



GOA REAL ESTATE REGULATORY AUTHORITY

101, 1st Floor, 'SPACES' Building, Plot No. 40, EDC Patto Plaza, Panaji 403 001 Goa

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F.No:4/RERA/Adj. Matters (139)/2026/1377

Date: 10/09/2026

BEFORE THE ADJUDICATING OFFICER

1. Mr. Abhishek Madhukar Lohar,

Son of Late Madhukar Pandurang Lohar,

Aged 35 years, Indian National, Married,

Resident of Bidri, Tal Kagal, Bidri,

Kolhapur, Maharashtra-4168003.

.....Applicant

Versus

1. Ms Sky Blue Realtors,

A Proprietorship Firm,

Having its office at Mulgao,

Bicholim Goa

Represented by its Proprietor,

Mr. Aniket Arvind Naik,

Son of Arvind Nagesh Naik

Aged about 36 years, Indian National,
Resident of Flat No. 602, Building D,
Edcon Rio Grande, Opp. Campal Clinic,
Near Methodist Church, Campal,
Panaji Goa.

2. Mr. Arvind Nagesh Naik,

Son of Nagesh Krishna Naik
Aged about 75 years, Indian National,
Resident of H.no. 276/7,
Central Government Employees Housing Society,
Pether, Opp. Wilsha Hotel, Karmali,
Old Goa, 403110.

3. Mrs. Neera Arvind Naik,

Wife of Arvind Naik,
Aged about 66 years, Indian National,
Resident of H.no. 276/7,
Central Government Employees, Housing
Society, Pether, Opp. Wilsha Hotel, Karmali,
Old Goa, 403110.

4. Mr. Aneesh Arvind Naik,

Son of Arvind Nagesh Naik

Aged about 42 years, Indian National,

Resident of Flat No. 7/S, Kamat Classic IV,

Near HDFC Bank, Miramar,

Caranzalem, Goa.

.....**Respondents**

*Ld. Advocate Shri Shivam Fadte & Shri Shivam Kalangutkar
representing the Applicant.*

*Ld. Advocate Shri R. Satardekar representing the Respondent
initially and none present at the time of hearing, arguments and
order.*

ORDER

(Delivered on this the 10th day of the month of September, 2026)

The Complainant/applicant has filed the present application in Form 'B' for compensation claiming that the Complainant/applicant herein are the purchasers and the 'Allottees' of the Flat No. F-7 having House No. 766 FF-7, situated on the First floor of the Block A, in the building "SKY BLUE HOMES - II", Mulgao, Bicholim Goa, while the Respondent No. herein viz, ARVIND CONSTRUCTION, is proprietorship firm, having its office at Mulgao, Bicholim Goa who has developed a Real estate project "SKY BLUE HOMES - II" as a



‘Promoter’ and is duly represented by its Proprietor Mr. Arvind Nagesh Naik.

2. The Complainant/applicant states that he had purchased the Flat No. F-7 having House No. 766 FF-7, situated on the First floor of the Block A admeasuring 100.00 square meters of the Building “SKY BLUE HMES - II”, hereinafter to be referred as “the said flat”, from M/s. SkyBlue Realtors, having its office at Mulgao, Bicholim Goa, by way of a Deed of Sale dated 28.06.2022, which is registered in the office of the Sub- Registrar of Bicholim in Book: - 1 Document, and bears Registration No:- BCH-1-619-2022 dated 30.06.2022, wherein Mr. Arvind Nagesh Naik and Mrs. Neera Arvind Naik were the Vendors/respondents represented through its Power of Attorney Respondent No. 4.

3. The Complainant/applicant states further that the above Flat No. F-7 having House No. 766 FF-7, situated on the First floor of the Block A of the building _“SKYBLUE REALTORS - II”_ which is constructed in the property known as “BHATVADI” or “BOTVADI COTTUMBINA MARGACODIL” commonly known as “BHATWADI” located at Mulgao, within the limits of Village Panchayat of Mulgao of the Taluka Bicholim Goa. The said Building

is situated in the property surveyed under Survey No. 260/1-D of Village Mulgao Bicholim Goa.

4. The Complainant/applicant states that construction of the said Building was duly approved by the Town and Country Planning Department of Bicholim Goa vide its Technical Clearance order bearing No. DC/7050/BICH/TCP-17/992 dated 11.2.2017 pursuant to which the above building was granted Construction Licence by the Village Panchayat of Mulgao, Goa under No.VP/MULGAO/F.CONST. LICENCE/2018-19/17 dated 04.04.2018. It is respectfully submitted that the Village Panchayat of Mulgao, Goa upon completion of the said building Occupancy certificate bearing No. VPM/BICH/F-Occupancy Cert./2021-22/669 dated 10.12.2021 to the building "SKY BLUE HOMES - II".

5. The Complainant/applicant states that the said Building is also registered under Real Estate (Regulation and Development) Act 2016 hereinafter to be referred as "RERA" and the competent authorities acting under Real Estate (Regulation and Development) Act 2016 have certified the said building with a Registration No. PRGO12190983. The Complainant/applicant states further that the Complainant/applicant came within the knowledge of the said project

when he came across the advertisement on online website called OLX Website. That the said project was appealing since it was facing towards the national highway.

6. The Complainant/applicant states that the complainant then approached the Respondent No. 1 to inquire with the availability of the flats and also the Respondent No. 1 handed over to the complainant the copy of the brochure. The

Complainant/applicant states that the Complainant/applicant was impressed with the features and the amenities which the complainant was providing and also the materials which the respondent no.1 is using for the purpose of constructing, the complainant showed interest for the purpose of purchasing the said flat.

7. The Complainant/applicant states that the Respondent No. 1 promised for the features like Designated Parking, Visitors Car Park, Gym with steam and Jacuzzi, Garden with play park, Lounge for senior citizen with board games, Video Door Phone (Godrej), Elevators with 24 hours backup, 24hours security and Security cameras for all-round monitoring and accordingly the Complainant was given an Offer/Allotment Letter dated 19/08/2020.

8. The Complainant/applicant states that during the purchase of the said Respondent No. 1 informed the Complainant/applicant that the amenities and the features will be completed within six months from the date of purchase of the said flat and in good faith the complainant agreed with Respondent No. 1 and on keeping faith on the Respondent No. 1 signed the Deed.

9. The Complainant/applicant states that after the purchase of the said flat Respondent No. 1 never showed up on the project neither his agents or workers or contractors showed at the project. That said the project was incomplete during the purchase of the flat and that this authority never took cognizance of the fact that the Respondent No. 1 never completed the project and the authorities have granted him with the NOC/permission and also completion certificate which was submitted to this authority but this authority never verified.

10. The Complainant/applicant states that till date Respondent No. 1 never completed with the project nor did he completed with the amenities which he had promised by way of a brochure. The Complainant/applicant states further that he had approached the Respondent No. 1 multiple times and also tried contacting the Respondent No. 1 telephonically but the Respondent No. 1 never



rectified the problems faced by the Complainant/applicant nor did he reverted back as to what plan of action the Respondent No. 1 is planning to complete the said project.

11. The Complainant/applicant states that the complainants are also facing issues with the internal works of the said flat, which the Respondent No. 1 is reluctant to resolve the problems or to address the issue with the Complainant/applicant. The Complainant/applicant states that after the purchase of the said flat, the Complainant/applicant started with his interior works and furnished the entire flat. That the cost of the said interior works came up to Rs. 10,00,000/-.

12. The Complainant/applicant states that pursuant to completion of the interior works done by the Complainant, the complainant started residing in the said flat and that upon residing in the said flat, the complainant noticed various cracks and dampness on the walls of the flat at various places which raised concern of the quality of the work done by the Respondent No. 1.

13. The Complainant/applicant states that there are various cracks which have been developed walls of the said flat which has damaged



the walls and also the paint which has been done by the Complainant/applicant at the time of the interior works. That the said cracks are increasing day by day which raised a serious concern with the quality of work. The Complainant/applicant states that the Complainant/applicant has also noticed water leakage and dampness in the kitchen area and also area outside the toilet area which has also damaged the paint and damaged the interior work which has been carried out by the Complainant/applicant.

14. The Complainant/applicant states that the Respondent No. 1 in terms of the approved plan has shown two soak pits but at loco, the Respondent No. 1 has constructed only one soak pit which has started overflowing which has resulted into threat to their life. That the complainant further adds that due to overflowing of septic tank, breeding of mosquitoes which has caused threat to their health and also due to overflowing, windows of the said flat are kept closed since it stinks.

15. The Complainant/applicant states that since there is no PWD water connection, the complainant has to completely rely on the bore well which has been put in by Respondent No.1. That said water has to be pumped in the overhead water tanks, but the overhead tanks are



not sealed, and Respondent No. 1 has not taken any responsibility to seal the overhead water tanks which raises a concern to our health.

16. The Complainant/applicant states that in terms of the approved plan, Respondent No. 1 was to install three lifts along with the power backup and that till date no lift has been installed, and lift area has been kept open without any guard or protection which is in turn a threat to life since there are kids and senior citizens residing in the said project.

17. The Complainant/applicant states that Respondent No. 1 has not concealed the electricity board panel in the common area and has kept it open, which is dangerous and life threatening. That the said electricity meters have to be installed in their proper panel which is concealed and sealed properly so there is no external threat. The complainant further adds and states that Respondent No. 1 has not sealed the common area electricity board and are kept open, which is again threat to every member of the said project.

18. The Complainant/applicant states that the complainant also faces an issue of electricity in the said flat wherein there are certain point such tubelight, fans sometimes does not turn off and also there



are various instances wherein the complaint has got electric shock. That the complainant then inquired with the technician wherein the complainant was informed that there is no proper earthing and hence there is every possibility that the entire electrical system of the flat might get damaged.

19. It is the case of the Complainant/applicant that as per the construction licence and the approved plan issued by the concerned authorities, the said open ventilation cut out area or the small open space admeasuring around 30 Square Meters or more is not an open terrace to be used by any flat dwellers and is not provided with any ingress or outgress having any access from any side of either flats adjacent to each other.

20. The Complainant/applicant states that the said open ventilation cut out area or the small open space provided to the building is basically meant for the purpose of ventilation, retention of free sunlight, for installation of central services such as electricity, water sanitation, air conditioning fire safety measures, and also as a portion of the project that is necessary for safety and convenience of its allottees for maintenance.



21. The Complainant/applicant states that it is relevant to note that the roof drainage pipelines and also the septic pipelines connecting to all toilets are directly connected to the septic tank or sink provided to the basement of this building and are inter alia installed in the said open ventilation cut out or the small open space provided therein.

22. The Complainant/applicant states that pursuant to the purchase of the said flat, the complainant noticed that there is some smell coming from the ventilation and when the Complainant/applicant checked it, the complainant found that the roof top which is kept for ventilation is been covered with the sheets and there is no ventilation kept for the flat owners.

23. The Complainant/applicant states that as a result of such an unauthorized modifications and alterations in the portion which forms a part of the 'common area' provided for common use, after having disclosed such portion to be an open ventilation cut out area or open space in the approved plans, has resulted in blockage of the free flow of air necessary for ventilation and Sunlight passing or flowing directly through such open ventilation cut out or open space towards the kitchen thereby violating the basic easementary rights as promised by the Respondent No. 01 in the Sale Deed dated 28.06.2022.



24. The Complainant/applicant states further that the Respondent No. 1 has also not sealed the Electricity Meters which are place at the common hub where all the electrical wires, fuse are placed. That, as per the usual procedure followed by the builders the electricity meters are to be installed on a proper panel and the same needs to be installed on the electrical panel and all the wires are to be concealed properly. That Respondent No. 1 in the present matter has just hung the meters on an ordinary board and the wires are kept open which is in turn a risk to the life of every unit holder.

25. The Complainant/applicant states that when he learnt about such alterations and modifications in the said portion of the building which forms a part of common area as an open ventilation cut out area or open space, he had immediately intimated the Respondent No. 01 and 02 telephonically and called upon them to take appropriate steps to ensure complete adherence to the sanctioned plans and project specifications that were disclosed and represented to the Complainant/applicant as a allottee in the prospectus, Deed of Sale and in plans duly approved by the Town and Country Planning Department.



26. The Complainant/applicant also states that it is relevant to note that the roof drainage pipelines and also the septic pipelines connecting to all toilets are directly connected to the septic tank or sink provided to the basement of this building and are inter alia installed in the said open ventilation cut out or the small open space provided therein.

27. The Complainant/applicant states that the all the above issues are being depicted in the photographs and in view of the same action should be taken against the Respondent No. 1. Further that, Section 14 cast an obligation on the 'Promoter' to adhere to the plans and design specifications that have been approved by the planning authorities in terms of the Goa (Regulation of Land Development and Building Construction) Act, 2008 and the Regulations, 2010. That, Section 14 infact makes it expressly clear that once the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings, amenities and common areas of the building as approved are disclosed or furnished to the allottee then the promoter shall not make any modifications or alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings, amenities and common areas of the building as approved by the planning authorities.

28. The Complainant/applicant states that the Respondent had also failed to adhered to sanctioned plans approved in terms of the Goa (Regulation of Land Development and Building Construction) Act, 2008 & Regulations 2010 as the promoter had altered the lay out plans and specifications that were otherwise approved in consonance with chapter 13 that deals with the aspects such as kitchen and toilet/ washroom/ bathroom of an unit in the Building.

29. The Complainant/applicant states that perusal of the Section 12 of the Real Estate (Regulation and Development) Act, 2016 mandates that the every 'Promoter' shall be responsible for information contained in the Notice advertisement or prospectus which is published and in an event such information is found to be incorrect, false or fraudulent then the promoter is liable to compensate the allottee for the resultant loss as per provisions of the Real Estate (Regulation and Development) Act, 2016.

30. The Complainant/applicant states that in present case it is evident that the Respondents as 'Promoter' have published completely false and incorrect information in their brochure in respect of the common area and other amenities. It is infact pertinent to note that prospectus published by the Respondent under the style and name of



“SKY BLUE HOME - II” clearly mentions of providing three lifts, however the Respondents have failed to provide the same and have kept the lift space unsecured and unconfined. It is seen that the lift area is not having any closet or door fixed temporarily as a result there may occur any untoward incidents or inevitable accidents because of the negligence and unfair practices on part of the Respondents.

31. It is the case of the Complainant/applicant that Respondent No. 1 to 2 also have failed to take appropriate steps to form the Society/ association of members majority of allottees having booked their apartments/ flats in the building in compliance with the mandate of the Section 11(4) of the Real Estate (Regulation and Development) Act, 2016.

32. The Complainant/applicant further states that in terms of Section 11 of the Real Estate (Regulation and Development) Act, 2016, the ‘Promoter’ is responsible for all obligations, responsibilities and functions in terms of the provisions of the Act and as per the Agreement of Sale or Deed of Sale. That, the Complainant/applicant states that the Respondent No. 1 in present case, however has failed to discharge its obligations and responsibilities as per the Deed of Sale wherein it is otherwise promised to the Complainant that he shall have



right to peacefully possess, occupy and enjoy the Unit allotted to him vide the Deed of Sale dated 28.06.2022 and exercise such rights and privileges vested in him by virtue of the Sale Deed.

33. The Complainant/applicant states that he has purchased the said flat out of his hard earnings and with an intention to use the same for better prospects, especially to stay with his family in the said Flat. However, the illegalities committed by the Respondents herein have infact caused unwarranted hardship, stress and mental agony to the Complainant, exhausting the Complainant in both ways, financially and mentally.

34. The Complainant/applicant states that in light of the above conspectus, it is respectfully submitted that this is a fit case for grant of compensation to the Complainant for resultant loss caused to him on account of failure of the Respondents to comply with Section 07 , 11, 12 and 14 of the Real Estate (Regulation and Development) Act, 2016 considering the relevant factors set out under Section 72 of the Act.

35. Complainant/applicant states that this Authority has jurisdiction to hear the present Complaint under Section 71 of the Real Estate

(Regulation and Development) Act, 2016 and to grant compensation claimed in the Complaint and adjudicate the same in terms of the above referred provisions. That this Authority is also vested with powers to recommend the cancellation of the Registration of the Respondent and to enforce its direction in the manner prescribed in the Act

36. That in view of the facts mentioned above, the applicant prays for the following compensation(s):

- a. This Authority be pleased to direct the Respondents to rectify all the defects in the Flat bearing No. F - 7 having House No. 766 FF - 7, situated on the First floor of the Wing A of the building "SKY BLUE REALTORS - II".
- b. This Authority be pleased to direct the Respondents to pay the interest at the rate of 12 % on the amount of Rs. 33,00,000 /- from the date of the Deed of Sale of the said flat;
- c. This Authority be pleased to direct the Respondents to pay the compensation of Rs. 10,00,000/- to the Complainant herein along with the interest thereon at the rate of 12%

per annum from the date of Deed of Sale till actual payment;

- d. This Authority be pleased to direct this Authority an appropriate Order recommending, the cancellation of the Registration of the Respondent with the RERA authorities and impose necessary penalty;
- e. For cost of legal fees and the Complaint of Rs.50,000/-.

37. The Complainant/applicant has filed the List of enclosures as under:

1]	Copy of the Sale Deed dated 28.06.2022	"A"
2]	Copy of the Town and Country Planning Department of Bicholim Goa vide its Technical Clearance order bearing No. DC/7050/BICH/TCP-17/992 dated 29.11.2017, Completion Order and Occupancy certificate bearing No. VPM/BICH/F-Occupancy Cert./2021-22/669 dated 10.12.2021	"B-Colly"
3]	Copy of the RERA Certificate	"C"
4]	Copy of the Brochure	"D"

Read

5]	Copy of the Offer/Allotment Letter dated 19/08/2020	"E"
6]	Copy of the Photographs	"F"

38. The Respondent No 1 filed reply stating that the present Complaint is wholly misconceived, legally untenable, and liable to be dismissed in limine and that the Complainants/applicants has deliberately suppressed material facts and has attempted to mislead this Authority and that the Complaint is an afterthought filed only after taking possession, completing the sale without any protest, thereby clearly establishing acceptance of the condition of the unit.

39. It is submitted that the scope of proceedings under Section 71 of the Act is limited to adjudication of compensation and does not extend to entertaining exaggerated and unsubstantiated allegations lacking technical proof. That, the Complainant has failed to produce any expert report, structural audit, or certified inspection to substantiate allegations of structural defects, electrical defects, seepage, or deviations.

40. The Respondents submit that the project has been duly completed in accordance with sanctioned plans and an Occupancy Certificate has been issued by competent authorities after due inspection, which carries a presumption of legality and compliance. That there is inordinate delay in filing the present complaint and in view of the delay, the present Complaint is not maintainable and liable to be dismissed at the threshold.

41. The Respondent No 1 admits the execution of the Sale Deed and specifically submitted that the Complainant/applicant had inspected the premises prior to purchase and accepted the specifications, layout, and condition thus the Sale Deed constitutes the final and binding contract and no representations beyond the Sale Deed are enforceable. Further that all the required permissions and approvals were obtained from the concerned departments. That, the project has received all statutory approvals including Occupancy Certificate and RERA Registration.

42. It is admitted that the advertisements of the said project were put on OLX and that the project is facing towards the national highway, however it is denied that the complainant came with the knowledge of the said project on OLX. It is submitted that although

the respondent no. 1 handed over the copy of the brochure to the complainant, the brochures are only indicative and not contractual documents and the amenities are subject to availability, approvals, and practical feasibility. It is submitted that no false representation was ever made to the complainant. It is well settled that promotional brochures do not override executed agreements unless specifically incorporated.

43. It is specifically submitted that the Agreement for Construction-cum-Sale is the final and binding document governing the rights and obligations of the parties, and the same does not contain any clause or obligation with respect to the alleged amenities as stated by the Complainant/applicant. It is further submitted that the alleged amenities referred to by the Complainant/applicant are not contractually agreed terms, and therefore no enforceable right accrues in favour of the Complainant/applicant on the basis of the brochure or the Offer/Allotment Letter. That the Complainant/applicant, having executed the Agreement after full knowledge and having accepted its terms, cannot now seek to rely upon prior or extraneous representations which are not incorporated in the binding agreement.

44. That, infact it was the Complainant/applicant who was persistently pressurizing the Respondent No. 1 to expedite completion of the flat and hand over possession at the earliest, as the Complainant/applicant was in urgent need of accommodation and had no alternate place to reside. The Respondent no. 1, acting in good faith and accommodating the Complainant's request, facilitated early completion and execution of the Sale Deed. The Complainant/applicant, having been fully aware of the status of the flat and project at the relevant time, voluntarily proceeded with the purchase and took possession. Further that, in these circumstances, the Complainant/applicant is now estopped from alleging that the project was incomplete or that the Respondent acted in breach, as the sequence of events clearly demonstrates that possession was taken with full knowledge and urgency at the instance of the Complainant/applicant himself. Hence, the allegations are contrary to facts, self-serving, and liable to be rejected.

45. It is submitted that it is settled law that promotional materials are only indicative unless specifically incorporated into the agreement for sale. It is specifically submitted that neither the registered Sale Deed contains any stipulation, representation, or contractual



obligation with respect to the alleged amenities as stated by the Complainant/applicant.

46. That it is a settled position of law that the registered Sale Deed constitute the final and binding contract between the parties, and any prior documents, including Offer/Allotment Letters, brochures, or oral representations, stand superseded upon execution of such registered instruments. In the present case, since the alleged amenities are also not incorporated in the registered Sale Deed, no enforceable right accrues in favour of the Complainant in respect thereof.

47. It is further submitted that the Complainant/applicant, having executed the Sale Deed after due inspection and with full knowledge of the project specifications, is estopped from relying on prior or extraneous representations which were never made part of the binding contract. Hence, the allegations made in this paragraph are baseless, misconceived, and liable to be rejected. Hence the Complainant's reliance on brochure amenities is misplaced.

48. It is submitted that there is no question of taking cognizance by this authority as the project was completed in all respects and the possession of the flat handed over to the allottees only after the

allottees verified that the same was completed in all respects and took possession of the same. It is further submitted that all the authorities have granted the NOC/permission and also completion certificate only after the completion of the project and verification of the same by the authorities. It is also submitted that once an Occupancy Certificate is granted by the competent authority after due inspection, a presumption arises that the construction is in accordance with sanctioned plans. It is denied that till date Respondent No. 1 never completed with the project nor did he completed with the amenities which he had promised by way of a brochure.

49. It is submitted that the project was completed and certified by competent authorities and that the Complainant/applicant has taken possession, undertaken interiors and resided in the flat. Thus, allegations of "incomplete project" are false and self-contradictory. That, the Respondent has, in good faith and without admitting any liability, attended to and addressed minor issues, if any, brought to its notice. Such actions were undertaken as part of routine maintenance support and do not constitute any admission of defect, deficiency, or deviation from approved plans. It is further submitted that any minor issues relating to usage or maintenance of common facilities are not

attributable to any fault of the Respondent and cannot be construed as a breach under the provisions of the Act.

50. It is admitted that after the purchase of the said flat, the complainant started with his interior works and furnished the entire flat. It is submitted that the Complainant has made a bald assertion that he has incurred an amount of ₹10,00,000/- towards interior works; however, no documentary evidence whatsoever has been produced to substantiate the said claim. There are no invoices, bills, contracts, payment receipts, or any other supporting material placed on record. Without prejudice, it is submitted that any interior works carried out by the Complainant were undertaken entirely at his own discretion, cost, and risk, and the Respondent has no role, responsibility, or liability in respect thereof. It is further submitted that such unilateral expenditure, even if assumed (though not admitted), cannot be attributed to any alleged act or omission of the Respondent, nor can the same form the basis of any claim for compensation. It is admitted that pursuant to completion of the interior works done by the Complainant, the complainant started residing in the said flat.

51. It is submitted that no structural defect has been established by the complainant. The allegations are unsupported by expert evidence.

It is submitted that interior modifications by Complainant after the purchase of the flat may have likely caused cracks to the walls and paint and water leakage and dampness in the kitchen area and area outside the toilet. It is submitted that under Section 14(3) of RERA, liability arises only for structural defects, not minor cracks or maintenance issues. Allegations of cracks, dampness, and seepage without expert proof do not fall within statutory liability of RERA.

52. The Respondent No. 1 denies that in terms of the approved plan has shown two soak pits but at loco, and that the Respondent No. 1 has constructed only one soak pit which has started overflowing which has resulted into threat to our life. It is further denied that there is overflowing of septic tank which causes breeding of mosquitoes which has caused threat to our health and also due to overflowing, windows of the said flat are kept closed since it stinks.

53. At the outset, it is submitted that the Complainant has failed to produce or annex the alleged approved plan on which reliance is placed to contend that two soak pits were sanctioned. In absence of the sanctioned plan being placed on record, the entire allegation is unsubstantiated and liable to be rejected outright. It is further submitted that all construction in the project, including sanitation and

drainage systems, has been carried out strictly in accordance with the plans approved by the competent authorities and in compliance with applicable norms. The project has also been granted an Occupancy Certificate, which itself establishes that the infrastructure, including sewage and soak pit arrangements, has been duly verified and approved.

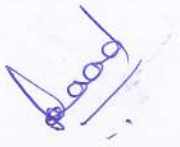
54. It is admitted that since there is no PWD water connection, the complainant has to completely rely on the bore well which has been put in by Respondent No. 1. However it is denied that the overhead tanks are not sealed, and Respondent No. 1 has not taken any responsibility to seal the overhead water tanks which raises a concern to our health. It is submitted that the overhead tanks are sealed and cleaned from time to time by the respondent and as such there is no question of any concern to the health of the flat owners. It is submitted that any issue relating to maintenance, usage, or overloading of common facilities, if at all, is a matter to be addressed collectively by occupants and does not constitute any deficiency or breach on the part of the Respondent.

55. It is the case of the Respondent that the Complainant/applicant has failed to produce or annex the alleged approved plan on which

reliance is placed to contend that Respondent No 1 was to install three lifts along with the power backup. In absence of the approved plan being placed on record, the entire allegation is unsubstantiated and liable to be rejected outright. Even otherwise it is submitted that the Complainant/applicant purchased the flat with full knowledge of project status and as such now cannot complain about deficiency in service.

56. It is submitted that all the electricity meters have been installed in their proper panel which is concealed and sealed properly and as such there is no external threat to the life and safety of the flat owners and that the Respondent has provided proper electrical infrastructure in accordance with applicable safety norms and standards, including installation of three (3) independent earthing systems for the building, ensuring adequate safety and compliance.

57. The allegation that there is "no proper earthing" is therefore factually incorrect and misleading. The electrical system of the building has been executed as per standard engineering practices and has not been reported defective by any competent authority or other flat owners. It is submitted that if the Complainant has carried out any internal alterations, modifications, or additional electrical load



installations within the flat, any issues arising there from would be solely attributable to such modifications and not to the Respondent. Hence, the allegations made are unsupported, speculative, and liable to be rejected.

58. It is further submitted that no unauthorized construction or alteration have been carried out by the respondent no.1. That the structure is strictly as per approved plans. Further, that the Complainant/applicant has misinterpreted technical layout and failed to produce sanctioned plan comparison or expert opinion. It is submitted that the project has been developed and completed strictly in accordance with the terms and conditions of the Agreement for Construction-cum-Sale as well as the registered Sale Deed executed between the parties. That all obligations, specifications, and commitments that are contractually agreed and recorded in the said documents have been duly complied with by the Respondent. There is no deviation, breach, or deficiency in respect of any of the terms forming part of the binding agreement. It is further submitted that the Agreement for Construction-cum-Sale and the Sale Deed alone govern the rights and liabilities of the parties, and any allegation

beyond the scope of these documents is legally untenable and not enforceable.

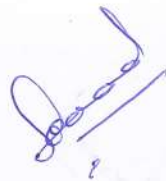
59. It is submitted that, the Complainant/applicant, having executed the said documents after due verification and having taken possession of the flat, is bound by the terms thereof and cannot raise claims contrary to or outside the agreed contractual framework. That the project is fully compliant with the contractual obligations, and no case of violation or deficiency is made out against the Respondent. It is submitted that as per the terms and conditions governing the transaction, the Respondent No. 1 is expressly entitled to make such variations, modifications, and alterations in the layout, plans, structure, and open spaces of the building as may be deemed necessary or expedient, at his discretion, subject to applicable approvals. It is further submitted that the Complainant's rights are strictly limited to the ownership, possession, and enjoyment of the said flat purchased by him, and do not extend to claiming any independent or exclusive rights over the overall construction of the building, structural components, layout arrangements or common areas or open spaces.



60. That the Complainant/applicant has no vested or proprietary right in respect of the design, structural configuration, or use of open/ventilation spaces, beyond what is expressly provided in the Agreement and the Sale Deed. It is therefore submitted that any allegation relating to alleged alterations in open spaces, ventilation areas, or building layout is misconceived and beyond the contractual entitlement of the Complainant, particularly when such changes, if any, are carried out in accordance with applicable permissions and norms.

61. It is the case of the Respondent no. 1 further that no unauthorized construction or alteration have been carried out by the respondent no. 1 and the structure is strictly as per approved plans. That in the present case, the Occupancy Certificate has not been challenged hence allegations of unauthorized or deviation are unsustainable.

62. It is submitted that there is no loss caused to the allottee and hence there is no question of grant of any compensation. It is submitted that all the regulations have been fully complied. There is no false advertisement established and no deviation proved. It is



submitted that the brochure is not binding unless incorporated into Agreement and Deed of sale.

63. It is submitted that the Respondent has taken necessary steps towards the formation of the society/association of allottees in accordance with applicable law. However, the process of society formation is a collective process requiring cooperation and participation of all allottees. That the Complainant/applicant themselves has been non-cooperative and has raised unwarranted objections, thereby causing delay in the formation of the society. That, the Respondent cannot be held responsible for such delay attributable to the conduct of the Complainant/applicant. That, the Respondent remains willing and committed to complete the process of society formation in accordance with law, subject to cooperation from all concerned parties. Hence, the allegations in this regard are misconceived and liable to be rejected.

64. It is submitted by the Respondent that he has fully complied with all obligations and responsibilities as stipulated under the Deed of Sale dated 28.06.2022. The Complainant has been duly put in lawful possession of the said flat and has been peacefully residing therein without any obstruction, interference, or hindrance from the



Respondent. It is further submitted that the complainant has right to peaceful possession, occupation, and enjoyment of the unit and this right has been respected and upheld by the Respondent no. 1. There has been no act or omission on the part of the Respondent no.1 that has in any manner interfered with or disturbed the Complainant's possession or enjoyment of the said premises. The allegations sought to be made are vague and unsupported by any specific instance of interference or breach. On the contrary, the Complainant/applicant is in settled possession and has even undertaken interior works and is residing in the flat, which itself demonstrates complete compliance with the terms of the Sale Deed. Hence, it is reiterated that there is no violation of the Deed of Sale, and the allegations made in this paragraph are baseless and liable to be rejected. The Complainant must substantiate allegations through credible evidence such as expert reports. No structural audit, engineer report, or certified inspection has been produced by the Complainant.

65. It is submitted that the Respondent no. 1 has fully complied with all contractual obligations under the Agreement for Construction-cum-Sale and the Sale Deed, and have delivered possession of the flat in accordance with law. The Complainant is in peaceful occupation

and enjoyment of the said premises. The allegations of "mental agony", "financial loss", and "hardship" are vague, exaggerated, and unsupported by any documentary or substantive evidence. No material has been placed on record to demonstrate any actual loss or damage attributable to the Respondent no. 1., and that such allegations are routine and self-serving statements, made only with an intention to claim unwarranted compensation, and do not constitute a valid cause of action under the provisions of the Real Estate (Regulation and Development) Act, 2016. Hence, the allegations made in this paragraph are baseless and liable to be rejected.

66. It is submitted that the present case does not satisfy the statutory requirements for grant of compensation under Sections 7, 11, 12, 14 read with Section 72 of the Real Estate (Regulation and Development) Act, 2016. It is denied that there has been any violation of Section 7, 11, 12 or 14. It is further submitted that the Complainant has failed to establish any breach, deficiency, or statutory violation on the part of the Respondents. That, no cogent evidence has been produced to substantiate the alleged claims. In the present case the Complainant/applicant is in possession and occupation of the flat, the project has received Occupancy Certificate and no structural defect or



legal violation is established and no quantified loss is demonstrated. It is submitted that by taking possession and residing in the flat, the Complainant has accepted the property condition. Hence, the claim for compensation is arbitrary, speculative, and unsustainable in law, and is liable to be rejected.

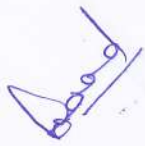
67. It is submitted that out of approximately 40 flat purchasers/allottees in the project, only 3 individuals, including the present Complainant, have raised the alleged grievances, while the overwhelming majority of occupants are residing without any such complaints. That this fact clearly indicates that the allegations raised are isolated, subjective, and not reflective of any systemic defect or deficiency in the project. If the issues alleged were genuine, widespread, or structural in nature, the same would have been uniformly raised by a larger number of occupants. The limited number of complaints raises serious doubt as to the bona fides and credibility of the allegations, and suggests that the issues, if any, are either individual-specific or arising out of personal usage or modifications, or exaggerated for the purpose of the present proceedings. It is therefore submitted that such isolated grievances cannot form the basis of attributing liability or deficiency to the Respondent,

particularly in absence of technical or independent evidence. Hence, the present Complaint is liable to be viewed with caution , rejected as lacking merit and dismiss the Complaint with exemplary costs.

68. Affidavit in rejoinder was filed on behalf of the Complainant/applicant. Thereafter affidavit in sur- rejoinder was filed on behalf of the Respondent. The Complainant No 2 filed affidavit-in-evidence. The Respondent was represented by his Advocate initially and also appeared for the hearing while attempts were made to settle the matter amicably. However, none appeared for the Respondent during hearings later. The affidavit in evidence filed by the Applicant went unchallenged by the Respondent.

69. Arguments were heard on behalf of the Complainant/applicant. Written synopsis of the arguments are filed on record by the Complainants. On behalf of the Complainants, reliance was placed in the case of *M/s Newtech Promoters and Developers v/s The State of Uttar Pradesh , dated 11 November 2021*. I have gone through the entire records as well as the arguments advanced before me.

70. The points for determination and my findings to the same are as under:-



Sr. No.	Points for determination	Findings
(a)	<i>Whether the Respondent is liable to pay to the Complainant/Applicant compensation ?</i>	<i>In the affirmative.</i>

REASONS

Point (a)

71. The present application has been filed before the Adjudicating Officer in Form B seeking for direction to rectify defects, payment of interest and for compensation. Some of the reliefs sought for do not fall within the purview of Section 71 and 72 of the Real Estate (Regulation and Development) Act, 2016, except for determining the compensation. Therefore , directing the Respondents to rectify all the defects and directing Respondents to pay the interest at the rate of 12% on the amount of ₹33,00,000/-(Rupees Thirty Three Lakhs only), and recommending the cancellation of the registration of the Respondent cannot be entertained as the said reliefs do not fall within the jurisdiction of the Adjudicating Officer.

72. Complainants/applicants have submitted that they have incurred expenses of ₹10,00,000/- due to use of substandard materials , faulty and poor quality construction resulting in widespread cracks, water leakage and dampness as well in respect of the defects in

common areas as depicted in the photographs . He has produced copy of the Tax Invoice dated 2nd March 2021 for the amount of ₹74,870.00/- and the bill dated 09/03/2024 for the amount of ₹67000/- towards expenses incurred by the Complainant/applicant towards the flat due to the defects/ defaults .

73. The Deed of Sale is executed on 28th June 2022 and one of the bill produced is of the year 2021, so how can it be said that there was default. It appears that the bill is produced to show that the Respondent had not adjusted the amount of the material he purchased with that of what the Respondent was supplying. It has been stated that out of the amount of ₹74,870.00/-, the balance amount remained to be paid is ₹44.870/- as ₹30,000/- has already been paid by the Respondent.

74. Infact the Complainant/applicant after taking possession of the flat, has even carried out interior works. The Complainant/applicant say that their flat was not completed. However in the Deed of Sale dated 28th June 2022, at page 8, there is a mention that the Purchasers have inspected the flat and have verified that the said flat is completed in all respects and that there are no defects or damages to the said flat and have executed the present Deed. The photographs which have



been enclosed are of the year 2025, and it certainly shows some defects. It is possible that there were no defects at the time executing the Deed of Sale and the defects like cracks, dampness gradually became visible thereafter.

75. We must not loose sight of the fact that the Complainant/applicant has failed to produce any expert report, structural audit, or certified inspection to substantiate allegations of structural defects, electrical defects, seepage, or deviations. It is submitted by the Respondent that the Respondent has, in good faith and without admitting any liability, attended to and addressed minor issues, if any, brought to its notice and that such actions were undertaken as part of routine maintenance support and do not constitute any admission of defect, deficiency, or deviation from approved plans.

76. The Respondent has produced on record some photographs claiming to have taken care of some grievances of the Applicants. However a look at the same shows poor quality of work and poor workmanship and sub standard stuff. Compensation can be given if the defects have not been rectified and the applicants establish the fact that there are defects in the construction which has been done to some

extent. Therefore, keeping all this in mind, the Complainant/applicant would be entitled for compensation for the default on the part of the Respondent in rectification of the defects from the year 2025 and not from the date of executing the Deed of Sale. Even during talks of settlement the Respondent stated that he would rectify the defects and clean up the debris etc. However, thereafter he remained away from proceedings.

77. It is the contention of the Applicants that they were impressed with the advertisements in the brochure and hence entered into the Sale Deed with the Respondent. However that the project was never completed as promised and the features like designated parking, visitors car park, gym with steam and Jacuzzi, garden with play park, lounge for senior citizen with board games, video door bell lift etc. were not provided.

78. Respondent on the contrary submitted that the advertisements of the said project were put on OLX and that although the respondent no. 1 handed over the copy of the brochure to the complainant, the brochures are only indicative and not contractual documents and the amenities are subject to availability, approvals, and practical feasibility and that it is well settled that promotional brochures do not



override executed agreements unless specifically incorporated. Well, I do not agree with this contention. Whatever amenities have been advertised through promotional brochures are to gain the interest of prospective purchasers to purchase the units in the project and which prospective purchasers have invested after considering the promotional brochures. The Respondents hence are liable for compensating the Complainants/applicants for the default in services after promoting the same through their brochures. Reliance placed in the Supreme Court of India, Record of Proceedings in case of *Swarnpreet Kaur & Another v/s DLF Home Developers Ltd & Others in Civil Appeal No. 8049/2023* wherein it was held that the project has to be in conformity with what is represented in the brochure.

79. It is true that only the RERA Authority would have jurisdiction to adjudicate and decide on a claim filed under the proviso of Section 18(1) of the RERA, 2016 in respect to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon or for directing rectifications etc..



80. However, under Section 18(3) of the RERA, 2016 if the Promoter fails to discharge any obligations imposed on him under these Rules or Regulations or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees. It is seen that the amenities/features as depicted in the brochure has not been provided till date and as such, the Applicant is entitled for compensation due to the default of the respondent.

81. The Complainants/applicants have not withdrawn from the project. The applicants are residing in the said project. Hence, as per Section 18 of The RERA Act, they would not be entitled to the compensation but would be entitled only to the interest. The Adjudicating Officer would have no jurisdiction to hear and decide such a claim. In the case of *Brahmanand Kadam Vs. G.T. Developers* Appeal No. AT005000000052390 in Complaint No. CC00500000011089, decided on 20.08.2021, The Maharashtra Real Estate Appellate Tribunal has held that as the allottee is staying in the project, in such cases, no compensation is envisaged under Section 18 of the Act. Hence, the relief for compensation cannot be granted and is therefore rejected.

82. As can be seen in the case of *"M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP and Ors. dated 11.11.2021"* in civil appeal no.(s) 6745-6749 of 2021, the Apex court has clarified that if the adjudicating officer on enquiry is satisfied that the promoter has failed to comply with the provisions of any of the Section 12,14, 18 and 19, he may direct to pay such compensation or interest as the case may be, as he thinks fit in accordance with the provisions of any of those Sections.

83. 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;*

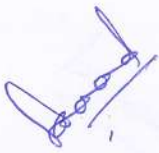


(c) The repetitive nature of the default;

(d) Such other factors which the adjudicating officer considers necessary to the case in furtherance of justice."

84. In the claim for compensation, the applicants have stated that they have suffered mental agony, unwarranted hardship and stress. Nothing has been produced to support these claims. As can be seen from my discussions above, it is probable that the Applicant has faced stress and unwarranted hardships due to the defects in the building, incomplete amenities etc. Stress is a natural reaction to specific demands and events, and ongoing stress can affect a person's health and wellbeing. The affidavit in evidence filed by the Applicant went unchallenged by the Respondent as the Respondent remained away from the hearings.

85. The Complainant/Applicant has claimed compensation towards legal expenses. Nothing has been produced by the Complainant/Applicant on record by way of bills to support the claim of incurring legal expenses. However considering the fact that the Complainant/Applicant has paid Goa RERA the applicable fees of Rs 5,000/- and borne the costs for prints/copies to be given to the



Respondent, follow up , etc., and that they have filed the Vakalatnama of the Advocate appearing in the matter, as such the Complainant/Applicant is entitled to compensation towards such legal expenses. Hence, i am of the view that an amount of ₹50,000/- (Rupees Fifty Thousand only) as costs towards legal expenses, would be just and reasonable as in the facts of the matter.

86. It is evident from my discussions above that there is an amount of disproportionate gain or unfair advantage due to the defaults on the part of the Respondent caused to the Complainant/applicant. There is also an amount of loss caused to the Complainant/applicant as a result of the default on the part of Respondent.

87. I am of the view that the Applicant is entitled to compensation in the amount of ₹5,50,000/- (Rupees Five Lakhs Fifty Thousand only) towards the default in providing the amenities as depicted in the brochure, towards mental stress and agony and hardships caused to the Complainant/Applicant due to defects in the flat/ building and expenses incurred to repair them, which is just and reasonable as in the facts of the matter. In view of my discussions herein above hence, I pass the following:-

ORDER

The Respondent is directed to pay the Complainant/Applicant compensation of ₹6,00,000/- (Rupees Six Lakhs only) for violation under Section 18 read with Sections 71 and 72 of the Real Estate (Regulation and Development) Act 2016 within 30 days from the date of this Order. Further, in default to pay the said amount, the Respondent shall be further liable to pay the Complainant/Applicant interest on the said amount of ₹6,00,000/- (Rupees Six Lakhs only) @8.80% p.a. (which is applicable on this day) till date of payment/realization.


10/09/2016.

Sayonara Telles-Laad
Adjudicating Officer, Goa RERA