



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 (125)/ 2024

1275

Date: 03 /09/2024

BEFORE THE ADJUDICATING OFFICER

Mr. John J. Mendes,
H.No. 399, Attafondem,
Nr. Moira, Sport Club,
Bardez-Goa, 403607.

.....Applicant

Versus

M/s Prabhu Constructions,
Mr. Venkatesh Narayan Prabhu Moni,
Villa No. G-4, la Ocean Mist,
Near Amar Hotel, Dona Paula, Goa. 403004.

.....Respondent

Ld. Advocate Shri Saish Mandrekar for the applicant.
Ld. Advocate Ms. Sukant Harlankar for the respondent.

ORDER

(Delivered on this 3rd day of the month of September, 2024)

This order shall dispose of an application at Exhibit 372/c filed by the respondent for dismissal of the complaint.

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

3. That the project in which the applicant executed a deed of sale with respect of the premises has still not been registered under the RERA Act and neither the applicant can be treated as allottee nor the respondent as promoter within the meaning of the Act and as such the application is not maintainable. The applicant has purchased the premises after obtaining the occupancy certificate by a deed of sale dated 29.02.2020 and as such, the applicant becomes the exclusive owner of the premises and hence, the application is not maintainable within the meaning of Sections 13 and 18 read with Section 71 of the RERA Act. The applicant has executed the sale deed without recording in the sale deed the existence of any deficiencies in the project and therefore, he is estopped from making any complaint against the alleged deficiencies and hence, the complaint be dismissed.

4. The applicant filed a reply inter-alia contending that the application is baseless and with an intention to delay the proceedings pending before this Authority.

5. Arguments heard.

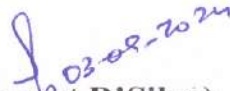
6. Admittedly, the applicant has filed the application for compensation claiming various reliefs. The respondent has not filed any reply/written statements admitting or refuting the claim of the applicant in terms of the application filed at exhibit 220/c. The respondent has failed to show the provision under which the application is maintainable under the RERA Act. The grounds raised by the respondent are flimsy and preposterous and at the most, could be the defenses to be raised in the written statement to the application filed for compensation. The application filed by the respondent for dismissal of complaint therefore deserves to be dismissed in limine.

7. Moreover, it is an admitted fact that the said building is not having any occupancy certificate till date even though the respondent has executed the sale deed qua the premises in favour of the applicant because of which it is claimed by the applicant that he cannot occupy and use the premises and hence suffered loss of business and income and that the respondent has obtained disproportionate gain. It is also claimed by the applicant that there are various defects and deficiencies with respect to the said building such as water logging in the basement, non grant of water and electricity supply, etc. The said defects and deficiencies have to be proved by the applicant for grant of the reliefs claimed by him. The application is therefore maintainable under the REREA Act and hence, application filed by the respondent deserves to be dismissed.

8. Hence I pass the following:-

ORDER

The application for dismissal of application filed by the respondent stands dismissed.


(Vincent D'Silva)
Adjudicating Officer,
Goa RERA

Panaji, Goa.
Date: 03.09.2024.