was actually received towards the said receipt; also does not appear tenable in view of the record related to sanction of loan submitted by the complainant wherein no such requirement is reflected. It is also pertinent to note that while the said receipt was issued in June 2019, the loan was applied in the year 2020. The other argument of the complainant that the agreement for sale clearly reveals that a payment of Rs.5,00,000/- only was paid by the complainant to the respondent till the day of execution of the said agreement i.e. on 10.06.2019; is also does not have much force as receipt of the payment of Rs.5,00,000/- made in cash is dated 17.06.2019 and thus the said payment was clearly made after the execution of the said document on 10-06-2019 though before registration of the said Agreement on 24-07-2019. The respondent has also sought to explain the issuance of a new offer letter dated 18.05.2019 on the ground that the validity of earlier offer letter dated 18.03.2018 was limited for one month and had thus expired after a month. The said contention of the respondent not only differs from the facts and is irrelevant as even the later offer letter is shown to have the validity of one month and the expiry of the offer letter dated 18.05.2019 was never agitated.


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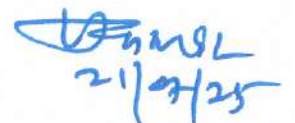
(h) In view of what has been discussed herein above, it is clear that there was no delay in making of the payments by the complainant as per schedule 4 of the said agreement and in response to the various demand letters. Thus the point No.2(i) is answered in negative.

(i) With regard to issue of payment of Rs.5,00,000/- made by complainant for which receipts dated 17.06.2019 was issued, various pleas raised by the respondent in support of its denial of having received the said amount, have been found devoid of merit and thus hold no water. Also the fact remains that the receipt of Rs.5,00,000/- has been actually issued by the respondent on its letterhead with signature affixed on revenue stamp without recording any particulars whatsoever relating to the earlier payment receipt of Rs.2,00,000/- dated 18/03/2018 and Rs.3,00,000/- dated 24.03.2018 and thus constitutes a distinct payment of Rs.5,00,000/- and has to be accounted for as payment duly made by the complainant. In view of what has been discussed herein above, it can be safely inferred that the complainant has actually made total payment of Rs.36,85,000/- including the alleged payment of Rs. 5,00,000/- made in cash. Thus the point No.2(ii) is answered in affirmative.

7) Point No. 3


(a) Before analysing the point under consideration for determination, it is relevant to note at this stage that as against the basic cost of the flat Rs. 35,00,000/- as agreed to vide the said agreement, the complainant as noted under Point No.2 has already paid a sum of Rs. 36,85,000/- as on 24.12.2020.

(b) Since the complainant has already made the payment of the basic cost and has also paid Rs. 1,85,000/- over and above the basic cost, payment of Rs. 6,84,116/-


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demanded vide letter dated 14.09.2023 and further of Rs. 8,59,235/- vide legal notice dated 04.07.2024 relating to the remnant of the amounts/charges prescribed under clause 10 and 11 of the said agreement, and further objected to by the complainants; needs to be examined in the context of findings arrived under point No.1 whereby it has inter alia been held that the amounts prescribed as charges for various services/ actions under clause 10 and 11 of the said Agreement, do not appear to be based on actuals and are prima facie inflated, exorbitant and unreasonable particularly on account of sheer multiplicity of charges for same or similar activities besides not being in consonance with the provisions of sec 19(6) of the Act. Also many of the charges mentioned under aforesaid clause 10 & 11 are of such nature which would normally be payable at the stage of formation of society, handing over of the possession/ registration of conveyance or lease of the project land which are reported to be still not concluded and even otherwise, clause 10, 11 & 12 of the said agreement are listed under heading '*Other Amounts Payable hereunder and Accounts*'.

(c) Pertinently, the complainant had objected to other charges mentioned in clause 10 & 11 at the stage of its demand by promoter which the promoter failed to resolve despite the said charges being prima facie inflated, exorbitant and unreasonable as noted in Point No.1 and only further delayed the possession despite inordinate delay in completion of the project. It is further pertinent to note that the other issues raised by the complainant regarding the project not being duly complete and lacking basic necessities including electrification, water availability and operation lift etc. were also not resolved inter se the promoter and the allottee despite protracted correspondence and exchange of legal notice which ultimately led to filing of the instant complaint case whereby the complainant has opted to

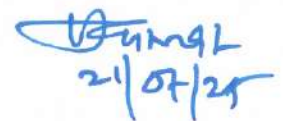

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withdraw from the project and has sought relief in terms of sec 18(1) of the Act seeking refund of entire amount paid alongwith the interest at the rates prescribed.


(d) In view what has been observed herein above, the promoter was not justified in demanding further payment of Rs.6,84,116/- demanded vide letter dated 14.09.2023 and further of Rs.8,59,235/- vide legal notice dated 04.07.2024 without resolving the issues noted in the preceding sub paras (a),(b),&(c) and thereby the point No. 3 is answered in negative.

8) Point No. 4

(a) At the outset, it is observed that as per clause 6.1 at page 15 of the Agreement of Finance and Sale registered on 24.07.2019, the completion of the project and handing over of the possession of the said flat duly completed was promised on or before 15.05.2020. The Respondent though has not disputed the said date but has sought to deny the delay in completion of the project and handing over of the possession of the said flat stating that the work could not be completed in a timely manner as a global pandemic was declared which was only lifted in 2022 and denied that there is a delay of more than 4 years in the completion of the said project as the occupancy certificate was issued on 14.09.2023. Besides, respondent also sought to draw support from clause 6.1 & 6.2 of the said agreement. Respondent further denied that the said project was not duly complete or lacked basic necessities and stated that out of the 29 flats built, 19 units which have been sold, Purchasers have duly taken possession of their respective flats and the building complex has been functional since being granted the occupancy certificate by the concerned authorities on 14.09.2023. At this stage, it is relevant to add that plea of the respondent justifying the delay in the project on account of the covid


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pandemic is of no help to him as the date specified in the Agreement of Finance and Sale executed between the parties registered on 24.07.2019 for completion of the project and also handing over of the possession of the flat booked by the allottee was on or before 15.05.2020 and the covid related restrictions were mainly imposed from February 2020 onwards and further complete lockdown was enforced from 24.03.2020. The construction activities were, however, allowed w.e.f. 20.04.2020 with progressive relaxations. The complainant has also submitted that during the period from July 2020 to December 2020, 08 demand letter were issued by the respondent vide which it was informed each time that the construction work of the said project was progressing satisfactorily and also the entire payment of Rs.36,85,000/- was paid by 24.12.2020 without any delay and in response to the demands raised. The said contentions of the complainant is in consonance with the records submitted during the proceedings. Further, this Authority granted extension on account of pandemic on case to case basis and at the specific request made by the promoter. It is further noted from the records that though the promoter applied for extension of the validity of the registrations of the project much later on 08.07.2022 but neither deposited requisite fee for seeking the extension nor pursued the matter further in as much as the promoter applicant even did not bother to respond to the queries of the Authority. Even otherwise as against promised date of 15.05.2020 for completion of project and handing over of the flat, the delay in completion of project and handing over of the flat happened in this case does not indicate that sufficient progress in completion of the project was achieved by the promoter till February/March 2020. Accordingly, the said contentions of the respondent are devoid of any merit and deserve no further consideration. Further the reliance placed by the respondent on clause 6.1 and 6.2 of the said Agreement which provide for extension of time of delivery in case of


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non availability of material, water supply, electric power or on account of act of God, Government notification, Court order, etc. beyond the control of the vendor/builder; is also not of much relevance in the above context. In any case, this Authority in case titled “**Bhiva Madso Gawas vs Uday Ghanshyam Naik** while dealing with similar issues held as follow:

“The agreement for sale mentions the date for possession to be given to the complainant subject to the availability of construction material, any act of God or other causes beyond the control of the vendor and hence the aforesaid provision of law is not applicable in the instant case. There is no merit in the aforesaid argument since it is held by the Apex court in the case of “**M/s Imperia Structures Ltd. (supra)**, that “non-availability of contractual labour, delay in notifying approvals cannot be construed to be force majeure events from any angle”. In the case of **M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP and Ors.” in civil appeal no. (s) 6745-6749 and 6750-6757 of 2021**, the Hon’ble Supreme Court 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.**”(emphasis supplied). Thus, the aforesaid ground for delay in delivering of possession, as given by the respondent, will not come to the rescue of the respondent from legal liabilities under the said Act and corresponding legal rights accrued to the complainant under the said Act.”

(b) It is noted that the occupancy certificate for the project “Shree Vastu Garden” was granted on 14.09.2023. It is also matter of record and not disputed either by


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the complainant or the Respondent that initial letter for handing over possession was though issued by the Respondent to the Allottee Complainant on 14.09.2023 itself but the same was objected to on account of lack of basic necessities and the flat being not duly completed. Copies of subsequent possession letters issued by Respondent and the copies of the replies submitted by the complainant raising objections as to the lack of basic necessities and amenities promised vide the said Agreement registered on 24.07.2019; were also placed on record. Pertinently, neither issues raised by the complainant regarding the project not being duly complete and lacking basic necessities including electrification, water availability and operational lift etc. nor his objections to other charges mentioned in clause 10 & 11 on the ground that the said charges were prima facie inflated, exorbitant and unreasonable; were resolved interse the promoter and the allottee despite protracted correspondence and exchange of legal notice which ultimately led to filing of the instant complaint case whereby the complainant opted to withdraw from the project and has sought relief in terms of sec 18(1) of the Act seeking refund of entire amount paid alongwith the interest at the rates prescribed.

(c) The respondent also filed an additional affidavit dated 15.05.2025 and placed on record documents annexed and appended there to show the completion of the project and status of work at loco which inter alia included order dated 05.04.2025 passed by the Hon'ble District Court along with corrigendum dated 09.05.2025 passed by the same Hon'ble Court. Since the respondent inadvertently did not submit the copy of the said corrigendum dated 09.05.2025, the registry was asked to give a complete set of the orders issued during the course of the said proceedings. It was noted that the Hon'ble Court in the context of execution proceedings initiated in respect of the order dated 01.06.2022 of Goa RERA passed on consent terms signed by both parties pertaining to the project "Shree Vastu


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Garden”; vide its order dated 13.08.2024 had allowed the request for appointment of the commissioner in view of the objections raised by the Decree holder as to the completion of the work of the said project. The inspection report dated 05.11.2024 of the court commissioner, a copy of which was placed by the Respondent on record, reveals lack of electrification, lift though installed but not made operational due to unavailability of permanent electricity connection, no generator provided and lack of CCTV cameras, etc. The matter in the said execution application No. 47/2024 was taken up for final disposal and the proceedings were closed directing compliance of certain directions vide order dated 05.04.2025. However, vide order dated 09.05.2025, it was observed that since the execution decree is not satisfied as on the date of passing of the judgment and the compliance is not done by the judgment debtor, the proceedings still continues and the said words i.e ‘proceeding stands closed’ shall be treated as deleted from the operative part of the said Judgment. A perusal of the observations made by the court commissioner in his report dated 05.11.2024 and also the order dated 09.05.2025 of Hon’ble District Court, evidently establishes the incomplete status of the project even much after the filing of the complaint on 14.09.2024.

(d) In view of what has been discussed herein above, it is more than evident that neither the project could be completed by the promoter on or before 15.05.2020 as agreed to vide Agreement of Finance and Sale registered on 24.07.2019 nor the possession of the duly completed flat was delivered to the Allottee complainant within the agreed timeline in terms of the said Agreement. That being the case and in view of the fact that the complainant has opted to withdraw from the project and has sought relief in terms of sec 18(1) of the Act seeking refund of entire amount paid alongwith the interest at the rates prescribed; no further deliberation is required on the issue and point No.4 is answered in affirmative.

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9) Point No. 5

(a) On the issue of the liability of the respondent to refund the entire amount received by him to the Complainant along with interest from the date of payment of respective amounts under section 18(1) the Act, Maha REAT vide its order dated 14.06.2023 in Appeal No. AT006000000133980 has observed that Section 18 of the Act specifically delineates the importance of Agreement for Sale for the purpose of assessing delay in handing over possession, which may be due to discontinuation of business as developer or for any other reasons. On perusal of Section 18, it can be seen from the proviso to its sub section (1) that if, Promoter fails to complete the project or is unable to deliver possession of apartment, plot or building by agreed time and allottees intent to withdraw from the project then, Promoter shall refund the paid amounts together with interest to Allottee at such rate as may be prescribed.

(b) Maha REAT in its said judgment also referred to para 25 and 78 of the Judgment of Hon'ble Supreme Court in the case of M/s Newtech Promoters and Developers Pvt. Ltd vs. State of Uttar Pradesh & Ors and vide para 15 of the said judgement observed as follows:

“the Hon'ble Supreme Court in para Nos. 25 and 78 of its judgment dated November 11,2021, in the case of M/s Newtech Promoters and Developers Pvt. Ltd vs. State of Uttar Pradesh & Ors, (supra) dated 11th November 2021 has clarified that *“if the Promoter fails to give possession of the apartment, 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 & absolute, regardless of unforeseen events or stay orders of the Court/Tribunal.”* Relevant abstract is being reproduced below for ready reference.

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“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.”

And Para 78 of this judgment is as under:

“78. This Court while interpreting Section 18 of the Act, in Imperia Structures Ltd. Vs. Anil Patni and Another [5 2020(10) SCC 783], has held that Section 18 confers an unqualified right upon Allottees to get refund of the amount deposited with the Promoter and interest at the prescribed rate, if the promoter fails to complete or is unable to give possession of an apartment as per the date specified in the home buyer’s agreement, then in para 23/25, it was held as under:-

“23/25. In terms of Section 18 of the RERA Act, if a Promoter fails to complete or is unable to give possession of an apartment duly completed by the date specified in the agreement, the promoter would be liable, on demand, to return the amount received by him in respect of that apartment if the Allottee wishes to withdraw from the Project. Such right of an Allottee is specifically made “without prejudice to any other remedy available to him”. The right so given to the Allottee is


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unqualified and if availed, the money deposited by the Allottee has to be refunded with interest at such rate as may be prescribed.”


(c) In view of above, it is clear that the rights of Allottees under Section 18 of the Act are unconditional and absolute, regardless of unforeseen events including stay orders of the Court/Tribunal, any other reasons or even factors beyond control of the Promoter and if the allottee opts to avail its right under sec 18(1) and withdraws from the project, the promoter has to return the amount received by him with the interest at the rate as prescribed.

(d) With regard to whether the interest on the amount to be returned u/s 18(1) has to be calculated from the date of payment of respective amounts, it would be relevant to refer to the explanation (ii) of Section 2(za) of the Act (being reproduced below for ready reference) has expressly clarified the period for which the interest needs to be paid by promoter to Allottees as hereunder.

Sec 2(za)(ii) “The interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;”

(e) The Hon’ble Supreme Court in the case of “Experian Developers Pvt.Ltd. vs Sushma Ashok Shiroom” (2022) SCC Online SC 416” has held as follows:

“22.1 We are of the opinion that for the interest payable on the amount deposited to be restitutionary and also compensatory, interest has to be paid from the date of the deposit of the amounts. The commission in the order impugned has granted interest from the date of last deposit. We find that this does not amount to restitution. Following the decision in DLF Homes Panchkula Pvt. Ltd. vs DS


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Dhanda and in modification of the direction issued by the commission, we direct that the interest on the refund shall be payable from the dates of deposits. Therefore, the appeal filed by the purchaser deserves to be partly allowed. The interest shall be payable from the dates of such deposits.


(f) Rules 18 of the Goa Real Estate (Regulation and Development) (Registration of Real Estate projects, Registration of Real Estate agents, Rates of Interest and Disclosure on websites) Rules, 2017 prescribes the sale of interest payable by the promoter as follows:

Rule 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 (MCLR) plus two percent:”

Since the highest SBI MCLR as applicable on date happens to be 8.90 (revised since 15.07.2025) and as such, the interest on the amount to be refunded would be leviable at the rate of 10.9%.

(g) In view of what has been discussed herein above, it is evident that the interest payable on the amount of refund paid by promoter to Allottees/ Complainants in the instant case, has to be from the date on which the respective amounts have been received from Allottee and till the date of payment of the total amount.

(h) In view of what has been discussed herein including at sub para (c) above, the Respondent is liable to refund the entire amount received by him as per the details below (based on the version of the complainant in view of the findings arrived at point No. 2 above) to the Complainant along with interest leviable at the rate of 10.9% from the date of payment of respective amounts under section 18(1) of the Act.


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(i) Details of payments received by the promoter from the allottee.

Sr. No.	Date of receipt of Payment	Amount (Rs.)
1.	18/03/2018	2,00,000/-
2.	18/03/2018	3,00,000/-
3.	18/05/2019	5,00,000/-
4.	July 2020	11,80,000/-
5.	14/09/2020	2,10,000/-
6.	24/10/2020	2,10,000/-
7.	25/11/2020	1,40,000/-
8.	30/11/2020	2,80,000/-
9.	08/12/2020	1,40,000/-
10.	21/12/2020	2,45,000/-
11.	24/12/2020	2,80,000/-
	Total Amount	36,85,000/-

10) Point No. 6

(a) While the complainant has alleged violation of Section 3 of the Act alleging that the Respondent demanded and accepted advance amount of Rs. 5,00,000/- in the month of March, 2018, much prior to the registration of the said project thereby violating the provisions of Section 3 of the Act. The respondent did not dispute the fact of receipt of advance amount of Rs. 5,00,000/- on 18.03.2018 and in fact admitted in his reply to the complainant submitted on 21.11.2024, the receipt of advance amount of Rs. 5,00,000/- vide two different cheques i.e. Cheque No. 554676 dated for Rs. 2,00,000/- and Cheque No. 554677 dated for Rs. 3,00,000/-. It is also admitted by both the parties that the said project was registered on 03.05.2019. The record of the Authority also confirms the same.

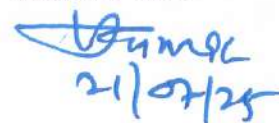
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(b) In view of what has been noted herein above and admission on the part of the Respondent Promoter, the conduct of the Promoter amounts to contravention of Section 3(1) of the Act and attracts penalty under the provisions of Section 59 of the Act. It is further noted that the Complaint in instant case, was filed in September. 2024 i.e. much after the registration of the Project on 03.05.2019 and occupancy certificate for project has also been granted on 14.09.2023.

(c) Keeping in view that the Project has already been registered since 03.05.2019 and has also been completed, a nominal penalty of Rs.6,00,000/- (Rupees Six lakhs only) for violation of provision of Section 3(1) read with Section 59 of the Act is imposed upon the Respondent.

11) Point No. 7

(a) While alleging violation of Section 13 of the Act, the complainant has stated that the Respondent not only demanded and accepted advance amount of Rs. 5,00,000/- as application money in the month of March, 2018, much prior to the registration of the said project but also further demanded and accepted Rs. 5,00,000/- again as application money in the context of issuance of a fresh offer letter dated 18.05.2019 which was paid in cash and acknowledgement receipt dated 17.06.2019 for the purpose and duly signed by the respondent was also issued. The complainant has thus submitted that since the agreement of finance and sale was executed on 10.06.2019 and further registered on 24.07.2019, the act of demanding further an amount of Rs. 5,00,000/- in the context of issuance of a fresh offer letter dated 18.05.2019, was in violation of section 13(1) of the Act which mandates the promoter not to accept a sum more than ten per cent of the cost of the apartment, etc. as an advance payment or an application fee, from a person without first


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entering into a written agreement for sale with such person and registration of the said agreement. The other relevant fact to be considered is that the project "Shree Vastu Garden" was registered on 03-05-2019 and the said payment of Rs. 5,00,000/- made vide receipt dated 17-06-2019 was evidently received by the Promoter after registration of the project thereby violating the provisions of Section 13 (1) the Act. In view of what has been noted herein above, the conduct of the Promoter amounts to contravention of Section 13(1) of the Act and attracts penalty under the provisions of Section 61 of the Act.

(b) Keeping in view the fact that the execution /registration of the said agreement of finance and sale immediately followed the said payment of Rs.5,00,000/- made in cash; it would meet the ends of justice if a penalty of Rs.2,00,000/- (Rupees Two Lakhs Only) is imposed upon the respondent/promoter on this account.

12) Point No. 8

(a) The complainant has also sought to plead that the respondent is liable for lapses and penalty under section 11, 12 and 14 of the Act but has not specified and elaborated the attendant facts to substantiate the allegations made. Apparently, the promoter has lapsed in respect of its duty laid down under section 11(4) of the act on account of his failure to complete the project with all promised amenities and to handover the possession of the duly completed flat booked by the allottee by the date specified and in accordance with the terms of the Agreement for sale. Taking note of the findings at para 4&5 above, it would be just and fair if a nominal penalty of Rs.1,00,000/- (Rupees One Lakh only) is imposed upon the promoter for violation of section 11 of the Act.


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(b) Further, no specific details bringing out the violation of section 12 which deals with the obligations of a promoter who has taken an advance or deposit on the basis of incorrect, false statement included in notice advertisement or prospectus etc. has been stated by the complainant providing the requisite factual details as to making of any incorrect or false statement except the delay in completion of the project and handing over of the flat with promised facilities. The use of the word 'false' in Section 12 of the Act cannot be read limited to the cases of delay which happens when the time taken in completion of a project or in handing over the possession exceed the period and date promised for the purpose under the Agreement for sale which is distinctly covered under the provisions of Section 18 of the Act. The complaint preferred by the complainant is primarily against the failure of the promoter to complete the project and to handover the possession of the duly completed flat booked by the allottee within the prescribed time and accordingly, the complainant has sought relief under sec 18(1) of the Act. It is further noted that the proviso to section 12 also entitles the allottee to withdraw from the project and in that case he shall be returned his entire investment along with interest at such rate as may be prescribed and the compensation in the manner provided under this Act which is on the lines of provisions of sec 18(1) of the Act. The option of withdrawal for the project has already been exercised by the complainant in the present case and relief of refund of the entire amount alongwith interest of the relief has also been granted. Besides, the case has also been referred for adjudication of relief of compensation requested by the complainant. As such no actionable violation of sec 12 of the Act is found to have been established.

(c) As far as alleged violation of section 14 of the Act which relates to adherence of sanctioned plans and project specifications by the promoter, is concerned; neither the complainant has pointed out any specific facts showing any violation of

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section 14 of the act by the promoter with regard to the project 'Shree Vastu Garden' nor the record of the case as submitted by both the parties reveals any facts which attract application of section 14 in the instant case. Accordingly, the violation of section 14 of the act by the promoter as alleged; is answered in negative.

13) Point No. 9

(a) On the issue in question, MahaREAT in its order dated 14.06.2023 in Appeal No. AT006000000133980 has held as follow:

"In view of the foregoing and considering our findings herein above, it is more than evident that possession has not been delivered within the agreed timeline in terms of the Agreement for Sale and Section 18 of the Act provides unconditional and unqualified rights to Complainants for refund and Promoter has bounden duty inter alia to refund the entire paid amounts including statutory payments for taxes, fees etc, with interest from the date of receipt of these payments."

(b) In view of the above observations of the Hon'ble Tribunal the complainant is entitled to the refund of stamp duty, registration charges and processing fee paid by the complainant for registration of the Agreement of Finance and Sale executed on 10.06.2019 and already registered on 24.07.2019. Though the complainant has claimed an amount of Rs.1,02,940/- for the purpose and the respondent has not specifically denied or responded to the relief sought, the refund to the complainant would be restricted to the actual amount spent for the purpose and as per validly executed receipts produced as no receipt for the expenditure though admittedly incurred, were submitted during the proceedings.



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14) Point No. 10

It is noted that despite delayed completion of the project and consequential delay in handing over of the possession of the flat booked to the allottee with all basic amenities, the respondent opposed the complaint trying to defend him unsuccessfully. Further, the record relating to execution proceedings submitted by the respondent himself, reveals that the basic facilities and amenities promised by him to the allottee vide the Agreement of Finance and Sale registered on 24.07.2019 were still not completed/provided even as late as on 09.05.2025. Despite this, the respondent opposed the option of withdrawal from the project by the complainant and to abide by the bounden duty of making refund of the entire amount received by him alongwith the interest at the prescribed rate to the complainant as per the provisions of section 18(1) of the Act which led to the complainant filing the instant complaint. The complainant has admittedly preferred the legal proceedings with regard to the instant complaint. Although, the complainant has not filed any receipt of payment as litigation fee of his counsel, it is evident from the record that the same is being represented by an advocate. He (complainant) is entitled to costs of litigation including the amount of Rs. 5000/- deposited for filing of the online complaint with Goa RERA. Accordingly, an amount of Rs.15,000/- + Rs. 5,000/- totaling Rs. 20,000/- would be payable by the Respondent to Complainant on this count.

15) Point No. 11

(a) Section 18 of the Act stipulates that Complainants are entitled to refund including compensation without prejudice to any other remedy available. Further, Section 71 of the Act stipulate specific procedures for adjudication of compensations and. Section 72 of the Act further specifies the factors to be taken


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into account by Adjudicating Officer, while adjudging the quantum of compensations or interest as the case may be under Section 71 and shall have due regard to the factors namely;

- i) The amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default.
- ii) The amount of loss caused as a result of the default.
- iii) The repetitive nature of the default.
- (iv) Such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.

(b) In the instant case, Complainant has filed single complaint before the Authority seeking refund, interest and compensation. Upon determination by the Authority, the instant complaint is to be further transferred to Adjudicating Officer for determination of compensation including the items listed at point No.11 i.e. compensation for mental harassment, rent amount payment of expenses of fixing grills etc. as per provisions under Section 71 of the Real Estate (Regulation and Development) Act, 2016.

Directions


In view of the findings arrived at in respect of various points of determination listed from para 5 to 15 it will be just to issue the following directions in the matter.

1. Respondent Promoter is directed to refund to the complainant entire amount of Rs.36,85,000/- (Rupees Thirty Six Lakhs Eighty Five Thousand only) paid by the complainant to the respondent (as per the details noted at para 5 above); within 45 days of the date of issue of this order together with interest

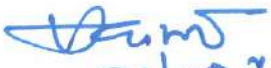

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at the rate of 10.9% from the date on which respective amounts were received from Allottee till the date the total amount is refunded.

2. In view of the observations of the Hon'ble Tribunal referred to at point No.9 above, the complainant is entitled to the refund of stamp duty, registration charges and processing fee paid by the complainant for registration of the Agreement of Finance and Sale executed on 10.06.2019 and already registered on 24.07.2019. Though the complainant has claimed an amount of Rs.1,02,940/- for the purpose, the refund to the complainant would be restricted to the actual amount spent for the purpose and as per validly executed receipts. Respondent Promoter is accordingly directed to refund to the complainant the said amount within a period of 45 days of the date of issue of this order.
3. In view of the observations made in respect of Point No.10 at para 14 above, the Respondent is directed to pay an amount of Rs.15,000/- + Rs. 5,000/- totaling Rs. 20,000/- as cost to Complainant on this count of the date of issue of this order.
4. In view of the findings arrived at in respect of Point No. 6 at para 10 above, the respondent is directed to pay Rs.6,00,000/- (Rupees Six Lakhs only) as penalty under Section 59 of the Act for violation of Section 3(1) of the Act. The amount shall be deposited before the Authority within 30 days failing which necessary proceeding will be initiated against the respondent.
5. In view of the findings arrived at in respect of Point No.7 at para 11 above, the respondent is directed to pay Rs.2,00,000/- (Rupees Two Lakhs only) penalty under Section 61 of the Act for violation of Section 13(1) of the Act. The amount shall be deposited before the Authority within 30 days failing which necessary proceeding will be initiated against the respondent.


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6. In view of the findings arrived at in respect of Point No.8 at para 12 above, the respondent is directed to pay Rs.1,00,000/- (Rupees One Lakh only) penalty under Section 61 of the Act for violation of Section 11(4) of the Act. The amount shall be deposited before the Authority within 30 days failing which necessary proceeding will be initiated against the respondent.
7. 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.
8. In view of the observations made in respect of Point No.11 at para 15 above, the instant complaint is further transferred to Adjudicating Officer for determination of compensation including the items listed at point No.11 i.e. compensation for mental harassment, rent amount payment of expenses of fixing grills etc. as per provisions under Section 71 of the Real Estate (Regulation and Development) Act, 2016.
9. During the course of the proceedings, it was noted that the complainant has claimed to have paid Rs.5,00,000/- in cash to the respondent for which acknowledgment receipt dated 17.06.2019 was also issued by the respondent on its letter head affixing its signature on the revenue stamp. Further, the payment of said amount of Rs.5,00,000/- though disputed by the respondent, has been confirmed vide the instant order. Accordingly, the matter needs to be referred 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 (The correspondence, RBANMS Educational Institution vs B Gunashekar & Another) dated 16.04.2025 which read as follows:-


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- (A) Whenever, a suit is filed with a claim that Rs.2,00,000/- and above is paid by cash towards any transaction, the courts must intimate the same to the jurisdictional Income Tax Department to verify the transaction and the violation of Section 269ST of the Income Tax Act, if any,
- (B) Whenever, any such information is received either form the court or otherwise, the jurisdictional Income Tax authority shall take appropriate steps by following the due process in law,
- (C) Whenever, a sum of Rs.2,00,000/- and above is claimed to be paid by cash towards consideration for conveyance of any immovable property in a document presented for registration, the jurisdictional Sub-Registrar shall intimate the same to the jurisdictional Income Tax Authority who shall follow the due process in law before taking any action.

Secretary Goa RERA is accordingly directed to issue an appropriate communication to the above effect 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 (The correspondence, RBANMS Educational Institution vs B Gunashekar & Another)dated 16.04.2025.


Virendra Kumar, IAS(Retd.) 07/25
Member, Goa RERA