



GOA REAL ESTATE REGULATORY AUTHORITY
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F.No:3/RERA/Complaint (504)/2025/ 1535

Date: 13/10/2026

(Coram: Shri Vincent D'Silva, Hon'ble Member-Goa RERA)

**Prabhu Emerald Co-operative Housing Maintenance Society
Ltd.,**

Through its Chairman,

Mr. Anil Patil,

Age: 66 years

Residing at Flat No. A-401,

A Block, Prabhu Emerald Cooperative

Housing Maintenance Society Ltd.,

Alto, Dabolim, Goa-403711

..... **Complainant**

Versus

1. M/s Prabhu Realtors,

A registered partnership firm

Having its registered office at

Office No. 98, 2nd Floor,

Block A, Prabhu's Emerald,

Above Pantaloons, Alto- Dabolim, Goa-403801

Through its partners

2. Mr. Amit C. Prabhu

Age: 32 years

Residing at Wresting Woods,

Plot No. E-17, Vasant Nagar,

Gogol, Margao, Goa-403601

3. Mr. Chandrakant S. Prabhu

Age: 65 years

Residing at Wrestling Woods,
Plot No. E-17, Vasant Nagar,
Gogol, Margao, Goa-403601

4. Mrs. Meena C. Prabhu

Age: 60 years

Residing at Wrestling Woods,
Plot No. E-17, Vasant Nagar,
Gogol, Margao, Goa-403601

5. Mr. Sumeet C. Prabhu

Age: 29 years

Residing at Wrestling Woods,
Plot No. E-17, Vasant Nagar,
Gogol, Margao, Goa-403601

Respondents

Ld. Advocate Shri. Jay Mathew for the complainant.

Ld. Advocate Mr. Yogesh V. Nadkarni along with Ld. Advocate
Shri. K. Nadkarni for the respondents.

ORDER

(Delivered on this 13th day of the month of October, 2026)

This order shall dispose of the complaint filed under Section
31 of The Real Estate (Regulation and Development) Act, 2016.

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

The respondents have constructed and developed three
buildings constructed on the said Property under the name and
style of “**Prabhu’s Emerald**” at Dabolim Village, Mormugao

Taluka, Goa. The said project is registered under no. PRGO07180386 with the Authority. The respondents actively marketed the project in the nature of a residential and commercial complex having 222 Flats, 221 parking units, 35 shops, 4 offices and one Gym in the said property with state-of-the art amenities including stilt parking and swimming pool. Pursuant to the advertisement, the members of the Complainant Society had approached the respondents and decided to purchase the units in the Project. The allottees and the respondent No. 1 entered into Deeds of Sale with respect to their purchase of their respective flats. However, despite the above representations, the respondents have adopted unfair trade practices and have been in complete contravention of the Real Estate (Regulation and Development) Act, 2016 and other applicable laws in force.

3. It is the case of the complainant that despite obtaining Occupancy Certificate and Completion Certificate in 2018, the respondents failed in executing and registering Deeds of Sale or Conveyance with the allottees of the Project, despite the express provisions of the RERA. Additionally, there were several issues pertaining to the maintenance of the Project that were required to be cured and rectified by the respondents. In these circumstances,

some allottees of the Project formed a Registered Association under the name and style of "Prabhu's Emerald Owners Welfare Association" and approached the Hon'ble Authority in the year 2020 seeking registration of Deeds of Sale amongst other prayers. Pursuant thereto, the Association and the respondent No. 1 decided to mutually resolve the issue pertaining to the maintenance, repairs and the Deeds of Sale to be executed with the members of the Association and Consent Terms dated 03.01.2023 were filed before the Hon'ble Authority.

4. Consequently, the respondents registered the Deeds of Sale with the allottees and thereafter, assisted in formation of the Complainant Society. All the allottees became members of the Complainant Society including the partners of the respondent No.

1. However, the respondents continued to violate the provisions of the RERA, 2016 and adopted unfair trade practices and continued to interfere with the Project despite selling all the units. These actions of the respondents result in continuous violations of the rights of the complainant and its members. The Complainant Society was not a party to the previous RERA proceedings. Additionally, the alleged claims were not raised in the previous RERA proceedings and therefore, the Consent Terms filed by the

Association cannot come in the way of the reliefs sought by the Complainant Society.

5. The respondents have completely failed to adhere to the mandate of the Real Estate (Regulation and Development) Act, 2016 and have continuously treated the present Project as though their own property, despite selling the units to different allottees. The respondents have withheld the exclusive use and control of several common areas in the society and have adopted unfair trade practices, which are completely impermissible in law. On 01.09.2023, the charge of the project's common areas stood transferred to the Complainant Society upon completion of formation of the Complainant Society and handed over the charge of the common areas and since then, the Complainant Society has been managing the common areas however, the respondents have retained exclusive control over certain areas. Moreover, the charge was handed over without any funds in the Society's Bank Account. The respondents only handed over the keys but, failed to give any written handover, or any title deeds, approved plans, plumbing diagrams, earthing diagrams, or any maintenance funds, etc.

6. The respondents although handed over charge of management of the common areas failed to execute and register a

conveyance deed in favour of the Complainant Society, transferring the title of the common areas in the land and building, despite having handed over control of the project and maintenance responsibility to the Society as on 01.09.2023. The respondents continued to act as owner of the land and common areas by retaining certain areas which is completely contrary to the mandate of the RERA. The respondents have withheld ownership of the land and common areas despite selling all the units in the Project. The respondents have continuously exploited these common areas under the guise of having control and ownership of the land.

7. The respondents have unlawfully continued to retain the common lift in its name and control and operate electricity meters pertaining to common areas for its personal use; retain 5 generators under its authority; connected drainage pipes to common sewerage tank and soak pit and thereafter to the STP; retained all the plumbing and electrical drawings pertaining to the Project; maintained water connections and tanks, one overhead and one ground, in its own name; retained control over several toilets, electric rooms, store rooms, etc., which form a part of the common areas in violation to the approved plans; retained the entire stilt parking of 51 car parks in Building A and 4 parking spaces in

Building B which forms part of the common areas; retained open parking area in front of the shops in the Project;

8. The Complainant Society procured the approved plans at its cost from the authorities and thereafter was shocked to observe the violations by the respondents. The respondents failed to cooperate with the complainant and failed to handover these documents. Subsequently, the Complainant Society engaged a professional expert to prepare a Report upon comparing the approved plans with the Project site and found that the respondents have constructed and developed the Project in violation of the approved plans. All the violations of the respondents have been expressly recorded in the Report prepared by the Expert.

9. The respondents have converted in Block A, the driveway and open areas into parking spaces and allotted them to C-408, C-513, C-102 for a consideration; the respondents have sold 7 car parking spaces in the common open areas to allottees which are earmarked in the approved plans as "Driveway" for a consideration; the respondents have installed 3 DG Sets and 26 AC outer units in the common area, which is not approved in the Plans and not sanctioned by the Goa State Pollution Control Board resulting in serious pollution and obstruction in the common open

areas; the respondents have retained possession and use of the Electric Room and Open passage which are common areas of the Society, by enclosing the same with a gate; the respondents have blocked access to staircases and converted the common areas for the respondents' private use.

10. The respondents have converted in Block B, the driveway and open areas into parking spaces and allotted them to owners of B-102, B-410, B-415, B- 212, B-505, B-508 which is right in front of emergency exit for a consideration; the respondents have converted an Electrical Room Society's common area into a Workers Room and is privately using the same for its own use and has failed to hand over the same to the Society. The respondents are generating revenue from its use; the respondents have rented out two rooms with toilet in the basement to third parties and is collecting rent and generating revenue from its use; the respondents have retained two rooms in intermediate floor in the common area, out of which one has been rented out and other has been sold which is completely impermissible and illegal; the respondents have blocked the emergency access and encroached upon open areas used for fire safety.

11. The respondents have converted in Block C, the driveway and open areas into Parking and allotted them to C-508 for a consideration; the respondents have erected a dangerous hoarding in the common area of the Project wherein an advertisement of the respondents construction company is put up, causing structural damage to the boundary wall without the permission of the Society; the respondents have illegal used the Security Room as a Store Room for their personal use and generating revenue from the same; the respondents have illegally fixed a Water Tank and retained the possession of the same in the setback area of the Project; the respondents have Set up a STP in an area which was earmarked for parking space; the respondents have converted Open spaces into parking spaces and 17 such parking spaces have been sold to allottees for a consideration;

12. The respondents were duty bound to construct and develop the Project strictly in accordance with the plans approved by the Mormugao Planning and Development Authority (MPDA), as required under the Goa Land Development and Building Construction Regulations, 2010 as per which, a minimum number of parking spaces are mandatorily required to be provided based on the number of dwelling units proposed in a residential development

and was obligated to provide sufficient designated parking slots within the stilt or basement areas to cater to the entire Project's requirement, and such parking areas were required to be reflected clearly in the approved layout plan.

13. The members of the complainant observed on 01.09.2025 that a new advertisement was placed on the compound wall of the Project which stated, "Parking for Rent". This advertisement is strategically placed on the compound wall facing the main road. The respondents are seeking to profiteer by renting out the parking spaces illegally hoarded by them to any members of the public. The rooms in the basement earmarked as store room or electrical room or room with toilet are meant for the common use of the society and ought to be under the sole and exclusive use and management of the Society to conduct its affairs and maintain the Project.

14. The respondents have illegally hoarded and retained exclusive control over the entire stilt parking area comprising 51 car parks in Block A, and 4 car parks in B Block and has not proportionately allotted parking spaces to the allottees as per the sanctioned plan as was required under the laws in force and contrary to the approved plan, the respondents have illegally

converted open spaces and setback areas into informal parking bays, which were then sold or allotted to various allottees for consideration, without any lawful authority or compliance with fire safety norms or prevalent laws in force. The respondents have illegally retained electrical rooms and store rooms in the basement of the Blocks and using them to profiteer commercially.

15. The respondents' conduct reflects gross misuse of regulatory permissions and approved plans, amounting to unfair trade practices under RERA, and necessitates strict regulatory intervention. The respondents are unlawfully exercising control and dominion over various common areas of the Project, which are exclusively required to be managed, maintained, and used by the complainant, in accordance with the statutory mandate under the Real Estate (Regulation and Development) Act, 2016. The allottees have undivided rights in the common areas and therefore, the respondents cannot control the common areas and use them as it deems fit. Upon the formation and registration of the Society, and the completion of sale of all residential and commercial units in the Project, the respondents cease to have any proprietary or managerial rights, or control over the common areas, save and

except to the extent of its undivided proportionate interest as an allottee of the 7 flats and 4 shops.

16. The respondents have already executed individual Deeds of Sale in favour of the allottees of the Society. Under the terms of the said Deeds of Sale, each allottee has been conveyed absolute title to his/her respective apartment/unit together with the proportionate and undivided share in the land of the Project. Consequently, upon execution and registration of the Deeds of Sale, the respondents have divested themselves of ownership rights in the Project Land, which now stands vested jointly in all the allottees. The allottees are the members of the Complainant Society who is entrusted with the management of the Project, building and common areas. The respondents have no legal authority to retain, reserve, or withhold any portion of the Project Land, having ceased to be the owners thereof.

17. The project includes approximately 221 stilt and basement parking spaces and 20 open parking spaces in terms of the approved plans sanctioned by the Mormugao Planning and Development Authority. Although, all 222 flats have been sold, the respondents have illegally retained 51 stilt parking spaces in Block A and 4 parking spaces in Block B, despite owning only 7 flats

therein. Many allottees are parking in the common areas of the Society which the respondents have allotted for a consideration, which has resulted in a complete overuse of the common spaces thereby, absolutely restricting internal movement. As against this, an entire stilt parking space of over 55 car parks, 51 in A block and 4 in B block have been illegally and unlawfully been retained by the respondents. The respondents have been obstructing the Complainant Society from managing these parking areas and have commercially exploited the same by retaining exclusive control despite the formation of the Society.

18. The respondents, through its advertisements, brochures, and other promotional material, unequivocally represented that the Project would be equipped with all requisite amenities, including but not limited to stilt parking and a swimming pool. It was upon such representations and assurances that the members of the Complainant Society, acting in good faith, opted to purchase and invest in the said Project, having been induced by the depiction of facilities therein. However, contrary to such assurances, the respondents have, till date, illegally retained the stilt parking in Block A and Block B, and have failed altogether to construct or provide any swimming pool as promised.

19. The respondents have been collecting annual maintenance charges from the allottees since 2017, including for periods prior to the formation and registration of the Complainant Society, i.e., between July 2017 to August 2023. All the allottees have been paying the maintenance as levied by the respondents since 2017. However, at the time of handover of the charge of maintenance to the Complainant Society, the respondents failed to provide any books of account or balance sheet for the years between 2017 to 2023, during which time, the respondents had been collecting maintenance fees. The respondents have failed to render any statement of accounts or balance sheet to the complainant despite repeated requests by the complainant resulting in complete lack of transparency. The respondents have illegally usurped the proceeds and funds collected under the garb of maintenance and hence, are required to refund the maintenance collected along with interest to the Complainant Society.

20. The complainant has time and again requested the respondents to address and solve the grievances of the Society. The complainant has repeatedly requested the respondents to comply with its statutory obligations, including conveyance, account disclosures, and relinquishment of common areas, but the same

have been willfully ignored by the respondents. The respondents in defense relies on certain clauses of the Deeds of Sale which run completely contrary to the provisions of the RERA, 2016 and the clauses of the very Deeds of Sales itself are completely unlawful and cannot protect the respondents in any manner after having sold the units along with undivided ownership rights in the property to the allottees. The respondents have violated Sections 4, 11, 12, 14, 17, 18 and 19 of RERA, 2016 and any other provisions as may be applicable false. The complainant and its allottees have suffered on account of the false representations and illegal interference by the respondents and therefore, are approaching this Hon'ble Authority to secure the reliefs as prayed for.

21. The Complainant has prayed for the following reliefs:

- (a) That this Hon'ble Authority be pleased to direct the Respondents to forthwith execute and register a conveyance deed in favour of the Complainant Society transferring all the common areas of the land and building, at its own cost including payment of registration fees, processing fees and stamp duty (as applicable in law);

- (b) That this Hon'ble Authority be pleased to declare the retention of 51 stilt parking spaces in Block A and 4 stilt parking spaces in B Block including any other parking spaces illegal withheld by the Respondents of Prabhu Emerald Society as illegal and in contravention of law and consequently, direct the Respondents to hand over these parking spaces to the Complainant Society;
- (c) Pending hearing and final disposal of the Complaint, to restrain the Respondents, its agents, its partners, assignees, representatives or anyone claiming through them from withholding, renting, licensing, selling or obstructing the use of 51 stilt parking spaces in Block A and 4 stilt parking spaces in B Block or any other such illegal withheld parking spaces of Prabhu Emerald Society and permit the Complainant to use the said parking spaces without any obstruction or interference whatsoever;
- (d) That this Hon'ble Authority be pleased to declare the retention and use of common areas including but not limited to store rooms, electrical rooms, security rooms, rooms with toilet, etc., in Block A, B and C of

- Prabhu Emerald Society by the Respondents as illegal and in contravention of law and consequently, direct the Respondents to hand over the use of these common areas to the Complainant Society;
- (e) Pending hearing and final disposal of the Complaint to restrain the Respondents its agents, its partners assignees, representatives or anyone claiming through them from withholding or obstructing the use of common areas including but not limited store rooms, electrical rooms, security rooms, rooms with toilet, etc., in Block A, B and C of Prabhu Emerald Society and permit the Complainant to use the said common areas without any obstruction whatsoever;
- (f) That this Hon'ble Authority be pleased to direct the Respondents to forthwith remove all advertising or promotional hoardings which are either erected in the project property of Prabhu Emerald or on the compound walls of Prabhu Emerald by the Respondents and restore the same to the original condition;
- (g) That this Hon'ble Authority be pleased to Declare that the Respondents have violated its statutory obligations

under Sections 4, 11, 12, 14, 17, 18 and 19 of RERA Act, 2016 and consequently, impose penalty upon the Respondents;

- (h) That this Hon'ble Authority be pleased to impose appropriate penalties under Sections 60, 61 and any other appropriate provisions of the RERA, 2016 for non-compliance of the statutory provisions;
- (i) That this Hon'ble Authority be pleased to direct the Respondents to furnish a complete, audited statement of maintenance collections and expenditures for the period from 2017 to 2023 which was collected by the Respondents for maintaining and managing the common areas of the Project prior to handover to the Complainant;
- (j) That this Hon'ble Authority be pleased to pass an Order for refund of any unutilized or misappropriated funds collected for maintenance of the Project by the Respondents to the Complainant Society along with 18% interest;
- (k) That this Hon'ble Authority be pleased to direct the Respondents to handover all the Title Deeds

pertaining to the Project, including all the drawings, approved Plans, Allotments and Deeds of Sale pertaining to the Prabhu Emerald Project to the Complainant;

- (l) That this Hon'ble Authority be pleased to Award damages and compensation to the tune of ₹.1,00,00,000/- (Rupees One Crore) to the Complainant Society for the continued obstruction, harassment, unfair trade practices, false advertisements and promotions, misuse of common areas, illegally profiteering, etc., by the Respondents;
- (m) For Costs;
- (n) Any other relief that this Hon'ble Authority deems fit to grant.

22. The respondents have filed a reply inter-alia contending that the complaint filed by the Complainant Society deserves to be dismissed in limine by applying the principles of Res judicata or principles akin to that of Res judicata on the grounds that the allottees of the project formed a registered Association under the name and style of "Prabhu's Emerald Owners" Welfare Association" and had approached the Goa RERA in 2020 wherein

Consent Terms were filed and the Order dated 16th January 2023 was passed by Goa RERA and in view of the disposal of the earlier complaint vide the said Order dated 16th January 2023, it is not now legally open and permissible to reagitate issues in respect of the same project "Prabhu Emerald", purportedly in the name of the Complainant Society.

23. The project "Prabhu Emerald" is a residential and commercial complex of three separate Blocks, namely Block A, B and C. Block A consists of 53 flats, 14 shops and 6 offices; Block B consists of 89 flats and 21 shops; and Block C consists of 80 flats and that prior to implementation of RERA, 2016 in the State of Goa, the Block 'B' and Block 'C' were duly completed and Completion Certificates and Occupancy Certificates for both these Blocks were duly obtained. Occupancy Certificate of Block 'B' was obtained on 04.08.2017 and Occupancy Certificate of Block C was obtained on 01.03.2018 and as the Block 'A' of the Project 'Prabhu Emerald' was ongoing, Block 'A' RERA registration was obtained. The completion certificates of Block A were obtained on 29.06.2017 and 25.07.2018 and the Occupancy Certificates of Block A were obtained on 30.06.2017 and 18.08.2018. The Goa RERA would have jurisdiction to consider and adjudicate issues

only in respect of the said Block 'A' of the Project "Prabhu Emerald". The completion certificates of Block A was obtained on 29.06.2017 and 25.07.2018 and Occupancy Certificates was obtained on 30.06.2017 and 18.08.2018 and as such, filing of the present complaint on 05.09.2025, after more than 07 years, is hopelessly barred by time and in any event, the RERA should not entertain the present complaint filed after such delay and laches.

24. The Prabhu Emerald Cooperative Housing Maintenance Society Limited was registered on 21.12.2022 and that the respondents cannot alone form a Society but has to enable formation of a Society as deemed fit by the unit owners. The unit owners have decided to form a Co-operative Housing Maintenance Society and the respondents, as promoter, has only enabled formation of such a society. Clause 1 of the Sale Deed stipulates that the vendor/respondent no.1 sells, transfers unto the purchaser said premises together with the corresponding undivided proportionate share in the said property as such, every unit purchaser along with his individual unit is the owner of the corresponding undivided proportionate share in the entire property of 12262.00 sq. mts.

25. The entire said property of 12262.00 sq. mts includes the common areas and, as such, vide registered sale deeds, each such unit holder is the title owner of undivided share in the entire property including the common areas and as such, the respondents are not the sole owners of the common areas but could be restricted in respect of undivided proportionate share in respect of any unsold units as such, it is legally not possible or permissible for the respondents exclusively to transfer the title of the common areas to any society or otherwise. The respondents have already executed registered conveyance deed with undivided proportionate title in the entire property including common areas in favour of each individual allottee.

26. It is only the Block 'A' of the Project is registered under RERA, 2016, and the issues that can be agitated and considered in the present proceeding is only as regards the said Block 'A' which consists of 53 Flats, 14 Shops and 06 Offices. This Authority has jurisdiction only to consider the issues as regards only Block 'A' of the Project and any issues raised in the present Complaint other than those in respect of the said Block 'A', should be outrightly rejected by the Authority.

27. The Office of the respondent No. 1 is located in Block 'A' of the Complex which has 04 Lifts. Out of such 04 Lifts, only 01 such Lift which is accessible to the Office of the respondent No. 1 situated on Second Floor of Block 'A' is also accessible to all the occupants of the said building and is being looked after and its maintenance undertaken by the respondent no. 1. There are 02 Generators in the area which are under possession of the Complainant Society and the said Generators are being utilized for back-up of common areas to Blocks 'A', 'B' and 'C' of the Complex. There are 03 other Generators within the Project which belonged to and owned by the respondent no. 1 and the said Generators provide electricity back-up to the commercial units owned by the respondent No. 1 in the Complex, which also includes the Office of the respondent No. 1. All the drainage pipes of all buildings in the Project are connected to the common sewerage tanks and to soak pits and further to the STP. Such plumbing provisions are done during the initial phase of construction and not after handing over the charge of the common areas to the complainant.

28. Clause 10(xxii) of the draft Sale Deed stipulates that the purchasers acknowledges that at all time hereinafter, the vendor/builder or any person nominated by the vendor/builder shall

be exclusively entitled to the ownership or appropriate to itself, use an or assign to any party of its choice and the individual flats owners or Society shall have no right or claim or ownership over the same : (i) the front set back or Open Parking Area in front of shops of BLOCK A, (ii) four rooms and 4 four parking slots in Block B and (iii) Two rooms in the Stilt of Block C (iv) 52 numbers of parking spaces all located on the upper ground floor of the Building 'A' and shall be entitled to deal with the same in the manner the vendor/builder deems fit and proper. The purchasers acknowledge/s that, neither the purchasers nor the Society that may be formed shall have or claim any title or right of whatsoever nature to the said area/rooms/parking slots reserved by the vendor/builder as per approved plan. The vendor/builder shall be liable for any civil and criminal liabilities in the event of any untoward incident/happening within the building premises owing to parking of vehicles by the clients or customers or any other person permitted by vendor/builder and as such it is not now legally or otherwise permissible for the complainant to make any further grievances as regards such rooms, as now alleged in the present Complaint. Any grievances or complaints as regards contravention of the approved plans need to be made and addressed

to the relevant statutory authorities and such issues and grievances cannot be raised or urged in complaints filed before the RERA.

29. The STP was set up initially during the construction stage and it was set up at a strategic location considering the need of the site. The parking slot wherein the STP machinery is being erected has never been allotted to any allottee till date. No Open Parking Spaces have been sold to any allottee for a consideration. The Open Parking Spaces have been allotted to a few occupants since the allotment of such Parking Space does not cause any hindrance or difficulty for ingress or egress of any emergency vehicles and such allotment of Parking Spaces are clearly mentioned in the respective Sale Deeds, as such, it is now not open to the Complainant Society to raise any grievances or make issues about the same at this belated stage. The respondents are exercising its right and control only in respect of those premises and places which are owned by the respondents. The respondents are legally entitled to use and utilize these Parking Spaces in terms of the Consent Terms filed in the earlier litigation. The issue about maintenance charges cannot be a subject matter before this Authority under RERA, 2016.

30. The allottees are bound by the terms and conditions of the Sale Deed and/or the Agreement of Sale wherein it is specifically agreed that any unspent amount at the end of maintenance contract shall be considered as charges of the respondents for maintaining the Society till such date. The charge has been handed over to the Society in August 2023 and the Society has accepted the said charge without protest and, as such, it is not open to the Society to raise such frivolous issues at this belated stage and that too before an Authority which has no jurisdiction to go into and adjudicate such issues. All the parties are bound by the terms and conditions and covenants as agreed in the Deed of Sale and/or Agreement of Sale executed with each respective allottee. The alleged non-payment of maintenance charges to the Society cannot be a subject matter of adjudication before this Authority under RERA, 2016 and it is the Complainant's own case that this issue has been raised by it in the Complaint under the Co-operative Societies Act, 2003. The complainant is not entitled for any reliefs as prayed for.

31. Arguments heard. Notes of written arguments came to be filed by the parties.

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

Sr. No.	Points for determination	Findings
1.	Whether the Complainant Society is entitled for execution and registration of conveyance deed in favour of the society transferring all the common areas of land and building including payment of registration fees, processing fee and stamp duty?	In the affirmative.
2.	Whether the Complainant Society is entitled for retention of 51 stilt parking spaces in Block A and four stilt parking spaces in Block B withheld by the respondents as illegal and handover the parking spaces to the society.	In the affirmative.
3.	Whether the Complainant Society is entitled to declare the retention and use of common areas including but not limited to storerooms, security	In the affirmative.

	rooms, rooms with toilet, etc., in Block A, B and C of Prabhu Emerald Society by the respondents as illegal and in contravention of law and direct the respondents to handover use of the common areas to society.	
4.	Whether the Complainant Society is entitled to direct the respondents to remove all advertising or promotional hoardings which are either erected in the project property of Prabhu Emerald or on the compound walls of Prabhu Emerald by the respondents and restore the same to the original condition.	Partly in the affirmative.
5.	Whether the respondents have violated the statutory obligations under Sections 4, 11, 12, 14, 17, 18 and 19 of RERA, 2016 and consequently, impose penalty upon	Partly In the affirmative.

	the respondents.	
6.	Whether the respondents have violated the provisions of the RERA and therefore penalties be imposed under Sections 60, 61 and any other appropriate provisions of the RERA, 2016 for non-compliance of the statutory provisions.	In the affirmative.
7.	Whether the Complainant Society is entitled to direct the respondents to furnish a complete, audited statement of maintenance collections and expenditures for the period from 2017 to 2023 which was collected by the Respondents for maintaining and managing the common areas of the project prior to handover to the Society.	In the affirmative.
8.	Whether the Complainant Society is entitled for refund of any unutilized or misappropriated funds collected	In the affirmative.

	for maintenance of the project by the Respondent to the Complainant Society along with 18% interest.	
9.	Whether the Complainant Society is entitled to direct the respondents to handover all the Title Deeds pertaining to the Project, including all the drawings, approved plans, Allotments and Deeds of sale pertaining to the Prabhu Emerald Project to the Complainant.	In the affirmative.
10.	Whether Complainants Society is entitled for damages and compensation to the tune of ₹.1,00,00,000/-(Rupees One Crore) to the Complainant Society for the continued obstruction, harassment, unfair trade practices, false advertisements and promotions, misuse of common areas, illegal profiteering, etc., by the	In the negative.

	Respondents.	
11.	Whether the respondents prove that the complaint is bad under principles of Res Judicata as earlier complaint was disposed of by Order dated 16.01.2023 and that the complaint is also barred by limitation.	In the negative
12	What order? What reliefs?	As per final order.

REASONS

Point No. (11)

33. The above issue namely ‘whether the complaint is bad under principles of ‘Res Judicata’ as earlier complaint was disposed of vide the Order dated 16.01.2023’, as well as the complaint is ‘barred by limitation’, is taken up before other issues, since it pertains to the preliminary objections raised by the respondents.

34. Ld. Adv. Shri. Y. G. Nadkarni for the respondents has submitted that complaint deserves to be dismissed applying the principles of Res Judicata as the allottees of the project formed a registered association under the name of “Prabhu’s Emerald Owners Welfare Association” and had approached the Goa RERA

in 2020, wherein 'Consent Terms' dated 03.01.2023 were filed and in view of the disposal of the earlier complaint vide the said Order dated 16.01.2023, it is not legally permissible to reagitate issues in respect of the same project "Prabhu Emerald", purportedly in the name of the Complainant Society. He further submitted that prior to implementation of RERA, 2016 in the State of Goa, the Block 'B' and Block 'C' were duly completed and the Block 'A' of the project 'Prabhu Emerald' was ongoing, hence registration for Block 'A' was obtained. The Goa RERA would have jurisdiction to consider and adjudicate issues only in respect of the said Block 'A' of the Project "Prabhu Emerald" and as such, filing of the present complaint on 05.09.2025, after more than 07 years, is hopelessly barred by time and in any event, the RERA should not entertain the present complaint filed after such a delay and laches.

35. Per contra, Ld. Adv. Shri. Jay Mathew for the complainant has submitted and rightly so that the plea of 'Res Judicata' taken up by the respondents is not available as the party invoking such a plea must identify the precise issue and prior adjudication in the former proceedings between the same parties which have been directly and substantially an issue, which have been heard and finally decided by the Competent Forum. He further submitted that

the consent terms relate to all the blocks including Blocks 'B' and 'C' and therefore, the contention that Blocks B and C are unrelated and hence, it cannot be part of this proceedings, including the plea of 'Res Judicata' raised by the respondents is completely misplaced.

36. Needless to mention, the earlier Case No. 3/RERA/Complaint (154)/2020/39 was instituted by Prabhu's Emerald Owners' Welfare Association and disposed of on 16.01.2023 in terms of Consent Terms dated 16.01.2023. The present complaint is by the registered Co-operative Housing Maintenance Society and was not the same complainant in the former case, nor participated in the said proceedings. The respondents have not demonstrated that the present statutory claims were comprised in, or finally disposed of by the Consent Terms dated 03.01.2023. Discernibly, the former complaint concerned, inter alia, execution of individual sale deeds, formation of a society and identified maintenance/construction issues however, the present complaint concerns the promoter's continuing failure, after the society became operational and maintenance was handed over in September 2023, to effect the statutory conveyance contemplated by Section 17, continued control and commercial exploitation of alleged common areas,

failure to deliver plans and title documents, and failure to account and handover for maintenance amount collected until the year 2023.

37. Needless to mention, the Complainant Society was not a party to the former proceedings and had received operational charge of the three blocks after passing of the order on consent terms on 16.01.2023, and that several material defaults now complained of either continued or arose thereafter. The Complainant Society does not seek to reopen what was actually settled but rather, it seeks enforcement of independent and continuing statutory obligations enshrined under the RERA Act, 2016. The consent terms relate to all the blocks including Blocks 'B' and 'C' and therefore, the submissions of the respondents that Blocks B and C are unrelated and therefore, it cannot be part of this proceedings, including the plea of 'Res Judicata' raised by the respondents is completely misplaced and ought to be rejected having regard to the facts of the present case.

38. Moreover, the project was marketed under the common name 'Prabhu's Emerald' and all three Blocks stand on the same property bearing Survey No. 13/4-A; individual deeds executed by the promoter convey proportionate undivided rights in the entire

submitted that Section 17(1) of the Act draws a deliberate distinction that the promoter must execute the registered conveyance of the apartment/plot/building in favour of the allottee and transfer the undivided proportionate title in the common areas to the association of allottees or competent authority, while handing over the common areas.

40. Per contra, Ld. Advocate Shri Nadkarni for the respondents has submitted that the respondents have executed and registered sale deeds with individual unit holders and one such registered Sale Deed dated 18.04.2023 executed between the respondents and Mr. Narendra Dash is produced on record. He submitted that Clause 1 of the Sale Deed stipulates that the vendor sells, transfers unto the purchaser said premises together with the corresponding undivided proportionate share in the said property and as such, every unit purchaser alongwith his individual unit, is the owner of the corresponding undivided proportionate share in the entire property of 12262.00 sq. mts. The said property includes the common areas and as such vides registered sale deeds, each such unit holder is the title owner of undivided share in the entire property including the common areas. It is legally not possible or permissible for the respondents exclusively to transfer the title of the common areas to

property; common infrastructure serves all three Blocks; and one Society was formed by the Promoter and given maintenance of the complex. These undisputed facts demonstrate that the land, infrastructure and common areas are integral to the Project as a whole and cannot be artificially segregated on a block-wise basis. The respondents cannot selectively confine their statutory obligations to Block A while continuing to treat and administer the three Blocks as one integrated development. Any adjudication concerning conveyance, common areas or shared infrastructure must therefore extend to the entire Project. Moreover, the filing of the proceedings before the Reconciliator cannot be a bar for filing proceedings under RERA Act as any aggrieved person can maintain a complaint under Section 31 of the Act. It is therefore the above submission of Ld. Advocate Shri Nadkarni cannot be accepted having any merits. Hence, the above point 11 is answered in the negative.

Point No. 1

39. Ld. Adv. Shri Jay Mathew for the complainant has submitted that Complainant Society is entitled for execution and registration of conveyance deed in favour of the society transferring all the common areas of land and building including payment of registration fees, processing fee and stamp duty. He further

any society or otherwise. The respondents have already executed registered conveyance deeds with undivided proportionate title in the entire property including common areas in favour of each individual allottee.

41. Section 17 of RERA mandates that the promoter shall execute a registered conveyance deed with respect to the undivided common areas in favour of the Association of allottees within three months from the date of issuance of the Occupancy Certificate. It is not in dispute that the Occupancy Certificates for the Project were obtained in 2017-2018 and since then, the respondents have not transferred the title of the common areas to the society. The respondents' obligation to execute a conveyance deed has long since crystallized and the failure to do so constitutes a continuing statutory default. The obligation under Section 17 of RERA is mandatory and the promoter cannot resist execution of conveyance deed on any ground whatsoever after the formation of the association of allottees, including one-sided clauses in the Deeds of sale executed by the respondents with the allottees of Complainant Society.

42. Section 17 and 11(4)(f) of RERA, mandate that the promoter shall transfer the undivided proportionate title in the common areas

to the Association or Society. The common areas of the land and building remain undivided and are required to be vested in the Society as a whole for the purpose of managing, maintaining and administering the same. The above provisions are enacted to protect the interest of homebuyers who purchase a unit but are unable to use certain common areas because the builder retains the areas and uses them as it deems fit. Merely because the respondents have executed Deeds of Sale along with undivided proportionate share does not ensure compliance with the mandatory provisions of Section 17 and 11(4)(f) of RERA. It is therefore, the submissions of the respondents that since each allottee has been conveyed an undivided proportionate share in the land, conveyance in favour of the Society is not possible/permissible are entirely misconceived and unsustainable in law.

43. The mere fact that the respondents have executed and registered sale deeds with individual unit holders and that the respondents have transferred to the said purchasers premises together with corresponding undivided proportionate share in the said property is not sufficient nor it satisfies the mandatory provisions of Section 11(4)(f) read with Section 17 of the Act. The

reliance of the respondents on Goa State Cooperative Societies Act 2001, to deny the Complainant Society their right under Section 17 is completely misconceived, misplaced and untenable.

44. The RERA, which is a Central Act prevails over the state specific 'the Goa Co-operative Societies Act, 2001 and Rules, 2003 when it comes to real estate projects and its provisions override inconsistent provisions, if any, in other laws concerning real estate projects, ensuring buyer protections. There is no dispute that society namely "Prabhu Emerald Co-operative Housing Maintenance Society Ltd." has been formed, however undivided proportionate title in the common areas have not been transferred to the society, which is mandatory statutory obligation on the part of the promoter. The Complainant Society is therefore entitled to transfer undivided proportionate title in the common areas of the real estate project to the "Prabhu Emerald Co-operative Housing Maintenance Society Ltd." in terms of the RERA Act. It is therefore, the above submissions of the respondents are incongruous with the salutary provisions of the RERA Act. Hence, the above point is answered in the affirmative.

Point No. 2 and 3

45. Ld. Adv. Shri Jay Mathew for the complainant has submitted that the respondents have retained 51 stilt parking spaces in Block A and four stilt parking spaces in Block B withheld by the respondents as illegal and handover the parking spaces to the society. He further submitted that the stilt parking spaces are common spaces and cannot be termed as “open/covered garages” and that the stilt car parking and/or open car parking spaces are part of the common amenities. Ld. Adv. Shri. Jay Mathew relying upon the case of *Nahalchand Laloochand Private Limited V/s Panchali Cooperative Housing Society Limited (2010) 9 SCC 536* has submitted that the stilt parking spaces/open parking spaces shown of the plan of the project belonged to the society and not to the promoter and that it is part and parcel of the society building and it cannot be a separate premises available for sale.

46. Ld. Adv. Shri Jay Mathew for the complainant has further submitted that since stilt parking space/open parking space in such building is part of common areas and facilities for the enjoyment of the allottees of the building, the Act does restrict the rights of the promoter in the Blocks or building constructed for flats or to be constructed for flats to which that Act applies. He further submitted that the promoter has no right to sell any portion of such building

which is not a “flat” and the entire land and building has to be conveyed to the society; the only right which remains with the promoter is to sell unsold flat. It is thus clear that the promoter has no right to sell “stilt parking spaces” as these are neither a “flat” nor appurtenant or attachment to a “flat”.

47. Per contra, Ld. Adv. Shri. Nadkarni for the respondents has submitted that in terms of the Draft deed of sale annexed to the consent terms, the allottees have accepted with respect to open parking area, rooms and 52 parking spaces and that societies have no right to the same. He relied open Clause 10(xxii) of the said draft Sale Deed which states that the purchasers acknowledges that at all time, the vendor/builder shall be exclusively entitled to the ownership or appropriate to itself, use and or assign to any party of its choice and the individual flats owners or Society shall have no right or claim or ownership over the same : (i) the front set back or Open Parking Area in front of shops of BLOCK A, (ii) four rooms and 4 four parking slots in Block B and (iii) Two rooms in the Stilt of Block C (iv) 52 numbers of parking spaces all located on the upper ground floor of the Building ‘A’ and shall be entitled to deal with the same in the manner the vendor/builder deems fit and proper. He further submitted that the purchasers acknowledge/s

that neither the Purchaser nor the Society that may be formed shall have or claim any title or right of whatsoever nature to the said area/rooms/parking slots reserved by the vendor/builder as per approved plan.

48. Ld. Adv. Shri Nadkarni has further submitted that the allegation in the complaint that the respondents have unlawfully retained the entire stilt parking of 51 Car Parks in building 'A' and 04 Parking Spaces in building 'B' which forms part of the common areas are beyond the purview of this Authority under the powers vested by RERA, 2016. He further submitted that the said parking areas are not common amenities and, as such, the Complainant Society has absolutely no right over such parking areas. The said retained Parking Spaces are not allotted to any allottee. The said Open Parking Area in front of the Shops is reserved and open for the general public and therefore, it is not legally permissible for the complainant to make any grievances regarding open parking areas.

49. The moot question is with respect to unlawful retention and commercial exploitation of common Areas. Section 2(n) of RERA defines "common areas" to include, inter-alia *(i) the entire land for the real estate project or where the project is developed in phases and registration under this Act is sought for a phase, the entire*

land for that phase; (ii) the staircases, lifts, staircase and lift lobbies, fire escapes and common entrances and exits of buildings; (iii) the common basements, terraces, parks, play areas, open parking areas and common storage spaces; (iv) the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel; (v) installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy; (vi) the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use; (vii) all community and commercial facilities as provided in the real estate project; (viii) all other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use."

50. Needless to reiterate, Section 17(1) of RERA, read with Section 11(4)(f) thereof, mandates that upon formation of the association of allottees, the promoter shall hand over the possession and title of all common areas to such Association. Once this handover is effected, as it was in the present case on 01.09.2023, the promoter ceases to have any right to control,

manage, exploit or deal with any portion of the common areas and therefore, the respondents' retention of 55 stilt/basement parking spaces 51 in Block A and 4 in Block B as their exclusive property is violative of Section 2(n) of RERA as well as under Section 17(1) RERA which mandates transfer of common areas to the Society which includes parking spaces, stilt and basement parking areas. Moreover, the approved plans sanctioned by the Mormugao Planning and Development Authority (MPDA) have designated these areas as common parking or driveway areas.

51. The Complainant Society has placed on record an Inspection Report by Engineer, Shri Vivek G. Naik dated 07.08.2025 along with enclosures which demonstrated in detail the violations and contraventions of the approved plans by the respondents. This position has not been disputed by the respondents by producing any plans of their own. The respondents were duty bound to construct and develop in terms of the approved plans under RERA 2016. It is amply clear that the respondents are in violation of the approved plans and hence, are required to ensure the respondents are in consonance and comply with the approved plans. The respondents have constructed 222 flats along with 221 parking spaces. The arbitrary retention of more than 55 parking spaces,

along with portions of common amenities such as the electrical room, store room, and other common areas, gravely prejudices the rights and interests of the allottees of Complainant Society.

52. There cannot be any dispute that the promoter/builder cannot retain any common areas as referred to Section 2(n) of RERA. Once the project is complete, the builder has absolutely no right in the common areas of the Project. The reliance on Clause 10(xxii) of the Sale Deeds to deny the Complainant Society its rights under RERA 2016, purportedly reserving certain parking spaces and rooms to themselves, is unacceptable. A contractual clause that is in violation of a mandatory statutory provision is void ab initio. The RERA being a special legislation, any clause in a private contract which conflicts with the mandate of RERA is void. The said Clause 10(xxii) of the draft Sale Deed, to the extent it purports to reserve common parking spaces for the exclusive benefit of the respondents is contrary to approved plans, which shows it as common parking spaces and therefore is void being violative of the provisions of RERA. The respondents cannot use its bargaining power and position to lure the allottees to sign agreement with clauses which are void and completely contrary to Real Estate (Regulation and Development) Act, 2016.

53. The execution of individual Sale Deeds does not discharge the respondents' statutory obligations towards the Society under Section 17. The conveyance of a proportionate undivided share in the land to each purchaser operates alongside, and cannot substitute for, the promoter's obligation to convey and hand over the common areas to the Complaint Society for their collective administration and enjoyment. The respondents' contention that the individual Sale Deeds render a conveyance to the Society is legally impermissible and proceeds upon a fundamental misreading of Section 17 and required to be rejected. Moreover, in *Nahalchand Laloochand Private Limited*, supra it is clearly held that the stilt car parking and/or open car parking spaces are part of the common amenities. The Deeds of Sale are also completely contrary to the Model Agreements stipulated under RERA 2016 and therefore, the Clause 10(xxii) of the Draft Deed of sale attached to the consent terms is completely unconscionable, illegal and arbitrary. Hence, the above points are answered in the affirmative.

Point No. 4

54. Ld. Adv. Shri. Jay Mathew for the complainant has submitted that the respondents have erected advertising hoardings on the compound wall of the project property without the consent of the Complainant Society and in violation of the approved plans.

He further submitted that such hoardings are causing structural damage to the boundary wall and are being used for promoting the respondents' other commercial ventures. He further submitted that respondents must be directed to remove all such hoardings forthwith. As against that, Ld. Adv. Shri. Nadkarni for the respondents has submitted that the hoarding is not erected in the property comprising of subject project but is erected outside the project, however, in any event such complaint of hoarding or disputes cannot be a subject matter of proceedings before Goa RERA.

55. Needless to mention, the hoarding has been erected in the property by the respondents, but according to the respondents, it is not within the subject project but erected outside the project. The Complainant Society produced a photograph showing the said hoarding at Exh. O at page 681/c which is within 'common areas' defined under Section 2(n) of the Act. The said hoarding is erected close to the compound wall but within the precincts of the project, thereby blocking the plantations undertaken by the respondents, itself. The respondents have not shown any semblance of unrestricted right to the said area or any permission from the society or any concerned authority for erecting the hoarding or

interfering with precincts of the building, thereby blocking the clear view of the project, once the management of the common areas has been handed over to the society. The respondents therefore cannot unilaterally appropriate the said area for their own hoarding or advertising their other business. The Complainant Society therefore has a right to object to the said hoarding. Hence, the above point is answered accordingly.

Point No. 7

56. Ld. Adv. Shri. Jay Mathew for the complainant has submitted that the complainant is entitled to direct the respondents to furnish a complete, audited statement of maintenance collections and expenditures for the period from 2017 to 2023 which was collected by the respondents for maintaining and managing the common areas of the project prior to handover to the Complainant Society. He further submitted that the respondents be directed to render complete and transparent accounts of all maintenance charges collected and expenditure incurred during the period in which the Project remained under their control, supported by audited statements, vouchers and relevant records, and to remit to the Society any unspent or surplus balance. He further submitted that the amounts collected from the allottees for maintenance were

held for the specific purpose of maintaining the Project, as the respondents were custodians of those funds and could not appropriate any surplus as their own income or profit.

57. Per contra, Ld. Adv. Shri Nadkarni for the respondents has submitted that the issue about maintenance charges cannot be a subject matter before this Authority under RERA, 2016 as all the allottees are bound by the terms and conditions of the Sale Deeds and/or the Agreements of Sale wherein it is specifically agreed that any unspent amount at the end of maintenance contract shall be considered as charges of the developer/builder/respondent for maintaining the Society till such date. The charge has been handed over to the society in August 2023 and the Society has accepted the said charge without protest and, as such, it is not open to the Society to raise such issues and that too before an Authority which has no jurisdiction to go into and adjudicate such issues. The alleged non-payment of maintenance charges to the Society cannot be a subject matter of adjudication before this Authority under RERA, 2016 and therefore, the above issue fails.

58. The moot question is whether the complainant is entitled for a complete, audited statement of maintenance collected and expenditure incurred during the period from 2017 to 2023 in which

the Project remained under their control of the respondents, supported by audited statements, vouchers and relevant records, duly approved by a Chartered Accountant and to refund any unutilized fund/surplus balance to the Complainant Society.

59. Admittedly, Section 11(4)(a) of RERA mandates that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of RERA, and shall act in a transparent manner in all dealings with allottees. Further, Section 11(4)(d) of RERA provides that the promoter is responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of the allottees. Further, under Section 11(4)(g) of the Act, it is the responsibility of the promoter to pay all outgoings until he transfers the physical possessions of the real estate project to the allottee or the associations of allottees, as the case may be, (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project).

60. Admittedly, the project has been completed and the society has been formed on 01.09.2023. The purpose of forming society or association of allottees under the Real Estate (Regulation and Development) Act, 2016. is to allow the homebuyers to collectively manage and maintain the project, common areas and facilities and to take legal title of the property from the promoter after the completion of the project. It is the responsibility of the society once formed, for the ongoing management, upkeep and maintenance of the common areas and amenities within the real estate project, which include staircases, lifts, parks, water supply, etc.

61. The society provides a unified platform for residents to address any collective grievances with the promoter particularly regarding structural defects, quality of amenities or any other issues that arise post possession as the association serves as a body for making collective decision that affects all residents and overall management of the property. The promoter is duty bound under Section 11(4)(d) to maintain the project till taking over of the maintenance of the project by the Association of allottees or society. The society has been formed on 01.09.2023 and therefore,

the maintenance should have been transferred to the society along with the finances collected towards the same with documentation.

62. Undoubtedly, the respondents have produced seven sale deeds, out of which, there is a clause 12(d) in the sale deeds executed in favour of (a) Jovita and (b) Pratima Uday Bandekar stating that any unspent amount collected by the landowner-cum-developer towards the maintenance of the said building complex, if any, at the end of five years, shall be considered as charges of the landowner-cum-developer or its nominee for the maintenance of the said development scheme. The said clause 12(d) in the above sale deeds is void and not legally binding on the allottees, as it is well established that a contract is void, if prohibited by a statute. The said clause in the above sale deeds is one-sided, arbitrary, unfair, or inconsistent with the provisions of the RERA 2016 and is not binding on the allottees as it contradicts or is inconsistent with the mandatory provisions of the RERA when such clauses which create an imbalance of power are legally unenforceable on the homebuyers.

63. The respondents can have no control on the society, once society which constitutes majority of the allottees under Section 11(4)(d) and (e) of the Act is formed and duly registered. It is

admitted position under RERA that the developers must collect maintenance funds transparently in a separate account, provide itemized bills and transfer all collected maintenance amount including advance charges, sinking fund, corpus fund to the Society, once it is formed, the reasons being that the allottees must get a clear breakdown of charges, their usage as the said amount belongs to the allottees and not to the builder. The responsibility of the respondents ends when they hand over maintenance control and the collected funds are handed over to the society.

64. In the instant case, admittedly the respondents collected the maintenance fund from the allottees of the Complainant Society during the period from 2017 to 2023 in which the Project remained under the control of the respondents and has been utilising the said funds towards maintenance of the buildings and other infrastructure facilities and amenities in the said complex as per the agreements with the allottees, however the total amount collected and utilised by the respondents for the said purpose till 01.09.2023 has not been disclosed by the respondents. The promoter is duty bound to transfer the residual amount after deducting the expenses incurred to the Complainant Society. No amount has been

transferred to the society with respect to the amount collected and used till the time of the formation of the society.

65. Be that as it may, the respondents shall provide a detailed audited account indicating the residual amount after deducting the expenses incurred by the respondents towards the maintenance, to the Complainant Society as on 01.09.2023, on which the day charge was handed over to the Society, more particularly when it is the obligation on the part of the respondents under Section 11(4)(a)(d) and (g) to transfer the balance fund to the Complainant Society supported by audited statements, vouchers and relevant records approved by the Chartered Accountant. The above submission of Ld. Adv. Shri Nadkarni therefore pales into insignificance. Hence, the above point is answered accordingly.

Point No. 8

66. Needless to mention, the conduct of the respondents as specified above is manifestly arbitrary, unfair, and in blatant disregard of its statutory obligations under the Real Estate (Regulation and Development) Act, 2016. The Complainant Society has sufficiently proved that the respondents committed a breach of statutory duty under Sections 11(4)(a) and 11(4)(g) of RERA; a violation of the fiduciary obligation owed by the

promoter to allottees for money collected for maintenance of the Society.

67. The Authority undoubtedly has jurisdiction to direct the respondents to render a complete, audited statement of maintenance collected and spent during the period from 2017 to 2023 in which the Project remained under the control of the respondents and has been utilising the said funds towards maintenance of the buildings and other infrastructure facilities and amenities in the said complex as per the agreements with the allottees and to refund any unutilized fund collected for maintenance of the project by the respondents to the Society, supported by audited statements, vouchers and relevant records duly approved by a Chartered Accountant. Hence, the above point is answered in the affirmative.

Point No. 9

68. Ld. Adv. Shri Jay Mathew for the complainant has submitted that the Complainant Society is entitled to direct the respondents to handover all the 'Title Deeds' pertaining to the Project, including all the drawings, approved plans, allotments and Deeds of sale pertaining to the Prabhu Emerald Project to the Complainant Society as the documents are required for smooth running of the

affairs of the society, as against that, Ld. Shri Nadkarni for the respondents has submitted that in terms of the Consent Terms and Order dated 16.01.2023 passed by the Goa RERA in the earlier litigation filed by Prabhu's Emerald Owners Welfare Association, all the contentions raised by the Complainant Society with respect to the same project have to be negated being frivolous and not maintainable in law.

69. The Complainant Society has claimed that the respondents have not handed over to the society all the documents, records, accounts, deeds, plans, registers, approvals, and papers relating to the project, to which it is not the case of the respondents that such title deed and other documents have been furnished at the time of handing over the affairs to the society. Be that as it may, the society has been formed and it is registered under the Goa Co-operative Societies Act as the 'Prabhu Emerald Cooperative Housing Maintenance Society Ltd.'.

70. There is no dispute that the documents including the title deeds have not been provided to the society. Section 17(2) of the Act, provides that after obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to

handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, as per the local laws. It is thus the responsibility of the promoters/respondents to handover the necessary documents and the plans including common areas to the Association of allottees or the Competent Authority as the case may be, as per the local laws. The said documents are necessary for effectively running of the affairs of the society in terms of Section 17(2) of the Act. Hence, the above point is answered accordingly.

Point No. 10

71. The complainants have claimed for damages and compensation to the tune of ₹.1,00,00,000/-, (Rupees One Crore) from the respondents for the continued obstruction, harassment, unfair trade practices, false advertisements and promotions, misuse of common areas, illegal profiteering, etc., by the respondents, as against that, the respondents have refuted the above claim raised by the Complainant Society.

72. Under Section 71 of the Real Estate (Regulation and Development) Act, 2016. Compensation under Sections 12, 14, 18 and 19 of the Act has to be adjudged only by the Adjudicating Officer. Accordingly, the above prayer for compensation has to be

dealt with by the Adjudicating Officer for adjudging the compensation, if any. The complainant may prefer an application before the Adjudication Officer for compensation, if so desires. Hence, the above point is answered in the negative.

Point No. 5 and 6 and 12

73. The complainant has proved that the respondents have violated the obligations, functions and duties as a promoter in terms of Section 11(4) of the Act. The respondents have also failed to execute conveyance deed in favour of the Society transferring all the common areas of land and building, as well as illegally retained 51 stilt parking spaces in Block A and four stilt parking spaces in Block B, as well as, illegally retained common areas including but not limited to store rooms, security rooms, rooms with toilet etc, in Block A, B and C, so also, illegally erected a hoarding in the project property, as well as failed to furnish complete, audited statement of maintenance collections and expenditure for the period from 2017 to 2023 and also failed to refund any unutilized funds/surplus balance to the Complainant Society, so also, failed to handover all the documents including title deeds in terms of relevant provisions of Real Estate (Regulation and Development) Act, 2016. The respondents are therefore liable to pay a sum of ₹5,00,000/- only (Rupees Five Lakh only) as costs to the

Complainant Society for prosecuting the above complaint. The respondents are also liable to pay ₹5,00,000/- (Rupees Five Lakhs only) as penalty under Section 61 of the Act for violations of above provisions of the Real Estate (Regulation and Development) Act, 2016. Hence, the above points are answered accordingly.

74. Having said so, I pass the following:

ORDER

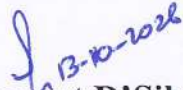
- i. The respondents are directed to execute a registered conveyance deed in favour of the Complainant Society transferring all the common areas of land and building including payment of registration fees, processing fee and stamp duty under Section 17 of Real Estate (Regulation and Development) Act, 2016.
- ii. It is declared that the retention of 51 stilt parking spaces in Block A and four stilt parking spaces in Block B withheld by the respondents as illegal and the respondents are directed to handover the said parking spaces to the Complainant Society.
- iii. It is further declared that the retention and use of common areas including but not limited to store rooms, security rooms, rooms with toilet, etc., in Block A, B and C of the Complainant Society by the respondents as illegal. The

respondents are further directed to handover the said common areas to Complainant Society.

- iv. The respondents are directed to remove advertising/promotional hoarding erected in the project property by the respondents and to restore the same to the original condition.
- v. The respondents are directed to furnish a complete, audited statement of maintenance collections and expenditures for the period from 2017 to 01.09.2023 supported by audited statements, vouchers and relevant records duly approved by a Chartered Accountant and shall refund any unutilized fund/surplus balance to the Complainant Society, within 60 days of the order.
- vi. The respondents are directed to handover all the Title Deeds pertaining to the project, including all the drawings, approved plans, allotment and deeds of sale pertaining to the project to the Complainant Society under Section 17(2) of the Real Estate (Regulation and Development) Act, 2016.
- vii. The respondents are directed to pay ₹5,00,000/- (Rupees Five Lakhs only) as penalty under Section 61 of the Real Estate (Regulation and Development) Act, 2016, for violations of above provisions of the Act. The amount shall be deposited into the bank account of the Authority, within

60 days, failing which necessary proceedings will be initiated against the respondent.

- viii. The respondents are also directed to pay a sum of ₹5,00,000/- (Rupees Five Lakhs only) to the Complainant Society as costs for prosecuting the above complaint.
- ix. The respondents are directed to file compliance report of the order in the form of an affidavit within 60 days of this order, failing which further legal action will be initiated by the Authority under the Real Estate (Regulation and Development) Act, 2016, for execution of the order.


(Vincent D'Silva)
Member, Goa RERA

Panaji, Goa.
Date: 13.10.2026