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**GOA REAL ESTATE REGULATORY AUTHORITY**  
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F.No:3/RERA/Complaint (416)/2024/1088

Date: 13/08/2024

**Raj Aguiar Enclave Cooperative Housing Society Ltd.,**

Through its Chairman

Mr. Amit Kamat,

Near Old Military Camp,

Dhavli, Ponda, Goa.

.....Complainant

*Versus*

**M/s Raj Housing Development Pvt. Ltd.,**

401, 4<sup>th</sup> Floor, Rajdeep Galleria,

Sadar-Ponda-Goa-403401

Represented through Mr. Sandip Nigalye

Chairman/ Managing Director.

.....Respondent

**ORDER**  
**(Dated 13.08.2024)**

This order shall dispose of an application dated 08.04.2024 filed by the respondent to dismiss the complaint for want of jurisdiction.

2. The complainant contested application by filing reply dated 23.04.2024.
3. Ld. Advocate Ms. A. Nambiar on behalf of the respondent and Ld. Advocate P. Dangui on behalf of the complainant filed written submissions.

4. The submissions of learned Advocates are in line with the application and reply respectively. Being so, the contents of the application and reply are not reproduced separately.

5. The short point that arises for my determination is:-

Whether the complaint deserves to be dismissed for want of jurisdiction?

Ans: No.

### REASONS

6. Ld. Advocate Ms. A. Nambiar in her written arguments submitted that the project in dispute was completed by the respondent much before RERA Act 2016 was made applicable to Goa. The respondent has received completion certificate from SGPDA for building 'A' on 22.07.2016 and for building 'B' on 31.07.2017. As per Section 3(1) of RERA Act, as regards ongoing project as on the date of commencement of the Act for which completion certificate has not been issued the promoter is required to make an application to the RERA Authority for registration of the project within a period of three months from the date of commencement of the Act. The Goa Real Estate (Regulation and Development) (Registration of Real Estate Projects, Real Estate Agents, Rates of Interest and Disclosure on Website) Rules, 2017 came into effect in the state of Goa on 24.11.2017 and hence as per Rule 4 of the said Rules the deadline for registration for ongoing real estate project for which completion certificate was not issued was three months from 24.11.2017. Ld. Advocate further submits that in the present case final completion certificate was obtained on 31.07.2017 which is much prior to RERA Rules coming into effect in Goa, i.e. 24.11.2017. Therefore project of the respondent does not come within the purview of ongoing project as defined in proviso of Section 3(1) of RERA Act. Ld. Advocate relied on the judgment of the Supreme Court in case of



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*M/s Newtech Promoters and Developers Pvt. Ltd v. State of U.P* and submitted that the application of RERA Act 2016 is retroactive in character and that the project which is already completed or to which completion certificate has been granted does not come under its fold. Being so, learned Advocate prayed to dismiss the complaint for want of jurisdiction.

7. Ld. Advocate Shri P. Dangui in his written submissions submitted that the respondent has constructed two building 'A' and 'B'. Building 'A' received completion certificate on 22.07.2016 and Building 'B' received completion certificate on 31.07.2017. The RERA Act 2016 came into force with effect from 01.05.2016 and in terms of Section 3 of the Act, the project which were on going on the date of commencement of the Act and for which no completion certificate was issued are governed by RERA Act. Therefore, the present project of the respondent clearly comes within provision of the RERA Act. The submissions of the respondents that RERA act came in to force in Goa when Rules came in force on 24.11.2017 is misplaced. The complaint is maintainable. Learned Advocate prayed that the application of the respondent be dismissed with costs.

8. The respondent wishes this Authority to dismiss the complaint on the ground that that their project was completed prior to coming in force of the RERA Act 2016 in Goa. According to respondent the RERA Act 2016 came in force in Goa on 24.11.2017, i.e. on the date of the commencement of "The Goa Real Estate (Regulation and Development) (Registration of Real Estate Projects, Real Estate Agents, Rates of Interest and Disclosure on Website) Rules, 2017" in Goa. It is not in dispute that above Rules, 2017 came into effect in the state of Goa on 24.11.2017. However, respondent's contention that RERA Act 2016 came in force in Goa on 24.11.2017 have no support of legal provisions.

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9. By vide notification no. S.O.1544(A) dated 26.04.2016, the central Government appointed 1<sup>st</sup> day of May, 2016 as the date of coming into force of sections 2, sections 22 to 39, Sections 41 to 58, Sections 71 to 78 and Sections 81 to 92 of ERA Act. Further by vide notification no. S.O.1216(E) dated 19.04.2017, the central Government appointed 1<sup>st</sup> day of May 2017 as the date of coming into force Sections 3 to 19, Section 40, Sections 59 to 70 and Sections 79 to 80.

10. Therefore, in terms of notification no. S.O.1544(A) part of RERA Act came in force on 1<sup>st</sup> may 2016 and in terms of notification no. S.O.1216(E), the section 3 of the RERA Act, which is relevant to this case came into force on 1<sup>st</sup> May 2017. Viewed thus, to oust jurisdiction of this Authority the respondent should show that their project have been completed before 1<sup>st</sup> May 2017.

11. The respondent project consists of two building 'A' and 'B'. Building 'A' received completion certificate on 22.07.2016 and Building 'B' received completion certificate on 31.07.2017. Thus respondent has received completion certificate in respect of building "B" on 31.07.2017 i.e., after coming in force of section 3 of the Act. Since respondent project was not completed 1st day of May 2017 i.e on the day before the commencement of section 3 of the RERA Act, it can safely be held as ongoing project. Since respondent project was ongoing project as on 1<sup>st</sup> May 2017, it clearly comes within provision of the RERA Act.

12. Since it is the date of coming in force of the RERA Act, that have to be reckoned to determine whether project is ongoing or not and not the date of the commencement of "The Goa Real Estate (Regulation and Development) (Registration of Real Estate Projects, Real Estate Agents, Rates of Interest and Disclosure on Website) Rules in Goa, the submission of the respondent that RERA Act came in force in Goa on 24.11.2017 is misplaced.



13. The Order passed in case No. 3/RERA/Complaint(105)/2019/179 dated 01.04.2021 by my predecessor involves different set of facts and circumstances. In this case the project was constructed over a plot at measuring 500 sq. mts. of Sy. No. 110/5 of village Nagorcem, Canacona Goa and in terms of Section 3 sub-Section 2 clause (a) of RERA Act where the area of the land proposed to be developed does not exceeds 500 Sq. Mrts., the registration of real estate project is not required. Being so, the order is of no help to the respondent. That apart said order is not binding on this Authority.

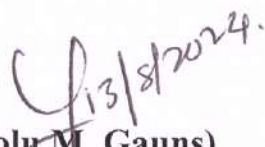
14. In case of M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P. it has been held that RERA Act,2016 is retroactive in character and the projects which are already completed or to which the completion certificate has been granted does not come under its fold.

15. There is no quarrel about above proposition laid down by Supreme Court in the above judgment; however since it has been held herein above that respondent project was ongoing project as on the date of commencement of Section 3 of the Act, this judgment is of no help to respondent.

16. In view above discussion my answer to the point for determination is in the negative and following:-

### **ORDER**

The application for dismissal of the complaint for want of jurisdiction dated 08.04.2024 stands dismissed.

  
(Cholu M. Gauns)  
Member, Goa RERA