



GOA REAL ESTATE REGULATORY AUTHORITY

DEPARTMENT OF URBAN DEVELOPMENT

GOVERNMENT OF GOA

101, 1st Floor, 'SPACES' Building, Plot No. 40, EDC Patto Plaza, Panaji 403 001 GOA

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No.3/RERA/Complaint (9)/2018/1035

Date:30/12/2022

Ms. Deepti Agarwal,
B-210, 3rd floor,
C.R. Park, Delhi,
South Delhi, 110019.

.....Complainant

Versus

Isprava Vesta Private Limited,
42 A, Impression House,
G D Ambedkar Marg, Kohinoor Mill,
Wadala, Mumbai City,
Maharashtra, 400031.

.....Respondent


ORDER **(Dated 30.12.2022)**

Ms. Deepti Agarwal filed the complaint dated 09.05.2018 against 'Isprava Vesta Private Limited' (hereinafter referred as 'promoter') for non-registration of its project "**Villa Vivre**" as per Section 3 of The Real Estate (Regulation and Development) Act 2016 (hereinafter referred to as 'the RERA Act'). A notice dated 06.07.2018 was issued to the promoter by Goa RERA calling for reply within 10 days. The promoter filed the reply dated 13.07.2018

wherein the charges levelled against the promoter were denied. Again, by a notice dated 26.08.2022, the promoter was directed to furnish the details of the property. An opportunity of hearing was given to the promoter on 14.12.2022. The respondent/promoter has further filed its reply dated 14.12.2022. On 14.12.2022 the day fixed for hearing, the complainant was not present. However, the case was argued by the Advocate for promoter/respondent on the point of registration.

2. At the time of the commencement of the RERA Act, this project was on going project and is covered under the 1st proviso of Section 3(1). For the convenience relevant portion of the Section 3(1) is transcribed below:-

“3. Prior registration of real estate project with Real Estate Regulatory Authority.-



(1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:


Provided that projects that are ongoing on the date of commencement of this Act and for which the completion

certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act;”

Along with above provision contained under Section 3(1) of the RERA Act there is exemption clause incorporated under Section 3(2) (a). The relevant portion of this Section is as follows:-

“3(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required-

(a) Where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:”

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3. The Ld. Advocate for the respondent has pleaded that this case is covered under the exemption clause as the number of units to be constructed in this case is only one. The property is situated in Assgao Village of Bardez Taluka under Survey no. 92/3 admeasuring 763 square meters. On this property, single dwelling unit has been constructed which is known as “Villa Vivre”. Since number of unit to be constructed in this project is only one i.e. less than eight, hence it is covered

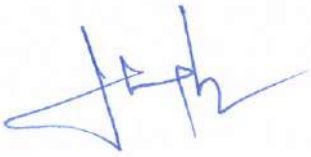
under Section 3(2) (a) of the RERA Act and accordingly no registration will be required in this case.

4. As per respondent Section 3 sub clause 2 of the RERA Act, 2016, starts with non obstante clause to anything contained in Sub-Clause 1 of Section 3. Sub clause 2 of Section 3 of RERA, 2016, provides for exemption from registration of Real Estate project if any of the condition as stated therein is satisfied. There are two conditions which are prescribed, one being area of land not exceeding 500 sq. mtrs. and the other being number if apartments proposed does not exceeds 8. Both these conditions are distinct and are not interconnected with each other. If any one of the conditions is satisfied then the exemption would come into play and registration of the project would be exempted.

5. The Ld. Advocate for the respondent further argued that the above contention is well supported by the judgement of the Maharashtra Real Estate Appellate Tribunal, Mumbai in the matter of **“M/s Geetanjali Aman Constructions and anr. v/s Hrishikesh Ramesh Paranjape and ors”**, **“Appeal no. in SC10000672 in complaint no. SC10000691”**, wherein the Hon’ble Appellate Tribunal whilst interpreting Section 3(2)(a), has held that once the project meets one of the conditions that precedes or succeeds the word ‘or’ in the said clause, their project is not registrable.”


6. I have considered the case. As pointed out by the Ld. Advocate for the respondent in the judgement of the Maharashtra Real Estate Appellate Tribunal, Mumbai in the matter of “**M/s Geetanjali Aman Constructions and anr. v/s Hrishikesh Ramesh Paranjape and ors**”, “**Appeal no. in SC10000672 in complaint no. SC10000691**”, the majority view of the Tribunal has upheld the position. The para 23 of the aforesaid judgement which is majority view of Tribunal is as follows:-

“23. Coming to the present controversy, it is not in dispute that appellants commenced the construction of project ‘Utkarsh Apartments’ in Pune in the year 2013. The area of plot is 382 sq. mtrs. and project consists of twenty two flats and nine shops. Allottees filed the complaint against the appellants with Maha RERA alleging that promoters have not registered the project though number of flats exceeds eight and thereby violated the provisions of Section 3 of the RERA Act, 2016. Keeping in view that on the happening of any of the two contingencies i] the area of land proposed to be developed does not exceed 500 sq. mtrs. or ii] the number of apartments proposed to be developed does not exceed eight inclusive of all phases, project need no registration under sub section (1) of Section 3 of the RERA Act. The unambiguous language of



clause (a) of Section 3(2) of the Act of 2016 makes it clear that “or” is to be read disjunctively and not conjunctively as conjunctive reading would make legislative intent redundant and would amount to changing the texture of the fabric which is not permissible in law.”

7. Based on this the Hon’ble Maharashtra Real Estate Appellate Tribunal has concluded in para 25 as follows:-



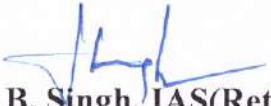
“In view of the above discussion, we are in complete agreement with interpretation by Appellants meaning thereby that once the project meets one of the conditions that precedes or succeeds the word ‘or’ in the said clause, their project is not registrable.”

8. From the above finding of the Hon’ble Maharashtra Real Estate Appellate Tribunal, it is clear that Tribunal has held that one the requirements incorporated under section 3(2) (a) i.e. either land not exceeding five hundred square meters or number of apartments not exceeding eight is fulfilled, the project is non registrable. This Authority has taken a view earlier that in order to be exempted from registration under Section 3(2) (a), both the requirements under this section should be fulfilled. However, in view of categorical judgement of Hon’ble Maharashtra Real Estate Appellate Tribunal having majority view, it is clear that

project does not require registration under Section 3 of the RERA Act as it meets one of the conditions incorporated in the said sub section.

9. Under the circumstances, it is held that registration under section 3 of the RERA Act is not required in this case and hence further proceedings are dropped. Complaint dated 09.05.2018 is rejected herewith.

Order accordingly,


J. B. Singh, IAS(Retd.)
Member, Goa RERA

To,

1. **Ms. Deepti Agarwal,**
B-210, 3rd floor,
C.R. Park, Delhi,
South Delhi, 110019.

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