



GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:1/RERA/Enfor. Auth. Adj(19)/99/2022/ 274

Dated:16/02/2024

Ann Marie De Souza,
through POA Fatima De Souza,
AGI Nirvana Housing Complex,
Shetye Waddo, Duler,
Bardez-Goa, 403507

..... **Applicant**

Versus

M/s Navkar Goa Enterprises,
203/204 Joia De Souza,
Opp. Angel Resort, Chogm Road,
North-Goa, 403521

..... **Respondent**

Ld. Advocate A. F. Cordeiro for the Applicant.

Ld. Advocate Ms. S.Narvekar for the Respondent.

ORDER

(Delivered on this 16th day of the month of February, 2024)

This order shall dispose of the application/clarification/justification at exhibit 121/c filed by the respondent on the stay of the order dated 14.07.2022 passed by this Authority by virtue of the order dated 01.08.2023 granted by Maharashtra Real Estate Appellate Tribunal, Mumbai.

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

That the complaint dated 27.02.2021 was disposed of by the Authority on 15.02.2022 and aggrieved by the impugned order, the respondent filed an appeal

under Section 44 of the RERA Act before Hon'ble Maharashtra Real Estate Appellate Tribunal and the Hon'ble Appellate Tribunal dated 01.08.2023 stayed the impugned order dated 15.02.2022. The order passed by the Adjudicating officer dated 14.07.2022 is ancillary and corollary to parent order dated 15.02.2022 and it is established principle of law that once the main order is stayed then the application of order connecting therewith should also be stayed and therefore, the above matter be kept in abeyance till the final disposal of the appeal filed by the respondent before Hon'ble Appellate Tribunal.

3. The applicant filed a reply inter-alia contending that the scope and function of the Adjudicating Officer and the Regulatory Authority are distinct, disparate and distinguishable. There is no implication that there is a stay of the present order once the respondent sought a stay against the order passed by the Regulatory Authority. There is also no single judicial precedent supporting the proposition advanced by the respondent. Ld Adv. Cordeiro in support of his arguments relied upon the case of *M/S Newtech Promoters and Developers vs. State of UP & Ors. etc, 2021SCC, Online SC 1044.*

4. Arguments heard.

5. The Hon'ble Apex Court in the case of *Newtech Promoters and Developers, supra* 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 Regulatory 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 14.07.2022 passed by the Adjudicating Officer from the Hon'ble Appellate Tribunal, Mumbai nor complied with the order passed by my predecessor. The Hon'ble Maharashtra Real Estate Appellate Tribunal, Mumbai vide order dated 01.08.2023 stayed the impugned order dated 15.02.2022 passed by the Hon'ble Regulatory Authority till disposal of the appeal filed by the respondent against the above order. The order dated 01.08.2023 passed by the Hon'ble Maharashtra Real Estate Appellate Tribunal does not make any reference to the order passed by the Adjudicating Officer dated 14.07.2022. There is therefore no stay operating against the order passed by my Ld. Predecessor which is required to be executed by the concerned Authority. The

submission of the Learned Advocate Ms. S. Narvekar therefore cannot be accepted having any merits.

7. In view above, the application/clarification/justification at exhibit 121/c filed by the respondent stands dismissed.

Sh 16-02-2024
(Vincent D'Silva)
Adjudicating Officer,
Goa RERA

Panaji, Goa.

Date: 16.02.2024.