



GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:3/RERA/Complaint(336)/2023/ **722**.

Date: **26/07/2023**

**Allottees of Platinum Residency-I,
Represented by Dattaprasad Vishnu Naik,
H.No. 61 Deulwada,
Pissurlem, Sattari-403530.**

.....Complainant

Versus

**Platinum Real Estates,
Ground Floor Gama Building
Near Church Square,
Opp. Municipal Garden,
Panaji Goa-403001.
A proprietorship concern of
1. Shri Trimurti Kishorlal Karpe and
2. Smt. Viola Karpe,
Both residents of Ribandar, Ilhas, Goa.**

.....Respondent

ORDER

(Dated 26.07.2023)

This order disposes of the aforesaid complaint filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the RERA Act'), wherein the complainant has prayed this Authority to divest the respondent of its control over the real estate project and further issue appropriate orders for handing over the real estate project to the complainant under Section 8 of the RERA Act and facilitate further necessary action by the complainant to complete the project.

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2. It is the case of the complainant that it is an association of thirteen members represented by Mr. Dattaprasad Vishnu Naik and that the complainant members entered into agreements for sale cum construction with the respondent to purchase flats in the project located at survey no. 271/6, Carambolim, Tiswadi Taluka, Goa and as per the said agreements the respondent was to hand over possession and occupation of the flats within 18 months from the date of execution of the said agreements i.e. latest by 2015. According to the complainant, on the expiry of said 18 months, when the complainant visited and inspected the project, it was found that the flats were not nearing completion and on approaching the respondent, the respondent gave unreasonable excuses for the delay.
3. According to the complainant, additional time was granted to the respondent to complete the project but the respondent failed to do so. It is the case of the complainant, that the construction of the flats in the said project has completely stopped; that the respondent does not appear to be interested or concerned in completing the construction work and that the respondent has stopped responding to the complainant and this shows that the consideration amount was taken by the respondent only to dupe and cheat the complainant. Hence the prayer of the complainant as stated above.
4. The respondent though duly served remained absent and hence was marked ex parte.

Y. J. J.

5. Arguments were heard from Ld. Advocate J. George on the maintainability of the complaint. None appeared on behalf of the respondent. Thus, the only issue at this stage before this Authority is whether the instant complaint is legally maintainable under the RERA Act and the answer is in the negative because of the reasons stated herein below:-

6. By invoking Section 8 of the RERA Act, the only prayer of the complainant is to divest the respondent of its control over the said project and to issue appropriate order for handing over the said project to the complainant so that the complainant may complete the said project under Section 8 of the RERA Act. In this regard it is worth mentioning Section 8 of the RERA Act, which is inter alia quoted as below:-

“8. Obligation of Authority consequent upon lapse of or on revocation of registration.- upon lapse of registration or on revocation of the registration under this Act, the Authority, may consult the appropriate government to take such action as it may deem fit including the carrying out of the remaining development works by competent authority or by the association of allottees or in any manner, as may be determined by the Authority.

.....”

7. Thus, **Section 8 of RERA Act** deals with obligation of Authority consequent upon lapse of or on revocation of registration of the project. Hence, once the decision to revoke the registration of the Real Estate project has been taken by the RERA or the registration of the Real Estate project has expired as per



the time limit mentioned in Section 5(3) of the Act, the RERA may consult the appropriate Government to take such action, as it may deem fit, for carrying out the remaining development works.

8. **In the instant case, the project in question is not registered** and hence there is neither any scope for revocation of registration nor for the expiry of the registration of Real Estate project as per the time limit mentioned in **Section 5(3) of the Act** as under the said Section **“the registration granted under this Section shall be valid for a period declared by the promoter under sub-clause (c) of Clause (1) of sub-Section (2) of Section 4 for completion of the project or phase thereof, as the case may be”**.

9. As the instant project is unregistered and as Section 8 of the Act applies only either upon lapse of the registration or on revocation of the registration, the aforesaid Section is not applicable to the instant project and hence cannot be invoked by the complainant to take over the project. There is no merit in the arguments advanced by the Ld. Advocate for the complainant to the effect that the complainant has no option left but to invoke Section 8 of the RERA Act because the respondent is absconding and as per the inquiry conducted by the complainant, the respondent has no property in his name and moreover many civil and criminal cases are already pending against the respondent and therefore the complainant has not filed complaint under Section 18 of the RERA Act. According to the Ld. Advocate since the chances of getting refund or

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possession from the respondent are bleak, the instant complaint has been filed under Section 8 of the RERA Act. As stated above, since the ingredients of Section 8 of the RERA Act are not fulfilled in the instant case, the aforesaid Section is not applicable. Hence, the instant point of determination is answered in the negative.

Because of the reasons stated above, I pass the following:-

ORDER

The instant complaint is dismissed, however since the project was ongoing on the date of the commencement of the RERA Act within the purview of Section 3 of the RERA Act and required registration, the respondent is directed to take steps to register the said project 'Platinum Residency' situated at survey no. 271/6, Carambolim, Tiswadi Taluka, Goa-403104 by paying the penalty of ₹25,000/- (Rupees Twenty Five Thousand only) and registration fee within two months from the date of this order failing which further penalty will be imposed on the respondent and action under Section 59(2) of the RERA Act will be taken by this Authority.

v. jetley
26/7/2023
(Vijaya D. Pol)
Member, Goa RERA