



**GOA REAL ESTATE REGULATORY AUTHORITY
DEPARTMENT OF URBAN DEVELOPMENT
GOVERNMENT OF GOA**

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Case no.4/RERA/Adj. Matters (22)/2021/838

Date: 15/11/2022

BEFORE THE ADJUDICATING OFFICER

Harshad Subhash Sawant,
A-01, Mahavisha Apartment,
Behind ESI Hospital, Calmorod,
Navelim, Goa-403707.

.....Applicant

versus

Expat Projects & Development Pvt. Ltd.,
A2-213, 2nd Floor, Expat Vida Uptown,
Commercial Kadamba Plateau,
North Goa-403402.

.....Respondent

Learned Advocate Shri G. Nadkarni for the Applicant.
Learned Advocate Shri Pritesh Shetty for the Respondent.

ORDER

(Delivered on this 15th day of month of November, 2022)

This order is on the application under Section 71 read with section 18 of
The Real Estate (Regulation and Development) Act, 2016 filed by the applicant.

The applicant has simultaneously also filed an online complaint under section 31 read with Section 7 and 18(1) of the Real Estate (Regulation and Development) Act, 2016 which is pending before the Goa Real Estate Regulatory Authority.

2. By the present application, the applicant is seeking compensation from the respondent on account of failure of the respondent to refund the amount and applicable interest consequent to the withdrawal by the applicant from the project of the respondent. In pursuance to the agreement to sell dated 22.03.2019 entered into between the applicant and respondent, it is the applicant's case that the respondent has completely failed to adhere to the time line of completion and handing over of the possession of the villa agreed to be purchased by the applicant. Despite the applicant having communicated his withdrawal from the said project on 02.11.2021 and even after repeated requests, the respondent herein has failed to refund the partly advanced monies of the applicant with the applicable interest as provided for and thus actually and factually caused loss of money to the applicant on account of dis-investment, undue hardships and also unfair advantage to the respondent. The applicant has been made to suffer loss and undue hardship for no fault of his despite fully complying and fulfilling his obligation under the said agreement. The applicant has taken a loan for the purchase of the villa and due to the acts and conduct of the respondent, he is left with a scenario where the very purpose



of the loan so taken is defeated as the applicant has not got the possession of the villa for which loan was taken by him.

3. The purchase of said villa was for a total consideration of ₹1,25,92,954/- (including GST) (Rupees One Crore Twenty Five Lakhs Ninety Two Thousand Nine Hundred Fifty Four only) which was to be paid in the manner and as per schedule contemplated under the said agreement. Till date the applicant paid to the respondent an admitted amount of ₹57,20,300/- refund of which with applicable interest has been sought by the applicant by filing the said complaint under section 31 read with section 7 and 18(1) of the RERA Act.
4. The important clauses of the said agreement are time is the essence for the developer as well as the allottee. The developer shall abide by the time schedule for completing the project and handing over the villa to the allottee and the common areas to the association of allottees after receiving the occupancy/completion certificate subject to all the allottees having paid all the consideration and other sums due and payable to the developer as per the said agreement. The allottee shall make timely payments of instalments and other dues payable by him subject to the simultaneous completion of the construction by the developer.
5. If the developer fails to abide by the time schedule for completing the project and handing over the villa to the allottee, the developer agrees to pay to the allottee who does not intend to withdraw from the project penalty @10% p.a.



from the date of default till the date of actual handover. Similarly, the allottee agrees to pay to the developer interest as specified on all the delayed payment. The developer shall give possession of the villa to the allottee on or before 31st day of December, 2020. If the developer fails or neglects to do so on account of reasons beyond his control by the aforesaid date, the developer shall be liable on demand to refund to the allottees the amount already received by him with interest at the same rate provided the developer shall be entitled to reasonable extension of time for giving delivery of the villa on the aforesaid date, if the completion of the block in which the villa is to be situated is delayed on account of (i) War, Civil Commotion or Act of God; (ii) Any notice, order, rule, Notification of the Government and/or other public or competent authorities/Court.

6. The respondent has not only failed to fulfil the covenant of such time bound handing over, but has also unilaterally and erroneously postponed the completion and handing over of the said villa indefinitely while having misrepresented false timelines.
7. The applicant having been fully aware of the hurdles and impact of Covid-19 scenario has always given due opportunity and regard to the communication of the delay as unilaterally adverted to by the respondent at many occasion which was premised on the bona fide belief that the respondent was actually taking



efforts to complete the said project on time and hand over the villa to the applicant.

8. However, vide e-mail dated 24.09.2021 in reply to e-mail dated 18.09.2021, it was shockingly learnt by the applicant that the respondent had not even started the work as regards the said villa or the block of which the said villa was part of and that all promises and representations made by the respondent were nothing but false and frivolous. That by e-mail dated 26.10.2021 it was further learnt that such work as regard the said villa was projected to begin only next year i.e. 2022. Thereby it was evident that no handing over would take place as promised by 31.12.2021.
9. The delay of handing over of the said villa is beyond proportional or reasonable extension which could have been granted on account of the pandemic scenario. Furthermore, the respondent very capriciously, frivolously and falsely represented timelines, despite having knowledge that the same is incorrect, with a sole intention to misrepresent the applicant.
10. Highlighting such concerns of undue delay and non-fulfilment of obligation, timelines, revised timelines etc., the applicant vide email dated 02.11.2021 conclusively and wholly withdrew from the said project, more particularly the said villa and demanded for the refund of money paid and due and applicable interest as provided under the said agreement.



11. The request of withdrawal was acknowledged by the respondent vide email dated 03.11.2021. However, very capriciously the respondent stated that “as discussed over the call you want to withdraw from the project and want a refund of full consideration paid, however, we won’t be able to give a refund right away hence you will have to wait till we are able to pay you.”
12. The applicant is not ready or willing to wait any longer for the refund of the money due to him, as the respondent is illegally and without any basis qualifying the same on the further or subsequent sale of the said villa.
13. The applicant waited till February, 2022 to send the legal notice to the respondent after giving the respondent enough time and opportunity till January, 2022 to make the payment.
14. The hard earned money of the applicant is being held at ransom by the respondent without any cogent reason for the same. The said non-refunding of such money is actually and factually causing undue hardship on the applicant. Such withholding of the amount and interest payable is clearly violative of section 18 of the RERA Act. The applicant states that had he invested the principal amount in some other manner then it would have given returns as well as due interest. Had the applicant invested in some other project then it would have been completed till date. The applicant proceeded on the promises and representation made by the respondent which has evidently caused him loss of



money on account of disinvestment which loss is attributable duly to the acts and conduct of the respondent.

15. The applicant had taken a home loan from State Bank of India for a sanction amount of ₹50,00,000/- (Rupees Fifty Lakhs only). The applicant had requested disbursal of ₹23,52,000/- (Rupees Twenty Three Lakhs Fifty Two Thousand only) on 24.08.2020 primarily for ensuring the payment of the consideration as and when the same arose as per the time schedule in the said agreement which at the relevant time was for completion of the plinth. The applicant has never defaulted or delayed the payment of any amount actually due and payable under the said agreement and has paid the said amounts upon the representation from the respondent that the villa would be completed in the promised timeline. Since such timelines were nothing but false and frivolous, the applicant was forced to withdraw from the said project so as to reduce the losses accruing on account of the same. Such loss also includes the extra burden of the housing loan, which has evidently not fructified into the applicant getting any house. On the contrary, the applicant is merely facing undue hardship, which the respondent on the basis of false representations has secured undue advantage whereby the money so paid by the applicant is used by the respondent for seeking advantage and/or gain by completing the construction of the said villa or the phase of which the said villa forms a part of. The applicant had given the respondent sufficient time to return the money but the respondent has not even replied to



the notice sent by the applicant. The applicant has thus prayed that an order be passed under Section 71 of the Real Estate (Regulation and Development) Act, 2016 directing the respondent to pay to the applicant, compensation to the tune of ₹ 2,00,00,000 (Rupees Two Crores only) or any other amount deemed fit and appropriate for dis-investment, loss of money, mental agony, torture etc.

16. The respondent filed its reply acknowledging the execution of the agreement between the applicant and respondent. The respondent states that they have been continuing with the work on-site inspite of defaults by the customers and shall complete the project within the completed time line. Any adverse orders shall jeopardise all the customers as the completed project will get strangulated due to financial constraints. There is no intent to cheat the applicant nor are the respondent offenders. The delay claimed by the applicant falls within the meaning of conditions that were beyond the control of the respondent. The respondent did not act in bad faith but ensured that it continued to remain committed to contractual completion as best as possible despite the prevailing atmosphere of uncertainty during the pandemic.
17. The respondent states that the work is in full process and progressing and the respondent shall complete the project as per the extended time line approved by the Hon'ble RERA Authority. The respondent has issued demand letters to the defaulting customers for delayed progress-wise payments and also



contemplating legal action, but the effect on the economy and the adverse effect of the same on the defaulting customers cannot be ignored completely.

18. The respondent states that the said project complies with RERA Act 2016 and the respondent is working on the completion of the project as per RERA timeline. The respondent shall genuinely handover the apartment to the allottee within the time frame granted by the RERA Authority. The complaint cannot be entertained as the commitment for delivery as per RERA license is June 2021 and due to the pandemic 06 months extension was given to the respondent and further extension till 31.12.2022 has been granted to complete the project. Hence, the application be dismissed.
19. The power of attorney of the applicant Mr. Subhash Savant filed affidavit in evidence on behalf of the applicant. The representative of respondent Ms. Melvina Franco filed affidavit in evidence on behalf of the respondent. An application for amendment of the reply of the respondent has been filed by the respondent. The applicant filed reply opposing the same.
20. Heard arguments. Ld. Advocate Shri G. Nadkarni argued for the applicant and filed written submissions on behalf of the applicant. Ld. Advocate Shri Pritesh Shetty argued for the respondent and filed written submissions of the respondent.
21. The points for determination and my findings on the same are as follows:-



Sr. No.	Points for determination	Findings
(a)	<i>Whether the application for amendment of the reply filed by the respondent is to be allowed?</i>	<i>In the negative.</i>
(b)	<i>Whether the compensation as sought by the applicant is to be granted?</i>	<i>Partly in the affirmative as per the Order.</i>

REASONS

Point (a)

22. The respondent vide the application for amendment is seeking to amend its reply to the application for compensation filed by the applicant by adding additional paragraphs 15(a) and para E after para D as set out in the application for amendment on the ground that the reply had been prepared by the party themselves without seeking necessary legal advice/assistance. It is also stated that the omission accrued due to inadvertence of typing /printing mistake.
23. The applicant in the reply to the application for amendment has strenuously opposed the same. It is applicant's case that the application for amendment is bad in law and a mere after thought after the final arguments of the applicant were advanced. It is submitted that pleading cannot be amended after commencement of trial. The application has been filed at the stage of final



arguments of the respondent and in such scenario the amendment is impermissible. The exception to the same is if the Hon'ble Court comes to a conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial.

24. Ld. Advocate Shri Pritesh Shetty for the respondent in support of the respondents case on this count has placed reliance in the case of **State of Bihar and Others versus Modern Tent House and Another (2017) 8 Supreme Court Cases 567**; in the case of **L.R. Shivarama Gowda and Others versus T.M. Chandra Shekar (dead) by LRS and Others (1999) 1 Supreme Court Cases 666** and in the case of **Mahila Ramkali Devi and Others versus Nandram (Dead) through legal representatives and Others (2015) 13 Supreme Court Cases 132**.
25. On the other hand Ld. Advocate Shri G. Nadkarni for the applicant has placed reliance in the case of **Chander Kanta Bansal versus Rajinder Singh Anand (2008) 5 Supreme Court Cases 117** and in the case of **M/s. Modi Spinning & Weaving Mills Co. Ltd. and Another versus M/s. Ladha Ram & Co. (1976) 4 Supreme Court Cases 320**.
26. In the case of **M/s. Modi Spinning & Weaving Mills Co. Ltd. and Another** (cited supra) the Apex court has held that amendment of written statement is not allowed when the effect would be to displace the plaintiff's suit and deprive him



of his valuable right already accrued to him. An entirely different and new case cannot be substituted by this process.

27. In the case of **Chander Kanta Bansal** (cited supra) it was held:- Delayed amendment which appeared to be an afterthought disallowed. Condition of “due diligence” prescribed in proviso to Rule 17, held, also not satisfied.
28. In the present case the respondent has failed to show that despite due diligence as prescribed in the proviso to Rule 17, the respondent could not have taken the stand of denying the case of the applicant in the reply wherein the respondent has otherwise denied some of the contentions of the applicant. The defences taken of not having sought legal advice and omission due to inadvertence of typing/printing mistake cannot be accepted in the light of the maxim “Ignorantia juris non excusat” (Ignorance of law is no excuse).
29. As rightly submitted by the ld. Advocate Shri G. Nadkarni for the applicant the present application for amendment is only an afterthought after the arguments were advanced by the Advocate for the applicant i.e. after the commencement of trial. Further as rightly submitted by the Ld. Advocate for applicant, the only reason claimed by the respondent for failure to raise the matter is inadvertence, which itself is contrary to the very requirement of “inspite of due diligence” and the said amendment is premised to defeat the cogent grounds and case raised by the applicant at the time of the final arguments. The judgments cited supra by Ld. Advocate Shri Pritesh Shetty for the respondent do not meet the



requirement of amendment of pleading as required under the law and hence cannot be considered.

30. In the circumstances, there is no merit in the application for amendment on the ground as sought by the respondent. Accordingly, the said application for amendment stands dismissed.

Point (b)

31. The objection of Ld. Advocate for the respondent that the affidavit filed by the attorney of the applicant cannot be looked into as the facts stated therein are not to his personal knowledge is devoid of merit as the allegations in application for compensation have not been denied in the reply by the respondent. Therefore, such facts having not been denied are admitted facts which need not be proved. Consequently, the judgements cited by Ld. Advocate for respondent in this context do not apply to the facts and circumstances of the present case. Hence, this objection raised by Learned Advocate for the respondent stands rejected.
32. The case of the applicant herein is that the time line agreed to in the agreement for sale dated 22.03.2019 has not been adhered to. The time line agreed to handover the possession of the said villa was 31.12.2020. The respondent vide email dated 20.01.2021 has represented to the applicant that the handing over of the said villa would be by July 2021. Further by email dated 09.06.2021 the respondent had represented the handing over date as 31.12.2021. The applicant



on realising the falsity in the representation of the respondent in completion and handing over of possession of said villa terminated the said agreement vide email dated 02.11.2021 thereby withdrawing from the project and seeking return of the amount paid along with appropriate interest. The case of continual delay and misrepresentation has not been denied by the respondent in the reply but has only sought to take refuge of an extension permission granted by the RERA.

33. It is the contention of the respondent that due to the unforeseen situation of the Covid-19 pandemic the respondent was unable to complete the project and is thus entitled to reasonable extension of time for giving delivery of the said villa. It is also the contention of the respondent that further extension of said project has been received from the RERA to the respondent to deliver the project to the customer by December, 2022.
34. As rightly submitted by Ld. Advocate Shri G. Nadkarni for applicant the extension, if any, granted by RERA does not in any manner govern or even link to the return of money sought by the applicant.
35. The applicant was aware of the impediment of Covid-19 scenario and therefore agreed to a reasonable extension from the already extended promised date of handing over i.e. July, 2021.



36. Even assuming any extension was granted by RERA the same pertains to the entire project and completion of the same. The contention of the respondent in the reply that the extension by the RERA would render any claims against it as bad in law cannot be accepted as the same would be contrary to the object and purpose of the RERA Act 2016.
37. Thus, there is no merit in this contention of the respondent. The extension given by RERA does not apply to the present case which pertains to compensation on account of default of handing over of possession of said villa under the said agreement and also failure on the part of the respondent to return the money advanced with applicable interest.
38. The respondent themselves have admitted that they could not adhere to the timelines and therefore sought extension for completing and handing over possession of the villa to the applicant.
39. The applicant has sought for return of amount along with interest which the applicant is rightfully entitled to seek and receive. Even otherwise, such return of amount has been delayed by the respondent till date without any cogent grounds.
40. It is the applicants case that he has obtained a loan from State Bank of India which is an additional liability forced upon the Applicant. Ld. Advocate for the



respondent has contested the claim of the applicant of having in fact obtained a loan and that the same was never disbursed to the applicant. Ld. Advocate for the respondent has objected to the loan documents produced by the applicant obtaining housing loan contending that the same appears to be doctored. Perusal of the loan documents shows that the State Bank of India has sanctioned a loan of ₹50,00,000/- to the applicant and his wife. There is also a memorandum of loan agreement for home loan produced including agreement to mortgage. A letter dated 25.08.2022 issued by SBI confirms a total repayment as on date in the loan account is ₹21,11,800/- This letter duly confirms the home loan obtained by the applicant for the purpose of purchase of villa by the applicant. The applicant has thus suffered loss on this ground of having obtained a home loan for the villa for which the applicant is saddled with repayment of the home loan with applicable interest. Therefore the objections raised by Ld. Advocate for the respondent cannot be sustained.

41. It is the applicant case that if he had been handed over possession of the said villa he would have been able to give out the same on rent and would have earned rental income. In support of the applicants case the applicant has produced web page available on 2BHK villas on rent at Kadamba plateau having rental value of ₹60,000/-₹50,000/-. On the other hand the respondent has produced leave and license agreement showing license fee of ₹5000/- and ₹



6000/-. In one of leave and license agreements, it is noticed that the name of the purchaser on the stamp duty is the respondent itself.

42. To my mind, no reliance can be placed on the documents produced either by the applicant or the respondent in order to establish fair rent payable with respect to a bungalow taken on lease at the Kadamba Plateau. In the circumstances, it is held that the fair rent that the applicant could have secured had the villa been given on rent would be ₹30,000/- (Rupees Thirty Thousand only) per month.
43. Chapter III of the said Act gives details of the functions and duties of the promoter. Section 11 (4) (a) states as follows:-

“11(4) The Promoter shall be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder **or to the allottees as per the agreement for sale**, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be:

From the aforesaid Section 11(4) (a) it is clear that the promoter is responsible for all obligations, responsibilities and functions under the provisions of the said Act/Rules/ Regulations **or to the allottees as per the agreement for sale**. Thus, the promoter is bound by the terms, recitals and conditions as mentioned in the said agreement for sale.



44. Even under Section 18 of the said Act (supra), the complainant is entitled to the return of amount and compensation only if the promoter fails to complete or is unable to give possession of an apartment, plot or building “in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified in the said agreement for sale.” Thus, if the promoter does not give possession of an apartment, plot or building, as per the terms of the agreement for sale or as per the date specified therein, the cause of action accrues in favour of the complainant for the return of amount and compensation.
45. The broad factors to be considered while adjudging compensation have been provided under Section 72 which reads as under:-

“72. While adjudging the quantum of compensation or interest, as the case may be, under Section 71, the adjudicating officer shall have due regard to the following factors, namely:-

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused as a result of the default;
- (c) the repetitive nature of the default;
- (d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.”

46. In the case of ONGC LTD. v. SAW PIPES LTD. (2003) 5 Supreme Court Cases 705. The Apex Court while dealing with Section 73 and 74 of the Contract Act has held that:



“(1) Terms of the contract are required to be taken into consideration before arriving at the conclusion whether the party claiming damages is entitled to the same.

(2) If the terms are clear and unambiguous stipulating the liquidated damages in case of the breach of the contract unless it is held that such estimate of damages/compensation is unreasonable or is by way of penalty, party who has committed the breach is required to pay such compensation and that is what is provided in Section 73 of the Contract Act.

(3) Section 74 is to be read along with Section 73 and, therefore, in every case of breach of contract, the person aggrieved by the breach is not required to prove actual loss or damage suffered by him before he can claim a decree. The court is competent to award reasonable compensation in case of breach even if no actual damage is proved to have been suffered in consequence of the breach of a contract.

(4) In some contracts, it would be impossible for the court to assess the compensation arising from breach and if the compensation contemplated is not by way of penalty or unreasonable, the court can award the same if it is genuine pre-estimate by the parties as the measure of reasonable compensation.”

47. Ld. Advocate Shri G. Nadkarni for the applicant has placed reliance in the case of **Newtech Promoters and Developers Pvt. Ltd. versus State of UP and Others 2021 SCC Online SC 1044; Ghaziabad Development Authority versus Balbir Singh (2004) 5 Supreme Court Cases 65; Ghaziabad**



Development Authority versus Balbir Singh (2005) 9 Supreme Court Cases 573;

48. In the case of **Ghaziabad Development Authority versus Balbir Singh (2004) 5 Supreme Court Cases 65** it was held that in cases where monies are being simply returned then the party is suffering a loss in as much as he had deposited the money in the hope of getting a flat/plot. He is being deprived of that flat/plot. He has been deprived of the benefit of escalation of the price of that flat/plot. Therefore the compensation in such cases should necessarily be higher.
49. In the light of the above rulings and provisions of the RERA Act and as the result of the default on the part of the respondent of failing to handover possession of the said villa to the applicant, as well as to return the amount advanced from time to time by the applicant to the respondent for the construction of the said villa, the applicant has suffered financial losses which he would have been able to earn by way of monthly rent for which the villa would have accrued if it was given on rent by the Applicant. The cause of action for the same is the last date agreed for handing over possession of the villa i.e. 31.12.2021. Therefore, from 1st January 2022 till date by way of compensatory costs at the rate of ₹30,000/- (Rupees Thirty Thousand only) per month, the applicant is entitled to ₹3,15,000/- (Rupees Three lakhs Fifteen Thousand only) on conservatory basis towards loss sustained having being deprived of giving the said villa on rent by the applicant.



50. The applicant has suffered loss on account obtaining a home loan for which the applicant was saddled with repayment of interest. In the claim for compensation the applicant has set out the interest accrued on the entire principal amount advanced i.e. ₹57,20,300/- (Rupees Fifty Seven Lakhs Twenty Thousand Three Hundred only). The applicant has calculated the interest amounting to ₹14,27,716/- (Rupees Fourteen Lakhs Twenty Seven Thousand Seven Hundred and Sixteen only). In support of this calculation of interest, the applicant has not produced the statement of account from State Bank of India showing the amount of loan advanced and the interest charged to the applicant on the said home loan. The State Bank of India could not have advanced the entire amount of ₹57,20,300/- as the sanctioned loan was upto the limit of ₹50,00,000/-. The applicant has not produced the statement of account from the State Bank which would have indicated the actual loan amount advanced from time to time and the interest accrued and paid on the same. Therefore no reliance can be placed on the calculation of interest as submitted by the applicant. The applicant having failed to produce the said statement of account from the bank, this Forum is not inclined to grant any compensation on this count to the applicant.

51. The respondent has caused sustained mental stress and worry to the applicant for having not handing over the possession of said villa and not having returned the money advanced by the applicant which was returnable with interest as agreed. The applicant, therefore, is entitled to be compensated for such mental



stress and worry caused due to the default by the respondent for which the respondent is liable, to pay compensation quantified of ₹1,00,000/- (Rupees One Lakh only)

52. The acts and conduct of the Respondent has left the applicant with no villa even after more than 03 years of entering into the said Agreement of sale. The Respondent on the basis of false representation has secured undue advantage whereby the money so paid by the applicant has been used by the respondent for seeking advantage of and/or gain of completing construction of other phases which in no manner is relevant to the handing over possession of the agreed villa to the applicant till date. In order to secure a villa of the same area in or around the same vicinity, the applicant will have to invest much higher amount per sq. mtrs. on account of the escalation in costs of real estate over the period of three years. The respondent has also failed to return the money advanced with applicable interest as agreed. For this undue advantage, to the respondent corresponding to grave disadvantage to the applicant, the respondent is liable to pay compensation quantified at ₹5,00,000(Rupees Five Lakhs only) to the applicant.

53. The applicant has paid/borne the amount of the stamp duty of ₹3,24,800/- (Rupees Three Lakhs Twenty Four Thousand Eight Hundred only) for executing the said agreement. As the applicant was compelled to withdraw from the project and terminated the said agreement for reasons solely attributable to



the respondent for not handing over the possession of the villa within the stipulated time under the said agreement which admittedly is not ready even till date, the applicant was made to bear the costs of stamp duty for no purpose or benefit. Therefore, the respondent is liable to compensate the applicant for the same.

54. The respondent having failed to refund the monies advanced with interest upon the withdrawal from the project by the applicant and the failure of the respondent to reply to the legal notice sent to the respondent, the applicant was compelled to initiate litigation by way of the said complaint before the RERA Authority and the present application for compensation for which the applicant has to bear litigation fees of engaging legal counsel for the same due to the defaults of the respondent. Hence the respondent shall be liable to pay compensation to the applicant towards legal fees quantified at ₹25,000/- (Rupees Twenty Five Thousand only).

55. The Point (b) for determination is accordingly answered partly in the affirmative in the amount of ₹12,64,800/- (Rupees Twelve Lakhs Sixty Four Thousand Eight Hundred only).

56. Before parting with this order, it is necessary to mention that the claim for compensation in 'Form B' was filed by the applicant on 13.04.2022. Copy of the same was received by the respondent on 28.04.2022. The reply was filed by the respondent 20.05.2022. On 08.06.2022, the Respondent filed additional

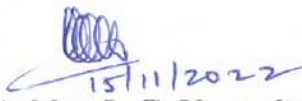


documents. On 29.06.2022 the matter was kept for settlement talks. On 06.07.2022 and on 22.07.2022 arguments were advanced .On 02/08/2022. application for amendment was filed by the respondent. Reply to the same was filed by the applicant on 05.08.2022. On 22.08.2022 opportunity was given to the applicant to file affidavit in evidence. On 29.08.2022 applicant sought time to file affidavit in evidence. On 13.09.2022 affidavit in evidence was filed by the applicant. On 28.09.2022 respondent sought time to file affidavit in evidence and filed the same on 18.10.2022. Further arguments were heard on 18.10.2022. The matter stands disposed on 15.11.2022.

In the result, I pass the following:-

ORDER

The respondent is directed to pay the applicant compensation of ₹12,64,800/- (Rupees Twelve Lakhs Sixty Four Thousand Eight Hundred only) for violation under section 18 read with section 71 of the Real Estate (Regulation and Development) Act, 2016 within 30 days of this Order. In default, the respondent shall be liable to pay interest on the said amount at the rate 10.35% per annum till realisation.


15/11/2022
(Ashley L.C. Noronha)
Adjudicating Officer,
Goa RERA