



GOA REAL ESTATE REGULATORY AUTHORITY

101, 1st Floor, 'SPACES' Building, Plot No. 40, EDC Patto Plaza, Panaji 403 001 Goa
www.rera.goa.gov.in

Tel: 0832-2437655; e-mail: goa-rera@gov.in

F.No:4/RERA/Adj. Matters (101)/2023/156

Dated: 31/01/2024

BEFORE THE ADJUDICATING OFFICER

Mahmadarafi Jangalisab Hosamani and Tabasum Mahmadarafi Hosamani

C/o Hanumant Patil,
Flat 507, C Block, 7th Floor,
Kim Heights Morod,
Mapusa, Goa, 403507

.....Applicant

Versus

Sunstar Homes,

Address 1:

MS Sunstar Homes, National Narvekar Chambers,
Mapusa, Bardez, Goa, 403507.

Address 2:

Flat No. B1 F1 Prudential Paradise,
Peddem, Mapusa
Bardez, Goa, 403507.

.....Respondent

Applicant in person.

Respondent represented by Ld. Advocate Shri Prashant Agrawal.

ORDER

(Delivered on this 12th day of the month of January, 2024)

This order shall dispose of the application/Clarification on execution of

Order dated 29.09.2023 filed by the respondent.

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

The present Adjudication proceedings were initiated on the instance of the order dated 13.02.2023 passed by the Regulatory Authority referring the matter before the Adjudicating Authority for compensation under Sections 12, 14, 18, and 19 of the Act. The order dated 13.02.2023 passed by the Hon'ble Regulatory Authority under Section 71 of the RERA Act has been stayed by Hon'ble MAHARERA and since the said order dated 13.02.2023 has been stayed, the order dated 29.09.2023 passed by the Adjudicating Authority cannot be executed for non compliance under section 41(1) and under section 63 of the RERA Act and therefore, the present proceedings against the respondent be closed.

3. The applicant made an endorsement on the said application stating that there is no stay on the order dated 29.11.2023 passed by the Appellate Authority and therefore, the application/the clarification be dismissed.

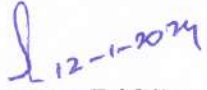
4. Arguments heard.

5. The Hon'ble Apex Court in the case between *M/S Newtech Promoters and Developers vs. State of UP & Ors. etc, 2021 SCC, Online SC 1044* has clearly held that there is complete delineation of the jurisdiction vested with the Regulatory Authority and Adjudicating Officer. The procedure for inquiry is different in both the set of adjudication and has observed, that there is no room for any inconsistency and the power of the adjudication is delineated. It also states that a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing

payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the Regulatory Authority which has the power to examine and determine the outcome of the complaint, and at the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18, and 19, the Adjudicating Officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. It therefore follows that the scope and functions of the Adjudicating officer and the Adjudicating Authority are distinct, disparate and distinguishable.

6. There is no dispute that the respondent has not obtained any stay with respect to the order dated 29.09.2023 passed by the Adjudicating Authority from the Appellate Tribunal. The MAHARERA Tribunal, Mumbai vide order dated 4.1.2024 has kept open the point of GST, and that the promoter can handover the possession of the subject flat to the allottees and the GST point will be considered at the time of final hearing and that there is no impediment in directing the respondent to hand over the possession of the subject flat by accepting the balance amount from the allottees. The above order dated 04.01.2023 does not make any reference to the order passed by the Adjudicating Officer dated 29.09.2023, which is required to be executed by the concerned authority. The submission of the Learned Advocate Shri Prashant Agrawal therefore cannot be accepted having any merits.

7. In view above, the application for clarification on execution of order dated 29.09.2023 stands dismissed.


(Vincent D'Silva)
Adjudicating Officer,
Goa RERA

Panaji, Goa.

Date: 12.01.2024.