



GOA REAL ESTATE REGULATORY AUTHORITY
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F.No:3/RERA/Complaint (425)/2024/ **1093**

Date **18** /08 /2025

Mr. Anirudh K. Agrawal,

Age: 44 years,

Represented herein by his attorney,

Shri Shridhar P. Hegde,

Having office at Anand Bhavan,

Station Road, Margao, Goa, 403601.

.....**Complainant**

Versus

1. Ashvem Spa and Resorts Private Limited

Represented through its Authorised Signatory

Mr. Verner Velho,

Having its registered office at H. No. 102,

General Bernard Guedes Road,

Opp. Forest Department, Panaji, Goa.

2. M/s Adwalpalkar Construction and Resorts Pvt. Ltd.

Adwalpalkar Avenue, St. Inez,

Panaji Goa.

.....**Respondents**

Ld. Advocate Shri Premanand Velip for the complainant.

Ld. Advocate Shri Gaurish N. Agni along with Ld. Advocate Ms. Supriya Pai Kuchelkar for the respondent no. 1.

Respondent no. 2 absent.

ORDER

(Delivered on this 18th day of the month of August, 2025)

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 complainant is as follows:

That an agreement for construction and sale deed dated 06.05.2015 was entered between the complainant and respondent no.1 by which the respondent no. 1 agreed to construct and sell unto the complainant commercial premises admeasuring 100 sq. mts. of built up area, located on the ground floor, road level facing Taleigao church road and on the front side of the building proposed in the property known as 'Tolloi' situated at Village Taleigao, Tiswadi. The respondent no.1 vide an Agreement for development and construction dated 20.04.2015 entered into with Adwalpalkar Construction and Resorts Private Ltd., respondent no. 2 sought to develop the said property through respondent no. 2 and consequently, the respondent no. 2 registered the project with the Authority as 'Adwalpalkar's Stellar'.

3. The respondent no. 1 having failed to comply with its obligations arising from agreement for construction and sale dated 06.05.2015 within the agreed time schedule, the complainant filed a complaint before the Authority, who by its order dated 09.11.2021 allowed the complaint filed by the complainant with the direction to pay interest of 8% on the amount of ₹90,00,000/- and for the purpose of determination of compensation, the case was referred to the Adjudicating Officer in terms of Section 71 of the Act, however while the matter was sub-judice before the Adjudicating officer, the respondent no. 1 offered to allot to the complainant a shop no. 8 in block B of the said project, upon its completion however, towards amicable settlement demanded additional payment from the complainant for the increased area of the said shop. The respondent no. 1 did not offer to convey the title and possession of the said shop thereafter with the approved plan of the premises. The shop which was allotted to the complainant was constructed vide construction license dated 15.02.2021.

4. The Hon'ble Adjudicating Officer while granting the claim of the complainant vide order dated 12.08.2022 directed the respondent

no. 1 to provide set off towards any additional compensation payable for increased area of the premises.

5. The order dated 09.11.2021 of the Ld. Authority and the order dated 12.08.2022 of the Ld. Adjudicating Officer was referred to the Collector, North for recovery of amount due, whereupon the Mamlatdar of Tiswadi initiated the proceedings for recovery of amount and also recovered an amount of ₹48,52,063.56/- due as on 02.04.2024 and the balance amounts are still pending. The respondent no. 2 during the pendency of recovery proceedings placed on record a letter dated 30.08.2021 along with occupancy certificate dated 23.06.2021 issued by the Village Panchayat, Taleigao addressed to respondent no. 1 offering therewith the possession of Shop no. 8 along with certain other premises. The letter also mentioned that the area of shop no. 8 is 141.70 sq. mts. and thus, it was clear that the respondent no. 1 tried to offer to the complainant the shop no. 8, which was having super built up area of 141.70 sq. mts.

6. The respondent had also placed on record another revised plan dated 19.10.2022 approved by North Goa Planning and Development Authority (NGPDA) whereby shop no. 8 allotted to complainant was revised without the knowledge and consent of the complainant and the

said shop no. 8 was bifurcated into two shops, i.e shop no. 8 and shop no. 8A, resultant thereof, the area of shop no. 8 is reduced to 70 sq. mts. of built-up area and the said approved plan was sanctioned by NGPDA at the behest of respondent no. 1 with the intent of defeating the order of the Ld. Adjudicating Officer.

7. The respondent no. 1 through respondent no. 2 vide their email dated 02.05.2024 has offered to handover possession of the revised shop no. 8 and had shared the draft of the sale deed, however the revised shop no. 8 is having only an area of 70 sq. mts. of built up area, which is not in terms of agreement, which provides for 100 sq. mts. of built up area on the ground floor. The said revised approved plan changed the premises allotted to the complainant without his permission, which is in breach of provision of Section 14 of the RERA Act. The respondent no. 1 has not delivered the premises to the complainant, inspite of repeated requests, although the respondent deposited the keys of the shop no. 8 to the Ld. Mamlatdar in the recovery proceedings, which does not correspond to the agreement with the respondent no. 1. The complainant is entitled to 100 sq. mts, built up area of the commercial premises, on the ground floor of the

said building in the project 'Adwalpalkar's Stellar'. Hence, the complaint.

8. The complainant has sought for the following reliefs:

(a) The respondent no. 1 be directed to deliver unto the complainant the possession of the premises in terms of the said agreement dated 06.05.2015 having an area of 100.00 sq. meters of built-up area on the ground floor of the project 'Adwalpalkar's Stellar' and convey the title of the same along with proportionate share in the land in favour of the complainant by executing necessary Deed of Sale.

(b) In the alternative, the respondent be directed to convey in favour of the complainant, the shop no. 8 bearing Panchayat House No. 19/197/14 and the shop No. 8A bearing Panchayat House No. 19/197/13 constructed as per Revised Plan dated 19.10.2022 with a further direction that any agreement for sale with any third party in respect of the said shop No. 8A be cancelled prior to execution of conveyance deed of same

in favour of the complainant [Amended as per order dated 01.07.2025].

(c) In the alternative, if the respondent no. 1 agrees to transfer the revised shop no. 8 bearing Panchayat House No. 19/197/14 admeasuring 70.00 sq. mts. of built up area unto the complainant, the respondent no. 1 be directed to compensate the complainant in terms of money for the deficit area of 30.00 sq. mts. at the current market rate of ₹.5,00,000/- per sq. meter of the super built up area together with conveying and delivering title and possession of the said shop no. 8 bearing Panchayat House No. 19/197/14 with proportionate share in land corresponding thereto in favour of the complaint;

(d) The respondent no 1 be also directed to pay compensation for violation under Section 14 of the RERA and causing hardship, inconvenience and mental agony to the complainant which is calculated in a sum of ₹10,00,000/-

(e) Appoint commissioner to verify the said premises including the area thereof and complete the process of

conveying the said premises in favour of the complainant in terms of prayer clause (a) or (b) or (c) as deemed fit by this Hon'ble Authority.

(f) Such other reliefs as this authority may deem fit and proper.

9. The respondent no. 1 filed a reply inter-alia contending that the complaint is baseless as the respondent has complied with the rules and regulations of the Authority. The order passed by the Authority/ Adjudicating Officer could not be challenged in view of ongoing settlement before the Hon'ble High Court. The respondent has not committed any breach of the agreement and has complied with the execution order passed by the Ld. Mamlatdar and has already handed over the said premises to the complainant. The dispute is pending before the Hon'ble High Court and therefore, it is not appropriate on the part of the complainant to file the present complaint. The complainant is misleading all the authorities. The respondent has also called upon the complainant to execute the sale deed before the Sub-Registrar which the complainant has failed to do till date, therefore, the complaint be dismissed.

10. Arguments heard. Notes of written arguments came to be placed by on record by the parties.

11. The points that come for my determination and the findings and reason thereof are as follows:-

Sr. No.	Points for determination	Findings
1.	Whether the complainant is entitled for possession of the premises in terms of the Agreement dated 06.05.2015 having an area of 100 sq. mts. of built up area on the ground floor of the project 'Adwalpalkar's Stellar' and to convey the title along with proportionate share in the land by executing a deed of sale in favour of the complainant?	In the affirmative.
2.	What relief? What order?	As per final order

REASONS

Point No. 1

12. Ld. Advocate Premanand Velip for complainant has submitted that the parties have entered into an agreement for construction and sale with respect of commercial premises admeasuring 100 sq. mts. of built up area, on the ground floor of the project known as 'Adwalpalkar's Stellar'. However, as the respondent no. 1 has failed to comply with the said obligations, offered a shop no. 8 in block B towards amicable settlement, which was constructed having an area of 141 sq. mts. However, the respondents revised the approved plan dated 19.10.2022 without the consent of the complainant bifurcating into two shops, namely shop no. 8 and 8A, thereby shop no. 8 is reduced to 70 sq. mts. of the built up area. The shop now offered to the complainant as per the draft sale deed consists of super built up area having 72.53 mts² on the ground and 25.72 mts² on the mezzanine and 19.65 m² of proportional walls and the common spaces, instead of delivering an area admeasuring 100 sq. mts. as per the agreement and therefore, the relief as prayed for be granted.

13. Per contra, Ld. Advocate Gaurish Agni for respondent no. 1 has submitted that the complainant has concealed that the Hon'ble High Court of Bombay have proposed a settlement based on which the complainant received the possession of the said premises before

the Ld. Mamlatdar and therefore, it is not appropriate on the part of the complainant to approach the Authority, instead of working out on the proposal to settle the entire dispute. The complainant had an option to terminate the agreement, in case of breach of any terms of the agreement, which he has not chosen to do. The respondent called upon the complainant to execute a sale deed, however it was turned down. The respondent has paid a total amount of ₹48,52,063.56/- in the execution proceedings before the Ld. Mamlatdar. The respondent is delivering a shop on the ground floor admeasuring 100 sq. mts. of built up area, inclusive of carpet and mezzanine area, in terms of the agreement, which speaks of built up area and not carpet area of 100 sq. mts. and therefore, the Authority cannot go into the interpretation of the terms of the agreement. The sale deed is pending due to the default of the complainant and therefore, the complaint be dismissed.

14. The issue which requires determination is whether the premises offered namely shop no. 8 as per the revised approved plan dated 19.10.2022 read with occupancy certificate dated 07.07.2023 is having an area of 100 sq. mts. of built up area, required to be conveyed in favour of the complainant in terms of the Agreement for sale dated 06.05.2015.

15. Under the RERA (The Real Estate (Regulation and Development) Act', 2016, an agreement for sale is a crucial document that outlines the terms and conditions for the sale of a property between the promoter and the allottee. It is a legally binding contract that protects the interest of both the buyer and the seller, which includes comprehensive details of the property, such as built-up area, specifications and sanctioned plans. It also defines the responsibilities of both the promoter and the allottee, including the obligations related to the construction as per the agreement. In short, RERA aims to protect the interest of the allottees by ensuring transparency and accountability in real estate transactions.

16. In order to decide the above dispute, it is required to delve into the relevant clauses of the agreement for construction and sale dated 06.05.2015 between respondent no. 1 and complainant. The pertinent is 'Clause (I)' which reads as follows:

"The VENDOR-CUM-DEVELOPER has approached the PURCHASER offering to construct and sale a commercial space admeasuring 100.00 sq. mts. of built up area, located on the ground floor, road level, facing Taleigao Church road and on the front side of the building proposed in the said property

along with undivided proportionate share in the land appurtenant thereto further making following representations, in case the PURCHASER pays the entire consideration in lump sum at the time of execution of this agreement.”

17. It is thus seen that the respondent no.1 offered to construct and sale a commercial space ‘*admeasuring 100 sq. mts. of the built up area on the ground floor*’ in the said property along with undivided proportionate share in the land appurtenant thereto as per the agreement of construction and sale, upon its completion to the complainant. No plan was annexed to the said agreement for sale as the building was yet to be constructed, then. The respondents till date has not executed the conveyance deed in respect of the commercial space ‘*admeasuring 100 sq. mts. of the built up area on the ground floor*’ as per the agreement of construction and sale, although the said premises is complete but sadly, not in terms of the agreement.

18. The complainant had sought for executing a registered conveyance deed in respect of the said commercial space in terms of the provisions of the RERA Act. The respondent admittedly offered to the complainant shop no. 8 in terms of construction license dated 15.12.2021. The respondent during the pendency of recovery

proceedings before the Ld. Mamlatdar placed on record occupancy certificate dated 23.06.2021 offering shop no. 8 along with certain other premises, where shop no. 8 was having 141.70 sq. mts. super built up area as per the approved plan. The respondent subsequently revised the approved plan dated 19.02.2022 by NGPDA whereby shop no. 8 was bifurcated into two shops, by which shop no. 8 which was offered to complainant was reduced to 70 sq. mts. which was not in terms of the said agreement, which provides 100 sq. mts, built up area on the ground floor.

19. Ld. Advocate Agni relying upon provisions of 'The Goa Land Development and Building Construction Regulation, 2010' has submitted that the shop which was offered to be delivered to the complainant was a double height shop, inclusive of carpet and mezzanine area, totally admeasuring 100 sq.mts built up area, as in terms of the above regulations, the built area comprises of and includes carpet plus mezzanine area and that the agreement between the complainant and the respondent speaks of built up area and not the carpet area of 100 sq. mts and therefore, there is no violations of any of the provisions of the Act or the Agreement for sale entered between the parties.

20. Admittedly, the agreement for sale does not provide for mezzanine of 25.72 mts as per the draft sale deed as the complainant was required to be delivered an area admeasuring 100 sq. mts. of the built-up area on the ground floor itself and not premises with ground floor and mezzanine floor. It is therefore evident from the description of the said shop as per the draft sale deed that the area of the shop agreed to be delivered on the ground floor is only 72.53 m² and that too, super built up area and not built-up area, which is lesser than what was agreed to be delivered as per the agreement, which is a commercial space, admeasuring 100.00 sq. mts. of built up area, located on the ground floor of the said building.

21. It is therefore manifestly clear that what was offered to the complainant as per the draft sale deed was not as per the agreement for sale nor it is the case of the respondent that the commercial space offered to the complainant is admeasuring 100 sq. mts. of built up area, located on the ground floor. It is thus apparent that the respondent has failed to comply with the obligations in terms of the agreement for sale nor the respondent offered to convey the possession of the premises booked by the complainant and for that reason, the complainant has rightly rejected to accept the draft

conveyance deed shared by the respondent dated 29.04.2024, as rightly submitted by Ld. Adv. Velip for the complainant.

22. The complainant has produced on record an Inspection report dated 20.06.2024 by Consulting Engineer, Shri G. N. Bhosle as the respondent has denied that the area of the said shop no. 8 is only 70 sq. mts. The Inspection report produced by the complainant clearly states that the area of the said shop no. 8 having RCC framed structure, on the ground floor, having double height is having area 69.30 sq. mts, built up area, as per the approved plan and that the work as on the date of inspection was pending. Discernibly, Shri Bhosle, Consulting Engineer has certified that the area of the said shop at loco as well as its area as per the revised plan is 69.30 sq. mts. built up area. The report of Engineer G. N. Bhosle is an indication of the fact that the revised approved plan dated 19.10.2022 produced on record is having only an area of 69.30 sq. mts of built up area, which is dehors the contents of the agreement for sale, where the respondent is required to convey in favour of the complainant a commercial premises of 100 sq. mts of built up area on the ground floor and not double height shop, having mezzanine flooring, although no such plan or document is produced on record.

23. The Hon'ble High Court of Bombay at Goa while hearing Writ Petition no. 1038 of 2024, which is being heavily relied upon by the respondent, to advance its case that pursuant to proposal of settlement, possession of the shop has been delivered to the complainant and that the complainant has taken over the keys of the said shop, also cannot be accepted, as the keys of the said shop was taken over at the instance of the order of Hon'ble High Court of Bombay at Goa "without prejudice to his claim for additional area or compensation in lieu of the deficit area or any other rights available to him". Moreover, the shop as per the Agreement of sale has not been conveyed to the complainant with a valid sale deed.

24. It is thus evident that the readiness of the complainant to accept the possession of the shop was without prejudice to his rights in the matter and subject to the respondent no. 1 coming forward to compensate for the deficit area or convey the entire area of 141.70 sq. mts. which is consisting of shop no 8 and shop no. 8A. The respondent was also required to come forth for conveying the title of 100 sq. mts of built up area on the ground floor or any other proposal agreeable to both the parties and therefore, the above submission of Ld. Adv. Shri Gaurish Agni cannot be accepted having any merits.

25. The respondent was required to convey in favour of the complainant a commercial premises of 100 sq. mts of built up area on the ground floor and not double height shop having mezzanine flooring nor the complainant is party to the change in the sanctioned plan. The said revised approved plan changed the premises allotted to the complainant without his permission, which is in breach of provision of Section 14 of the RERA Act. It is therefore the complainant has proved that he is entitled for commercial space admeasuring 100 sq. mts. of built-up area located on the ground floor of the project 'Adwalpalkar's Stellar' and therefore, entitled for the relief as claimed in the complaint with modifications as discussed below. Hence, the above point (1) is answered in the affirmative.

Point No. 2

26. Ld. Advocate Gaurish Agni for the respondent has submitted that no reliefs claimed by the complainant can be granted as it is beyond the jurisdiction of the Authority to grant reliefs claimed by the complainant, since it is the jurisdiction of the civil court. However, such an argument is not available to the respondent as the respondent is not permitted to act in contravention of the agreement of sale entered into between them, leaving the complainant in a queer state of

things, as the respondents knowingly or unknowingly have revised the approved plans, by which it is not feasible to convey the area of 100 sq. mts. of built-up area on the ground floor as per the agreement entered into by the complainant and respondent no. 1 dated 06.05.2015.

27. Nonetheless, the complainant cannot be rendered remediless on account of the revised plans obtained by the respondents during the course of the proceedings. It is well settled that only relief that are enforceable under the Code of Civil Procedure can be ordered by a court, which means that a court or the Authority can only grant remedies that can be legally executed or enforced against the other party. The reliefs which are granted have to be practically executable, more particularly, ordering the delivery of possession of immovable property to the rightful owners by way of executing a sale deed as the principle of enforceability is crucial because it ensures that the order of the court or the Authority are not merely symbolic but have practical consequences.

28. The complainant has sought for three reliefs as stated above, namely, Para 5(a) directing the respondent no. 1 to deliver to the complainant possession of the premises in terms of agreement dated

06.05.2025 having built up area of 100 sq. mts. on the ground floor of the said building, which relief is rendered impracticable having regard to the revised plan, wherein shop having built up area of 100 sq.mts is not available at the site. The relief as prayed in Para 5(b) and amended thereafter, is also not workable as according to the complainant shop no. 8A has been agreed to be sold to a third party and cancellation prior to execution of conveyance deed is also not doable as it may lead to further litigation and multiplicity of proceedings, since it is not brought on records that the third party has vacated the said premises and is free for conveying the same to be complainant.

29. It is a matter of record that my predecessor by virtue of order dated 09.11.2021 directed the respondent no. 1 to pay interest at the rate of 8% on the amount of ₹90,00,000/- w.e.f. 01.06.2018 to 31.10.2021, which comes to ₹24,60,000/- and the respondent no. 1 was also directed to pay monthly interest of ₹.60,000/- per month commencing from November 2021 payable in the month of December between 1st to 10th of every month till premises is completed and delivered to complainant. The complainant has thus far received an amount of ₹48,52,063.56/- before the Ld. Mamlatdar, Tiswadi in the execution proceedings as directed by the Authority. The Ld.

Adjudicating Officer has directed the respondent to pay compensation to the complainant as per order dated 12.08.2022. The complainant has also taken keys of the said premises as per the order of the Hon'ble High Court, without prejudice to his claim.


30. It is therefore, the relief as prayed for in Para 5(c) is more practicable as shop no. 8 bearing Panchayat House no. 19/197/14 on the ground floor is having an area of 70 sq. mts. of built up area, which could be conveyed unto the complainant with proportionate share in the land corresponding thereto in favour of the complainant and the respondent no. 1 could be directed to pay to the complainant in terms of money for the deficit area of 30 sq. mts. The complainant has sought an amount of ₹5,00,000/- (Rupees Five Lakhs only) per sq. mts for the deficit area of 30 sq.mt and has produced a sale deed dated 03.03.2022 by which a shop in the said premise has been sold for ₹1,61,000/- approx. per sq. mts. Be that as it may, considering what is discussed in the preceding Para and in the interest of justice and fair play, a reasonable rate of ₹1,00,000/- (Rupees One Lakh only) per sq. mt. would be just and appropriate to compensate the complainant in terms of money for the deficit area of 30 sq. mts. of the built up area. Hence, the above point (2) is answered accordingly.

31. Having said so, I pass the following:-

ORDER

- i. The respondent no. 1 is directed to convey in favour of the complainant, shop no. 8, bearing Panchayat House No. 19/197/14 in the commercial space, admeasuring 70.00 sq. mts. of built up area, located on the ground floor, road level, facing Taleigao Church road and on the front side of the building in the project 'Adwalpalkar's Stellar' along with undivided proportionate share in the land appurtenant, by way of a registered sale deed under Section 17 of the RERA Act, within 60 days from today.
- ii. The respondent no. 1 is also directed to compensate the complainant in terms of money for the deficit area of 30 sq. mts. of the built up area at a reasonable rate at ₹1,00,000/- (Rupees One Lakh only) per sq. mts. within 60 days from today.
- iii. The respondent no. 1 is directed to file compliance report of this order in the form of an affidavit within sixty days of this

order, failing which further legal action will be initiated by the
Authority under the RERA Act for execution of the order.


(Vincent D'Silva)
Member, Goa RERA

Panaji, Goa.
Date: 18.08.2025