



GOA REAL ESTATE REGULATORY AUTHORITY
DEPARTMENT OF URBAN DEVELOPMENT
GOVERNMENT OF GOA

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F. no.3/RERA/Complaint (131)/2020/524

Date: 12/07/2022

Murtaza Abbas Nasikwala,
Hotel Saibury, Patas Road,
Pune, Maharashtra-413102.

.....

Complainant

V/s

Eclectic Developers Pvt. Ltd.,
108/3A-Part, near Mataji Mandir(Hostel),
Tambewada, Canacona,
Goa-403702.

.....

Respondent

ORDER

(Dated 12/07/2022)

This order disposes of the complaint dated 05/11/2020 filed under Section 31 of The Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the Act') against the promoter, Eclectic Developers Pvt. Ltd. in respect of the project "Palolem Hills" in Village Nagarcem-Palolem, Taluka Canacona, Goa.

2. Earlier, this complaint was already disposed of by order dated 24.02.2021, which is reproduced herein below for ready reference:-

"Whereas, online complaint was filed dated 05.11.2020 before the "Authority" regarding complaint against project 'Palolem Hills' by Eclectic Developers Pvt. Ltd., for relief sought from RERA for possession and compensation and non-completion of project till date.

Whereas, the said complaint was placed before the 'Authority' in the 19th Meeting of Goa Real Estate Regulatory Authority on 27.01.2021.

The Authority discussed the complaint. Noted that the project 'Palolem Hills' already received completion certificate on 3rd May 2017 (Block A, B, C, D) and 30th June 2017 (Block F). Further, the Authority vide order dated F.No.3/RERA/Complaint (13)/2018 dated 11.10.2018 already decided the case pertaining to the complaint filed against non-registration of the said project.

In view of this, the complaint cannot be entertained again by the Authority”

3. With reference to the above order dated 24.02.2021, the complainant filed an application dated 22.03.2021 requesting this Authority to restore the complaint and to hear the matter on merits, inter-alia on the ground that the “impugned order” is unlawful and has been decided without hearing the complainant. On the request of the complainant, the complaint was restored by this Authority and both the parties appeared before Authority, filed documents, respective applications, replies, Affidavits and also filed written submissions. Oral arguments were heard from Ld. Advocate Husain Nasikwala for the complainant and respondent's representative Dinesh Yadav on the complaint as well as on the application under Section 35, 38 of the Act r/w O 26 Rule 9 and Section 151 of Civil Procedure Code filed by the complainant and application filed by the respondent to drop the proceedings on the ground that the instant complaint is not maintainable.
4. Without going into the merits of the case, the first point which comes for determination is whether any fresh order can be passed on the instant complaint which was already disposed of by order dated 24.02.2021 passed by this Authority and which order has not been challenged by the complainant before the Appropriate Forum to set it aside and whether the



instant complaint is maintainable and the answer to the same is in the negative because of the reasons stated hereinafter.

5. In a similar complaint bearing F.No. 3/RERA/Complaint (13)/2018/265 filed by Atul Gupta, Director, M/s Kriti Build Tech Pvt. Ltd. against the respondent herein alleging that the project “Palolem Hills” is not registered with Goa RERA, order dated 01.10.2018 was passed, the relevant portion of which is reproduced herein below:-

“Whereas a complaint has been filed before the Interim Authority, Goa RERA by Atul Gupta, Director, M/s Kriti Build Tech Pvt. Ltd., Flat No. 109, Sadar Apartments, Mayur Vihar-1 Extn, of the Real Estate (Regulation and Development) Act, 2016;

Whereas it has been stated that the project ‘**Palolem Hills**’ by Eclectic Developers Pvt. Ltd. is not registered with Goa RERA;

Whereas it has been seen that the project ‘Palolem Hills’ by Eclectic Developers Pvt. Ltd. has already received completion certificates for all the blocks/buildings (Block A, B, C and D) from the Office of the Dy. Town Planner, Town and Country Planning Department, Canacona, Goa on 3rd May, 2017 and 30th June, 2017 (Block F).

In view of this the project is exempted from Goa RERA.

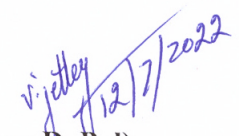
The present complaint is therefore **disposed off**”

6. In a similar complaint bearing F. No.3/RERA/complaint (260)/2021/195 filed by Vivek Datta against the respondent herein for non-registration of the same project ‘Palolem Hills’ order dated 24.03.2022 was passed by this Authority inter-alia mentioning that “.....it is clear that Authority has



already decided that registration is not required in respect of this project as ongoing project and the same is exempted from Goa RERA. **Once this has been decided, there is no scope under the Act to file the complaint against the project before this Forum**” (emphasis supplied)

7. From the aforesaid it is clear that it is already decided by this Authority consistently in the instant and other complaints that the said project ‘Palolem Hills’ by Eclectic Developers Pvt. Ltd. is exempted from the purview of Goa RERA and therefore the present complaint is not legally maintainable. Even otherwise no fresh order on the instant complaint can be passed once the instant complaint is already disposed of by order dated 24.02.2021, which order has not been challenged before the Appropriate Forum.
8. In view of the aforesaid the application under Section 35, 38 of the Act r/w O 26 Rule 9 and Section 151 CPC filed by the complainant is dismissed and the application filed by the respondent to drop the proceedings is granted. As stated above, the instant complaint is not legally maintainable and the same has already been disposed of by order dated 24.02.2021 and therefore the rulings relied upon by the Ld. Advocate for the complainant are not applicable in the instant case. The matter is accordingly disposed of.


(Vijaya D. Pol)
Member, Goa RERA