



GOA REAL ESTATE REGULATORY AUTHORITY

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

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

FN0: 3/RERA/New Proj.(1567)/2025/1379

Date: 15/10/2025

ORDER

(Dated: 15.10.2025)

Sub: In the matter of Registration of the Real Estate Project “**The Capital**”.

A. Brief Facts of the Case

M/s Victorino Luxury Homes Pvt. Ltd. (herein after referred as the Promoter/Applicant) had applied online at Goa RERA portal for registration of the project ‘**The Capital**’ (hereinafter referred as the said project), under Section 3 and Section 4 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) read with the Goa Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates on interest and Disclosures on website) Rules 2017 (hereinafter referred to as the Rules, 2017). The details submitted in the application revealed that while the application for registration of the said project was submitted mentioning ‘M/s Victorino Luxury Homes Pvt. Ltd.’ as ‘Promoter’ and various land owners under the category of ‘Promoter/Investor’.

During the scrutiny of the Application, certain deficiencies were noted and initially an inquiry email dated 05.07.2025 was sent to the Applicant/ Respondent for rectification of the deficiencies observed and a response was received from applicant. In the meanwhile, it was also noted that the promoter

[Signature]

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Developer apart from claiming to be Developer of the project land had also acquired 2.5% undivided share, rights and title in the Project land vide two separate Sale Deeds dated 22.05.2025 and 27.05.2025 submitted by the Applicant/Promoter (Developer) which interalia referred to a prior agreement dated 04/04/2025 between him and the land owners of the project land. The copy the same though required, was not submitted by the Applicant /Promoter and he was accordingly asked to submit a copy of the same.

2. The perusal of the said agreement dated 04.04.2025 in conjunct with the application/documents earlier submitted by the Applicant; inter-alia revealed that though M/s Victoria Luxury Homes Pvt. Ltd. vide the said Agreement dated 04.04.2025 had agreed to develop the entire Project land and also to purchase the project land in tranches for a total consideration/ compensation of Rs.10,00,00,000/- (Rupees Ten Crore only) and out of which a sum of Rs. 1,40,00,000/- (Rupees One Crore Forty Lakhs only) i.e. 14% of the total consideration had already been paid to the land owners by the promoter developer; M/s Victorino Luxury Homes Pvt. Ltd vide two separate sale deeds had acquired ownership of only 2.5% undivided share, rights and titles equivalent to a total land admeasuring 212.65 sq.mts. for a total consideration of Rs 25,00,000/- only as against 14% of the payment made and the land owners continue to retain 97.5% of the project land.

It was further observed that M/s Victorino Luxury Homes Pvt. Ltd. had already been granted rights of development of the entire project land admeasuring 4521.20 sq. mts. owned by others though an area of 212.65 sq. mts. was subsequently purchased by M/s Victorino Luxury Homes Pvt. Ltd. vide two sale deeds dated 22.05.2025 & dated 27.05.2025. To illustrate, M/s Victorino Luxury Homes Pvt. Ltd. vide the said agreement dated 04.04.2025 had already been granted by the land owners, the rights of obtaining the project approvals and consequential development of the project by way of construction of apartments and commercial spaces etc. at its cost and expenses as well as at complete



discretion of the promoter developer. Besides, the applicant promoter (developer) was also granted rights to obtain Completion Certificate and Occupancy Certificate as well as right to sell any of the development in the Project 'The Capital'. Thus it was evident that M/s Victorino Luxury Homes Pvt. Ltd had entered into an unregistered agreement dated 04.04.2025 with the land owners primarily qua development of Project land.

3. It was accordingly observed that the project 'The Capital' was clearly a case of joint development and the said agreement dated 04.04.2025 need to be registered as per Circular No. 3/RERA/Off.Matters/2019/718 dated 04.10.2022 issued by this Authority before the application for registration of the project in the present case could be considered any further. The Applicants was apprised of the above vide email dated 11.08.2025.
4. In response, the applicant promoter vide its communications dated 13-08-2025 & 04-09-2025 submitted that prior to the execution of two registered sale deeds conveying 2.5% undivided share to VLH, the parties had executed a notarised commercial agreement dated 04.04.2025, setting out the commercial understanding for acquisition and development of the entire project land in phased manner with payment of consideration linked to execution of future sale deeds and as such, the said Agreement does not convey the entire project land to VLH. Also, any consideration paid in advance is not equivalent to ownership transfer until a registered conveyance is executed and further referred to the Judgment of the Hon'ble Supreme Court in *K.B. Saha & Sons Pvt. Ltd. v. Development Consultant Ltd.* (2008) 8 SCC 564 and submitted that vide the said judgment it was held that even if an agreement for sale is accompanied by substantial payment, ownership passes only through a registered conveyance.
5. It was further stated that subsequent to the initial agreement, the parties mutually agreed to co-develop the project as co-promoters under RERA, with each assuming full statutory liability to allottees. The application has been made jointly by 13 individuals holding title to undivided shares in the project land,



and Victorino Luxury Homes Pvt. Ltd. ("VLH"), a company holding a registered title to 2.5% undivided share in the project land acquired vide two separate sale deeds and all parties have also executed Form II Affidavit-cum-Declaration jointly, assuming joint and several liability towards allottees under the Act. Also a specific notarised Power of Attorney has been executed in favour of VLH's Director for regulatory purposes. The promoter Applicant further stated that as per the provisions of the Act 'promoter' broadly includes not only those who develop on their own land but also landowners who allow development on their land in return for consideration and also further referred to the Judgment of Hon'ble High Court of Bombay in *Wadhwa Group v. Vijay Choksi* to submit that internal arrangements are irrelevant to allottees; all co-promoters are jointly liable.

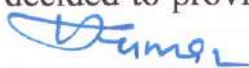
6. Referring to Circular No. 3/RERA/Off.Matters/2019/718 dated 04.10.2022, it was submitted that it only applies to cases where a notarised agreement is the operative instrument conferring present and exclusive development rights and in the present case, no reliance has been placed on the notarised agreement dated 04.04.2025 either for title or for establishing promoter status qua the purpose of registering the present project with Goa RERA. It was further submitted that though the said Agreement dated 04.04.2025 records an intent that VLH will take lead in obtaining approvals and undertaking construction, there is no registered instrument conferring irrevocable development rights in favour of VLH nor the said Agreement excludes the landowners from participating in the development and operative rights are vested jointly in all co-promoters by virtue of the RERA application and statutory affidavit. Further submitted that the application for registration of the Project in the instant case is supported exclusively by registered title documents evidencing the devolution of title upon the current owners, namely, the Inventory and Succession Deed and the registered sale deeds conveying undivided rights.



7. The Promoter/Applicant also referred to the Order dated 02.04.2025 of the Hon'ble High Court of Bombay at Goa in the case of *Edcon Real Estate Developers v. Goa RERA* in W.P. 3101/2024 and submitted that the Hon'ble Court in this matter considered the scope of the Circular dated 04.10.2022 upon an Affidavit filed by the Authority and observed that the Affidavit, particularly at para 6, clarified that the Circular was intended to cover only those instruments which are compulsorily registrable under Section 17 of the Registration Act and the Hon'ble Court accepted this position and upheld the Circular only with this limited construct. In this context, the Applicant also submitted that unnecessary registration of internal or commercial agreements which do not transfer immovable rights should not be insisted upon and in the present case, insisting on registration of the Agreement dated 04.04.2025, which does not transfer any immovable rights or is an operative document relied upon by the parties/ applicant for the registration of the project, would run contrary to the stand affirmed on oath before the High Court, and to the ratio of the case.
8. Referring to Rule 3 of the Goa RERA Rules, the Applicant submitted that sub-clause (d) of Rule which stipulates that where the promoter is not the owner of the land on which development is proposed, a copy of the collaboration agreement, joint development, etc., reflecting consent of the owners should be submitted; was not applicable in the instant case. In this regard, it was submitted that since all the landowners themselves are the promoters, hence there is no requirement of such an agreement and the internal arrangement/Agreement dated 04.04.2025 does not fall within Section 17 of the Registration Act since the same is merely an internal understanding that has since evolved into a co-promoter arrangement under RERA duly supported by the application itself and the Form II Affidavit-cum-Declaration which is jointly executed by all applicants assuming liability, jointly and severally under the Act. Attention was also drawn to Section 5 of the RERA Act that obligates the Authority to either grant registration or reject the application, with reasons, within 30 days of

receipt of the application. Submitting that the application was filed on 28/06/2025 and the statutory period of 30 days expired on 28/07/2025 itself, it was also stated that even though there is statutory basis for us to seek recourse under Section 5 of the Act, the applicant does not intend to move such an application/ representation/ appeal as it was confident that its application would be allowed.

9. However, the Promoter/Applicant also referred to Judgment of Hon'ble Apex Court in *Union of India and Anr.v. Deoki Nandan Aggarwal* 1992 AIR 96, to submit that it is not the duty of the Court, in this case the Authority either to enlarge the scope of the legislation or the intention of the legislature when the language of the provision is plain and unambiguous. Hence, the fiction cannot be enlarged or diluted by authorities. Further reference was also made to the judgment of the Hon'ble Allahabad High Court in *Larsen & Toubro Ltd. v. State of U.P. and Ors.* in Writ Petition No. 16616 of 2024, to submit that once the period of 30 days lapses without rejection or grant, deemed registration follows as a matter of law and also stated that the matter was subsequently also upheld by the Hon'ble Supreme Court.
10. In view of the above, it was noted that the Applicant Promoter neither denied the execution of the said unregistered agreement dated 04.04.2025 or the contents of any of its clauses nor was able to support its case that the present project is not a case of Joint Development. Further, the submissions made by the applicant promoter as above, also did not support the contentions of the applicant that the provisions of the circular dated 04.10.2022 were not attracted in the present case and the application for registration submitted by him merits registration under the Act without complying with the requirement of registration of the said agreement/joint development agreement. Since the application of the promoter submitted for registration of the project "The Capital" still remains incomplete and deficient in material particulars; it was decided to provide the applicant an opportunity of being heard in the matter on



this issue/deficiencies pointed out during scrutiny so as to take an appropriate decision on the application for registration of the said project under section 5(1)(a) or under section 5(1)(b) of the Real Estate (Regulation and Development) of the Act, 2016, as the case may be.

11. Accordingly, a notice was issued to the applicant for a hearing on 19.09.2025 at 3:00 p.m. and to submit his say along with hard copy of any further written reply/submissions in response to the notice dated 09.09.2025 in furtherance of its earlier submissions qua his application for registration of project "The Capital".

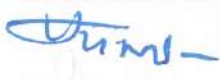
B. Gist of the written submissions made by the Promoter Applicant in response to notice dated 09-09-2025

12. In response to the Notice dated 09.09.2025 the Promoter Applicant further filed a detailed reply dated 18.09.2025, the submissions made there in are summed up as follows:
13. Responding to the observation in the notice as to information submitted under in respect of the 'Promoter details', 'Promoter(Land Owner/Investor) Details' in the Application, it was submitted that the differentiation in the labels such as the "Promoter" and the "Promoter/Investor" is a formatting artifact of the portal and not a substantive classification. Further, in law and in fact, all applicants are co-promoters, as evidenced by their joint execution of Form II. As such reading VLH alone as Promoter while others were treated as investors is factually incorrect since all parties were disclosed as co-promoters.
14. Referring to execution of Prior Agreement dated 04/04/2025, it was further submitted that Agreement dated 04/04/2025 was an earlier proposed commercial understanding anticipating phased acquisition of land by VLH and this arrangement subsequently evolved into a co-development structure reflected in the joint RERA application and the Form II Affidavit-cum-Declaration and the said Agreement was never relied upon as an operative instrument for the project registration. Further, the submission/ production of

the Agreement was solely in compliance with the requisition of the Authority and not as a foundational title or development document.

15. With reference to the grant of Development Rights under the Agreement dated 04/04/2025, it was submitted that any rights recorded under the Agreement were inchoate, revocable, and contingent upon future sale deeds and the arrangement was, at best, akin to a license until conveyance was complete. And even assuming arguendo that development rights were granted, such rights are not enforceable in law without a registered instrument, as held in *Suraj Lamp & Industries v. State of Haryana* (2012) 1 SCC 656. Thus the said Agreement cannot be treated as a Joint Development Agreement creating binding and exclusive rights in the immovable property.
16. Responding to observations of Authority regarding payment of Consideration vis-a-vis extent of land bought vide two Sale Deeds, it was submitted that the same was due to ongoing disputes regarding incorrect valuation of stamp duty by the Sub-Registrar for which the matter is under adjudication before the Collector and upon resolution, proportionate conveyance will be executed for the balance consideration. However, until such conveyance is executed, ownership in the remaining undivided share vests with the original landowners and this does not affect the validity of the present application, which is supported by registered conveyances and mutation entries.

The applicant has also referred and sought to rely upon an order of the authority dated 09.08.2024 in the matter of registration of the real estate project 'Antruz Avenue', stating that the case of the applicant promoter also stands on the same footing as M/s Victorino Luxury Homes Pvt. Ltd and the 13 land owners are co-owners of the project land and have jointly applied as co-promoters under the act. However, the same is not in consonance with record of the case as while M/s Victorino Luxury Homes Pvt. Ltd being promoter (developer) has mentioned its name under the promoter category, the names of the land owners have been shown under Promoter /Land Owner /Investor category. Besides, M/s



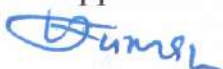
Victorino Luxury Homes Pvt. Ltd had earlier entered into an unregistered agreement dated 04.04.2025 with the land owners primarily qua development of Project and also the purchase of the same in phased manner. Also the facts of the case in the matter considered vide order dated 09.08.2024, were entirely different as in that case both the promoters not only had together purchased the project land with 50% shares each through a single sale deed but also were to develop the Project in conjunction with each other.

17. Responding to the observation of the Authority with regard to the "*Antruz Avenue*" Case, it was submitted that though the Authority has distinguished the present case from *Antruz Avenue* on the basis that both promoters there acquired equal shares through a single sale deed, the underlying principle remains identical that co-owners developing their own land do not require a separate Joint Development Agreement. Further submitted that in *Antruz Avenue*, ownership was through a single deed and in the present case ownership devolved partly by succession and partly by sale deed but in both, the parties are co-owners applying jointly as co-promoters and thus the ratio of *Antruz Avenue* directly applies.
18. Confirming Execution of the said Agreement dated 04/04/2025, it was stated that the Agreement though executed, its legal effect is limited. It was a commercial understanding which has since evolved into a co-promoter structure and the operative arrangement today is not that the said Agreement but the statutory framework under RERA, reflected in the joint application and affidavits. Elaborating the Legal Position qua the said Agreement dated 04/04/2025 it was submitted that the Hon'ble Apex Courts in *Rameshwar v. State of Haryana*, has clarified that a true Joint Development Agreement involves Landowner transferring possession and conferring development rights, Developer undertaking construction at its own cost, and Landowner receiving a defined share of built-up area or proceeds. It was further stated that the Agreement dated 04/04/2025 does not satisfy these features. It only records a



phased sale transaction for a fixed price of ₹10 Crores, without any obligation on the landowners to share risks, profits, or exercise control over the project. It may be read in essence to be at best an Agreement of Sale with deferred consideration.

19. On the issues of relevance of Registration of the said Agreement dated 04.04.2025 vis-à-vis protection of allottees, it was submitted that no additional statutory safeguards for allottees would flow from registration of the said agreement as transfer of ownership under law occurs only upon execution of a registered sale deed and it would still at best be registration of an agreement of Sale with staggered payments and the landowners would remain vendors; their liability to allottees would not arise from such Agreement. Thus, registration of the Agreement would neither materially enhance the rights of allottees nor alter the statutory protections already provided through the joint promoter application and Form II Affidavit.
20. On the issue of applicability of the Circular dated 04/10/2022 in the instant case, it was stated that the said Circular applies where unregistered agreements between distinct promoters and landowners confer development rights and would not be applicable where co-owners are themselves developing the land and this Authority has adopted this interpretation in *Antruz Avenue* case and also vide Authority's own affidavit filed in the matter of *Edcon Real Estate Developers v. Goa RERA* (W.P. 3101/2024 and insistence on registration of the Agreement here would contradict the Authority's own sworn affidavit filed before the Hon'ble High Court in the said matter
- Consequently the Promoter Applicant also appeared before the Authority on 22.09.2025 (matter was rescheduled for hearing on 22.09.2025) wherein both the Members of the Authority and Chairperson were present and heard the arguments made by the promoter applicant on the lines of its written submission placed on record during the proceedings by the Applicant. The promoter applicant was given further opportunity to file additional submissions including







relevant judgments qua the facts of the case and the relief sought, on or before 26.09.2025.

C. Gist of the written submissions made by the Promoter consequent to the personal hearing

21. In continuation of its earlier submission and consequent to the personal hearing held before the Authority on 22/09/2025, the Applicant/Promoter also placed additional submissions on record.

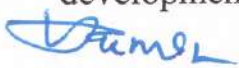
With regard to the Agreement dated 04.04.2025, it was further elaborated /reiterated that the original intent under the Agreement dated 04/04/2025 was for an outright purchase of entire project land by VLH for ₹10Crores out of which, ₹1.40 Crores was paid at that time, with the entire balance scheduled to be discharged by 05/10/2025. The clauses authorising VLH to apply for permissions/approvals and others mentioned therein, were inchoate, revocable, and conditional upon completion of the sale. However, Owing to certain circumstances, the parties thereafter mutually decided to re-align the arrangement into a “co-promoter structure”, whereby the original landowners retain 81% of the undivided rights in the project land and balance 19% of the undivided rights would be sold / transferred to VLH and all the 13 landowners and VLH are shown as co-promoters and Joint Form II Affidavit was executed and furnished, binding all to statutory liability further, registered sale deeds already executed (2.5% Undivided share) and further conveyance to VLH was informed as pending for the disposal of Collector’s proceedings under the Stamp Act. Also, in a Joint Development Agreement, the development rights would effect upon registration of a development agreement between parties, while here, the transfer of undivided rights through a Sale Deed in the project land enables the parties to undertake the development.

22. It was further submitted that originally VLH would have been the sole promoter, had the purchase been completed, the parties together have however, chosen to



co-develop the project in the capacity as co-owners the co-promoter model was thus a structural evolution and there is no beneficial outcome that translates out of such an arrangement. Further, the liability under this arrangement is not reduced but enlarged, as all the co-promoters (VLH and original landowners) are jointly and severally liable to the allottees,

23. With regard to whether Development rights could be transferred thorough a notarised Agreement; it was submitted that the notarised Agreement dated 04/04/2025 was executed with limited intent of recording the mutual understanding between the parties. It was never intended to constitute, nor can it legally constitute, a transfer of development rights as the said document merely sets out the preliminary responsibilities, which were always inchoate, revocable and contingent upon future sale deeds being executed against the said consideration. 14% of the total agreed consideration had been paid at the time, and operative rights were to flow only upon execution of the registered sale deeds to that extent as the sale was to be undertaken in tranches, and not from the notarised agreement itself. Further, the project registration has neither been sought on the basis of this Agreement nor has it been treated as an operative instrument transferring development rights as even if certain wording in the document may appear to confer rights, at best such rights would remain contractual in nature and fall within the scope of Indian Contract Act, 1872 and these cannot, in law operate as transfer of immovable property or the development rights under Transfer of Property Act, 1882 or the Registration Act, 1908 given that the instrument was unregistered. It was also submitted that the notarised agreement has no operative force as of date as the parties have since mutually re-aligned their relationship into a co-promoter structure, which is duly disclosed to this Authority through a Joint application / Affidavit and it is that arrangement and not the notarised agreement, which governs the project. Thus the notarised agreement thus cannot be construed as transferring development rights. The co-promoter arrangement is the only operative



structure. Also, nothing has been done under the Agreement that would contravene the objectives, provisions or mandates of the Real Estate (Regulation and Development) Act, 2016.

24. With regard to Protection and Safeguards for the Allottee, it was submitted that the present structure achieves this fully and even enhances such protection when compared with the conventional arrangements as Joint Form II Affidavit-cum-Declaration has been executed by all the landowners along with VLH which expressly binds both, the original landowners and VLH as co-promoters, making them *jointly and severally liable* towards all the allottees for completion of the project and the discharge of their obligations under the Act. Further, all Agreements for Sale with the allottees will be executed jointly by the co-owners/co-promoters. Also unlike typical joint development structures where the liability often rests/tilts solely/more on the developer and the landowners seek to disclaim responsibility, here both the original landowners and VLH are co-promoters.
25. It was also submitted that the Agreement dated 04/04/2025 is not operative and does not confer development rights and the original intent of outright sale has been mutually re-aligned to the co-promoter structure and also the payment of ₹ 1.90 Crores have been made for 19% Undivided Share by VLH; the balance transfer shall be completed by a registered deed immediately upon the disposal of the Collector's proceedings under Section 31 of the Stamp Act.
26. The Promoter/Applicant also referred to the Judgment of Hon'ble Supreme Court in the case of *Mansi Brar Fernandes v. RERA* (Civil Appeal No. 3826 of 2020), asking RERA Authorities to conduct due diligence of every application before granting registration; the applicant/promoter has submitted that they have accordingly actively and transparently participated in the proceedings by furnishing all the information, clarifications and supporting documents asked by the Authority at every stage and have also refrained from resorting to any







proceedings preferred for invoking the provisions of Section 5(2) of the Act and have instead supported, a clear, transparent and fair evaluation by the Authority, in recognition that the law and regulatory standards continue to evolve. To conclude, it was reiterated that the Agreement dated 04/04/2025 was at best a commercial arrangement akin to an Agreement of Sale, not a Joint Development Agreement. Even if registered, it would not have advanced the protection of allottees under RERA. This Agreement is no longer a valid commercial arrangement between the parties as this relationship is now in the form of a co-owners' development.

27. It was further submitted that thus the application meets the objects and framework of the RERA Act and Rules as well as the Circular issued by the Authority dated 04/10/2022. The registration under the co-promoter structure adopted in this case is valid in law and consistent with the object of consumer protection under RERA.

D. Analysis and Findings

After going through the entire records of the case and hearing the Applicant Promoter, the points which arise for our consideration and findings thereon for the reasons to follow are as under:-

Sr.No.	Points for determination	Findings
I.	Whether in view of the execution of the Agreement dtd 04-04-25 qua the development of the Project 'The Capital', the instant matter is a case of joint development where the circular dated 04.10.2022 and provision of Rule 3 of the Rules, 2017 would be applicable despite the fact that registration of the Project was	In affirmative



	applied for by both the promoters jointly i.e. Promoter Builder owning 2.5% of the Project land and the land owner Promoter owning 97.5% of the project land and both the promoters are also co-owners of the Project land?	
II.	Whether case of the Project 'The Capital' stands on the same footing as that of the case of the Project 'Antruz Avenue' and whether the ratio of the decision dated 09-08-2024 of the Authority in the case of registration of the project 'Antruz Avenue' directly applies to the matter under considerations?	In negative
III.	Whether the agreement dated 04.04.2025 was required to be registered under the provisions of the Registration Act?	In affirmative
IV.	Whether the proposed revised arrangement of acquiring 19% undivided share in the project land by the Promoter builder and the remainder 81% undivided share being retained by the land owners would alter the above position in any manner	As per para 31
V.	Whether there has been any delay in registration of the project consequent to rectification of the deficiencies and upon submission of the complete application with the requisite documents / information?	As per para 32

28. **Point No.I**

- i. The stand of the applicant promoter is that the agreement dated 04.04.2025 was an earlier proposed commercial understanding anticipating phased acquisition of land by VLH and this arrangement subsequently evolved into a co-development/co-promoter structure reflected in the joint RERA application and the Form II Affidavit-cum-Declaration. Further the said Agreement was never relied upon as an operative instrument for the project registration. The Applicant also submitted that sub-clause (d) of Rule 3 of the said Rules of 2017 was not applicable in the instant case since all the landowners themselves are the promoters and thus there is no requirement of such an agreement as contemplated under the said Rule. Further, the Circular dated 04.10.2022 applies where unregistered agreements between distinct promoters and landowners confer development rights and would not be applicable where co-owners are themselves developing the land and this Authority has adopted this interpretation in *Antruz Avenue* case. It has further been argued that the notarised Agreement dated 04/04/2025 was executed with limited intent of recording the mutual understanding between the parties. It was never intended to constitute, nor can it legally constitute, a transfer of development rights as the said document merely sets out the preliminary responsibilities, which were always inchoate, revocable and contingent upon future sale deeds being executed against the said consideration and operative rights were to flow only upon execution of the registered sale deeds to the extent of the land purchase and not from the notarised agreement itself. Even if certain wording in the document may appear to confer rights, at best such rights would remain contractual in nature and fall within the scope of Indian Contract Act, 1872 and these cannot, in law operate as to effect transfer of immovable property or the development rights. Also submitted that the notarised agreement has no operative force as of date as the parties have since mutually re-aligned their



relationship into a co-promoter structure, as is evident from the Joint application / Affidavit.

- ii. It was further submitted that as per the provisions of the Act 'promoter' broadly includes not only those who develop on their own land but also landowners who allow development on their land in return for consideration and also further referred to the Judgment of Hon'ble High Court of Bombay in *Wadhwa Group v. Vijay Choksi* to submit that internal arrangements are irrelevant to allottees as all co-promoters are jointly liable and further submitted that in view of the above, the instant case would not attract the application of Rule 3 of the Rules, 2017 as well as of Circular dated 04.10.2022 issued by Goa RERA as the said Circular applies where unregistered agreements between distinct promoters and landowners confer development rights and would not be applicable where co-owners are themselves developing the land.
- iii. This plea of the Promoter Applicant is apparently based on the limited appreciation of the provision of the Act particularly the ambit and scope of the definition of the term 'Promoter' as defined under Section 2 of the Act, Rule 3 of the said Rules of 2017 as well as the recitals made and the direction issued vide Circular dated 04.10.2022. Evidently, the apparent intent behind defining the term 'Promoter' widely under the Act is to cover every person/entity associated with the construction and development of the project and further to ensure their liability as promoters towards the allottees of the project. On the other hand, the objective of Rule 3(d) of the Rules, 2017 is to bring the interse arrangement i.e collaboration agreement, joint development agreement etc. executed between the promoter Builders and the land owners particularly where the Promoter is not owner of the land on which development is proposed; on record and also in public domain as the same gets displayed at web page of the project at Goa RERA Portal and thus helps to provide the requisite information to the public at large including the prospective allottees. Evidently, the said Rule would also cover the cases where only a part of the project land is owned by the

promoter Builder who is undertaking the development of the whole of the Project land including the part of the project land which is not owned by the Promoter Builder.

- iv. Keeping in view the definition of the 'Promoter' as per section 2(zk) of the Act, the promoter has already complied with the requirement of including the promoter developers and promoter land owners under the two categories of promoter provided for in the application form and has also furnished Form II Affidavit on behalf of all the promoters, as mandated under the Act. At this stage it would be beneficial to refer to the judgment of Hon'ble High Court of Bombay in case titled *Wadhwa Group v. Vijay Choksi* wherein observing that the term 'Promoter' under the Act includes every person associated with the construction of the building, it was held that RERA does not demarcate or restrict liabilities of different promoters in different areas and the liability is joint for all purposes under the Act, Rules and Regulation. However, the promoter developer is objecting to the fact that project 'The Capital' was a case of joint development on the ground that co-promoters also being co-owners of the project land are not carrying out the development on the land of the others. Also, in a Joint Development Agreement, the development rights would effect upon registration of a Development Agreement between the parties while in the present case, transfer of undivided rights through a sale deed in the project land enables the parties to undertake the development and hence neither the provisions of Rule 3(d) of the said Rules of 2017 nor the Circular dated 04.10.2022 would be applicable in the instant case. The submission made by the Applicant/Promoter, however, overlooks the fact that the provisions of the Rule 3(d) and the Circular dated 04.10.2022 are meant to apply in the cases where a Promoter Builder is developing the land of the others. As noted herein above, acquiring a part ownership of the project land by the Promoter Builder where the construction on the remaining project land owned by the others is also being undertaken by the same Promoter Builder; would not render the Provisions of

the Said Rule 3(d) inapplicable in such cases and the same would also be the case qua the applicability of the circular dated 04.10.2022.

- v. Before proceeding to deal with the question of applicability of Rule 3(d) of the said Rules of 2017 in case the co-promoters are also co-owners of the project land; it would be beneficial to refer to the following passage from the topic/chapter on 'Solo ownership and co-ownership' from 'Salmond's Jurisprudence' as well as case law in the context of the rights of co-owners in an undivided property.

Solo ownership and co-ownership

'Salmond's Jurisprudence'

"Co-ownership, like all the other forms of duplicate ownership, is possible only so far as the law makes provision for harmonising in some way the conflicting claims of the different owners inter se In the case of co-owners the title of the one is rendered consistent with that of the other by the existence of reciprocal obligations of restricted use and enjoyment".

- vi. Hon'ble Madras High Court in its decision in LPA No.51 of 1984 titled Rukmani and others Vs. H.N. Thirumalai Chettiar observed as follows:

"If the Respondent has acquired title to be the property only partly, he cannot be taken to the full owner and he cannot exercise rights of exclusive ownership to the detriment of other co-sharers."

- vii. Hon'ble supreme court of India in its judgement dated 10.09.2024 in civil Appeal No. 4177 of 2024 titled 'SK Golamlalchand Vs Nandu Lal Shaw..... & other while dealing with the rights of Co-owners in an undivided property and the limitations on unilateral transfers without proper partition held that a co-owner cannot unilaterally transfer the entire undivided joint property and any such transfer by a co-owners is valid only to the extent of their share in the property, as per section 44 of the Transfer of property Act, 1882. Para 20 and 21 of the said judgement are extracted herebelow for ready reference:



20. In this view of the matter, the entire property purchased by the two brothers late Salik Ram and late Sita Ram in the year 1959 vide Exh.1 continued to be the joint property in which both of them had equal rights. On their death, the same devolved upon their respective heirs and legal representatives including Brij Mohan, his three sisters on one side and plaintiff-respondent Nandu Lal, his three brothers and five sisters on the other side. Thus, Brij Mohan alone was not competent to execute a sale of the entire property in favour of the defendant-appellant S.K. Golam Lalchand, that too without its partition by metes and bounds.

21. Since the suit property has many co-owners including the plaintiff-respondent Nandu Lal and Brij Mohan, the defendant-appellant S.K. Golam Lalchand could not have acquired right, title and interest in the whole of the suit property solely on the basis of the sale deed dated 19.05.2006 executed by Brij Mohan. The said sale deed, if at all, in accordance with Section 44 of the Transfer of Property Act, 1882 may be a valid document to the extent of the share of Brij Mohan in the property and defendant-appellant S.K. Golam Lalchand is free to take remedies to claim appropriate relief either by suit of partition or by suit of compensation and damages against Brij Mohan.”

- viii. In view of the above, it is clear that since the extent of the title of the property owned by the promoter builder and land owners is well defined and none of the co-owner can exercise the rights of exclusive ownership; the instant case clearly involves construction by the Promoter/ Builder on the property not owned by him whereby the applicability of rule 3 (d) of the said rules, 2017 and also the circular dated 04.10.2022 would come into play in the instant case.
- ix. The Applicant Promoter has also stated that Agreement dated 04/04/2025 was executed with limited intent of recording the mutual understanding between the parties and not to constitute, nor can it legally constitute, a transfer of development rights as the said document merely sets out the preliminary responsibilities, which were always inchoate, revocable and contingent upon







future sale deeds being executed against the said consideration. Also operative rights were to flow only upon execution of the registered sale deeds to the extent of the land purchased and not from the notarised agreement itself. In this regard, it is observed that the same is not in consonance with the facts as the said agreement nowhere makes the grant of the bundle of rights being conveyed, contingent upon execution of sale deed and the same would be proportionate to the extent of land purchase. Such an arrangement even otherwise is inconceivable in commercial arena as in this case, M/s VLH having purchased only 2.5% of the project land so far would be considered to have been granted 2.5% of the development rights pertaining to obtaining of sanction of 2.5% of plans and prorata construction license as well as technical clearance, capacity to undertake the construction of Project to the extent of 2.5% and consequently for obtaining Completion Certificate and Occupancy Certificate of 2.5% of the Project. As already observed and conveyed vide notice dated 09.09.2025, substantial rights of development were granted to M/s VLH vide agreement dated 04.04.2025. This aspect is also considered in detail in subsequent paras.

- x. As far as other submissions of the applicant that the said agreement is no more operative since the parties have mutually reworked the arrangement whereby M/s VLH would be purchasing only 19% of the undivided share of the project land and the remaining 81% would be retained by land owners is concerned it is noted that the said submission cannot be commented/ considered at this stage as no such revised arrangement/agreement duly signed by both the parties have been submitted so far on record. Thus this aspect presently needs no further deliberation.
- xi. In view of what has been discussed herein above under Point No. I., this point of determination is answered in affirmative.

29. Point No.II

- i. The applicant in its submissions made during the proceeding also sought to rely upon an order of the authority dated 09.08.2024 in the matter of registration of







the real estate project 'Antruz Avenue', stating that M/s Victorino Luxury Homes Pvt. Ltd and the 13 land owners are co-owners of the project land and have jointly applied as co-promoters under the act as was the case in the matter of project 'Antruz Avenue' where this Authority took the view that the Circular dated 04.10.2022 would not be applicable where co-owners are themselves developing the land. The Applicant Promoter also submitted that though the Authority has distinguished the present case from *Antruz Avenue*, underlying principle remains identical that co-owners developing their own land do not require a separate Joint Development Agreement.

- ii. This aspect has already been deal with under Point No.I above. It further needs to be noted that the facts of the case in the matter considered vide order dated 09.08.2024, were entirely different as in that case both the promoters not only had together purchased the project land with 50% shares each through a single transaction sale deed against a consolidated consideration amount which, particularly in kind portion, was jointly paid in the form of built-up area. Pertinently, both the promoters were also to develop the Project in conjunction with each other. On the other hand, the responsibility of undertaking the entire construction on the project land in the instant is solely of M/s Victorino Luxury Homes Pvt. Ltd who owns only 2.5% of the project land who as promoter builder is carrying out the development on the land of others i.e. 97.5% of the project land retained and owned by the land owners. As has been noted under Point No.I above, Rule 3(d) of the said Rules of 2017 would be evidently, applicable in such cases. Besides, M/s Victorino Luxury Homes Pvt. Ltd had earlier entered into an unregistered agreement dated 04.04.2025 with the land owners primarily qua development of Project and also the purchase of the same in phased manner. Further, M/s Victorino Luxury Homes Pvt. Ltd being promoter (developer) has also mentioned its name under the promoter category and the names of the land owners have been shown under Promoter /Land Owner category.



iii. From the above it is clear that the contention of the applicant that the instant case stands on the same footing as that of the Project 'Antruz Avenue'; does not hold any water and as such the Point No. II is answered in negative.

30. Point No.III

- i. The plea of Applicant Promoter in this regard is that the agreement dated 04.04.2025 does not convey any irrevocable development rights and hence it need not be registered since the said Agreement was executed with limited intent of recording the mutual commercial understanding between the parties. It was never intended to constitute, nor can it legally constitute, a transfer of development rights as the said document merely sets out the preliminary responsibilities, which were always inchoate, revocable and contingent upon future sale deeds being executed and operative rights were to flow only upon execution of the registered sale deeds to that extent. Even if certain wording in the document may appear to confer rights, at best such rights would remain contractual in nature and fall within the scope of Indian Contract Act, 1872 and these cannot, in law operate as transfer of immovable property or the development rights given that the instrument was unregistered. Also, the project registration has not been sought on the basis of this Agreement and the operative arrangement is not the said Agreement but the co-promoter structure under statutory framework of RERA, reflected in the joint application and affidavits.
- ii. Elaborating the Legal Position qua the said Agreement dated 04/04/2025, it was submitted that the Hon'ble Apex Courts in *Rameshwar v. State of Haryana*, has clarified that a true Joint Development Agreement involves Landowner transferring possession and conferring development rights, Developer undertaking construction at its own cost, and Landowner receiving a defined share of built-up area or proceeds. It was further stated that the Agreement dated 04/04/2025 does not satisfy these features. It only records a phased sale

transaction for a fixed price of ₹10 Crores, without any obligation on the landowners to share risks, profits, or exercise control over the project. It may be read in essence to be at best an Agreement of Sale with deferred consideration. It needs to be noted here that para 31 of the above cited judgment being referred by the Applicant also notes the existence of power of attorney documents executed in the favour of the developer to facilitate the development of the project by such developer besides the features referred to above. As would be evident from the above that the said agreement dated 04.04.2025 clearly provides for Landowner transferring possession and conferring extensive development rights, upon Promoter Builder VLH for undertaking construction at its own cost besides right to sell any of the development in the project as well as execution of power of attorney documents in the favour of the developer to facilitate the development and sale of the project. It is pertinent here to note here that the Hon'ble Apex Court vide para 40 of the said Judgment further observed as follows:

“40. Land ownership typically carries with it a bundle of rights. A landowner has the right to possess, sell, lease, develop, sub-let, etc. on an overall analysis of the common features of all the collaboration agreements as carried out in an earlier part of the judgment, it is evident that except for the empty husk of a title, the land owner parted with predominant and substantial rights over the property, including possession.”

- iii. It was also submitted later that the original intent under the Agreement dated 04/04/2025 was for an outright purchase of entire project land by VLH for ₹10Crores out of which, ₹1.40 Crores was paid at that time, with the entire balance scheduled to be discharged by 05/10/2025. The clauses authorising VLH to apply for permissions/approvals and others mentioned therein, were inchoate, revocable, and conditional upon completion of the sale. However, Owing to certain circumstances, the parties thereafter mutually decided to re-align the arrangement into a “co-promoter structure”, whereby the original



landowners retain 81% of the undivided rights in the project land and balance 19% of the undivided rights would be sold / transferred to VLH. Further, registered sale deeds of 2.5% Undivided share have already been executed and further conveyance to VLH was informed as pending for the disposal of Collector's proceedings under the Stamp Act.

- iv. At the outset it is noted that the contention of the applicant that its authorization to exercise the development rights granted under the agreement dated 04.04.2025 were conditional upon completion of the sale; is also not in consonance with the fact of the case as the said agreement nowhere makes the grant of the bundle of rights being conveyed, were contingent upon execution of sale deed or the same would be proportionate to the extent of land purchased. Such an arrangement even otherwise is in conceivable in commercial arena as in this case, M/s VLH having purchased only 2.5% of the project land so far would be considered to have been granted 2.5% of the development rights as elaborated under Point No.I above. Here, it would be beneficial to refer to para 22(iii) of the decision of Hon'ble Supreme Court of India in Civil Appeal No. 1129 of 2012 in the **Sushil Kumar Agarwal Vs Meenakshi Sadhu & ors.** which reads as follows:

“(iii) In order to determine the exact nature of the agreement signed between the parties, the intent of the parties has to be construed by reading the agreement as a whole in order to determine whether it is an agreement simpliciter for construction or an agreement that also creates an interest for the builder in the property. ----- and”

- v. Point No. III is further examined in the succeeding paras by referring to and analyzing specific clauses of the agreement dated 04.04.2025 as well as of the sale deeds conveying 2.5% undivided share of the project land to VLH.
- vi. Before proceeding further, the issue in question also needs to be examined with reference to the provisions of Section 17(1)(b) of the Registration Act which



mandates the compulsory registration of such documents that create, declare, assign, limit, or extinguish any right, title, or interest in immovable property.

- vii. In this regard, it would be helpful to refer to para 19 & 20 of the decision of Hon'ble Patna High Court in case No. A F A D 1024 of 1958 in the matter of **Brahmanath Singh And Ors. vs. Chandrakali Kuer and Anr.** wherein hon'ble Court elaborated upon the meaning of the words "create, declare, assign, limit or extinguish", occurring in Section 17(1) (b) of the Registration Act as follows:

"19. From the above authorities, therefore, it is plain that the expressions "create", "assign", "limit" or "extinguish" imply definite change of legal relation to a property by an expression of will embodied in the document and the expression "declare" therefore, must also import a similar meaning. No doubt, the word "declare" might be given a wider meaning, but, here, implies a declaration of will, not a mere statement of fact. The distinction, as such, is between a mere recital of a fact and something which in itself creates a title.

20. The above, therefore, is the true scope and meaning of the words "create, declare, assign, limit or extinguish", which occurring in Clause (b), of Sub-section (1) of Section 17 of the Act."

- viii. It would be thus pertinent at this stage to refer to the relevant clauses of the Agreement dated 04.04.2025 as well as the relevant clauses of sale deeds vide which 2.5% of the project land has been conveyed to VLH so far, to ascertain as to what is intended from the documents as per its content and whether said agreement dated 04.04.2025 merely provides for a commercial understanding anticipating phased acquisition of land by VLH or creates rights and interest beyond that in favour of the Promoter / Applicant. The relevant clauses of the Agreement dated 04.04.2025 as well as of the sale deeds referred to herein above, are extracted below for ready reference and read as follows:



Page 13 of the Agreement dated 04.04.2025 (Initial Recitals)

AND WHEREAS upon obtaining the said Project Approval, the PROSPECTIVE PURCHASER proposes to thereby undertake the development of the Said Property Nos. 1 and 2, by the construction of apartments and commercial spaces / shops at the complete discretion of the PROSPECTIVE PURCHASER, which project is hereinafter referred to as the "Said Project".

AND WHEREAS at the request of the PROSPECTIVE PURCHASER, the PROSPECTIVE VENDORS have agreed to permit the PROSPECTIVE PURCHASER to obtain the Projects Approvals and construct the Said Project in the said Entire Property, provided all such works are done at the cost and expense of the PROSPECTIVE PURCHASER and without any liability on the PROSPECTIVE VENDORS.

Page 15 of the Agreement dated 04.04.2025

NOW THIS AGREEMENT WITNESSETH AS UNDER:-

1. In pursuance of the foregoing, the PROSPECTIVE PURCHASER hereby agrees to purchase the Said Entire Property, on the terms and conditions set out in this agreement.

2. DEVELOPMENT:

a) The PROSPECTIVE VENDORS hereby permit the PROSPECTIVE PURCHASER to enter upon the Said Entire Property in pursuance to the intention of purchase so as to develop and complete the Said Project as mentioned in this Agreement.

b) Upon receipt of part consideration set forth hereunder, the PROSPECTIVE VENDORS shall thereby execute a Sale Deed proportionate to the consideration paid or as otherwise mutually agreeable.

c) Further, upon fulfilment of the total consideration, the PROSPECTIVE VENDORS shall execute a Deed of Transfer / Sale with the PROSPECTIVE PURCHASER as may be required



under the law in force, as per the request of the PROSPECTIVE PURCHASER.

Clause 5(P) at Page 24 of the Agreement dated 04.04.2025

The PROSPECTIVE VENDOR hereby irrevocably nominate, constitute, and appoint the PROSPECTIVE PURCHASER as their true and lawful attorney to manage, administer, and undertake all necessary actions related to the Said Project, including but not limited to receiving and collecting payments from its customers, issuing receipts, executing and signing of agreements, liaising with government and statutory authorities for permissions and compliance, and facilitating all the necessary documentation and formalities required for the execution and completion of transactions related to the Said Project. The PROSPECTIVE VENDORS further undertake to execute a separate Power of Attorney in favour of the Director of the PROSPECTIVE PURCHASER to formalize these authorizations as and when required.

Page 17 of the Agreement dated 04.04.2025

CONSTRUCTION:

- a) The PROSPECTIVE PURCHASER shall, at its entire cost and expense, undertake and construct the Said Project on this Said Entire Property, and carry out all the acts, deeds, matters, things and obligations in accordance with the Project Approvals.

Clause (c) under the heading 'Consideration' of the said agreement further provides that the PROSPECTIVE PURCHASER shall disburse the total compensation of Rs. 10,00,00,000/- (Rupees Ten Crore only) to the landowners as per the schedule listed in the agreement. The use of the word 'Compensation' under the heading 'CONSIDERATION' is significant and supports the view that the execution of the Agreement dated 04.04.2025 was primarily intended to transfer the Development right to VLH to facilitate it to undertake the construction of the entire project.



ix. As would be evident from the above that the said agreement dated 04.04.2025 clearly provides for Landowner transferring possession and conferring extensive development rights upon Promoter Builder VLH for undertaking construction at its own cost besides right to sell any of the development in the project as well as execution of power of attorney documents in the favour of the developer to facilitate the development and sale of the project To illustrate, M/s Victorino Luxury Homes Pvt. Ltd. vide the said agreement dated 04.04.2025 had already been granted by the land owners, the rights of obtaining the project approvals and consequential development of the project by way of construction of apartments and commercial spaces etc. at its cost and expenses as well as at complete discretion of the promoter developer. Besides, the applicant promoter (developer) was also granted rights to obtain Completion Certificate and Occupancy Certificate as well as right to sell any of the development in he Project 'The Capital'. Evidently the land owners vide the said Agreement dated 04.04.2025 granted an unconditional permission to Promoter Builder for development of the entire project and also granted granted substantial and extensive development rights to M/s VLH to enable them to undertake the requisite construction/ development. To further supplement this, a power of attorney was also executed in above terms in favour of VLH.

x. **Relevant Clause of Sale Deeds**

17. The PURCHASER thereby proposes to develop the Said Larger Property comprising of both, the Northern and the Southern portions, by purchasing the same from their respective owners. The PURCHASER intends to obtain all the mandatorily required statutory permissions, approvals, Certificates, Permits, Licenses, Sanctions, Orders, Conversion Sanad etc. from the competent authorities, as required under applicable laws and statues so as to undertake development in the Said Larger Property, hereinafter jointly referred to as "Project Approvals"



18. Upon obtaining the said Project Approvals, the PURCHASER proposes to thereby undertake the development of the Said Larger Property, by construction of apartments and commercial spaces / shops at the complete discretion of the PURCHASER, which project is hereinafter referred to as the "Said Project".

21. In terms of the Agreement and understandings arrived between the VENDORS and the PURCHASER, as reflected in the Agreement dated 04/04/2025, the VENDORS have by virtue of the present Sale Deed agreed to sell to the Purchaser all their 2.5 percent undivided share in the Said Property which is equivalent to an undivided area of 106.325 sq. mtrs. of the Said Property. This undivided share in the Said Property, which is sold to the Purchaser, by the present Sale Deed, is more fully described in SCHEDULE – II of this Sale Deed.

- xi. The above clauses of the sale deed are well supportive various convinents/clauses of the Agreement. Further, none of the clauses of the sale deed including the clauses extracted and referred to above, either specifically states or even implies that the development rights conveyed under the agreement dated 04.04.2025 were contingent upon sale deeds being executed and were operative only to the extent land conveyed under the sale deed.
- xii. It is thus clear that M/s Victorino Luxury Homes Pvt. Ltd. had already been granted substantial and extensive rights of development of the entire project land admeasuring 4521.20 sq. mts. vide Agreement dated 04.04.2025. The subsequent purchase of an area of 212.65 sq. mts. by M/s Victorino Luxury Homes Pvt. Ltd. vide two sale deeds dated 22.05.2025 & dated 27.05.2025 does not impact or alter this position in any manner. It is also evident that M/s Victorino Luxury Homes Pvt. Ltd had entered into an unregistered agreement dated 04.04.2025 with the land owners primarily qua development of Project land.



xiii. Their Lordship of the Hon'ble Supreme Court of India in the matter of *Sushil Kumar Agarwal* while noting that the expression 'development agreement' has not been defined statutory and is a catch-all nomenclature being used to describe a wide range of agreements whose nature has become increasingly intricate; vide para 17 of the said judgment observed as follows:

"17. In a construction contract, the contractor has no interest in either the land or the construction carried out on the land. But, in other species of development agreement, the developer may have acquired a valuable right either in the property or the constructed area. There are various incidents of ownership of in respect of an immovable property.-----

----- An essential incident of ownership of land is the right to exploit the development, potential to construct and to deal with the constructed area. In some situations, under a development agreement, an owner may part with such rights to a developer. This in is essence is a parting of some of the incidents of ownership of the immovable property. There could be situations where pursuant to the grant of such rights, the developer has incurred a substantial investment, altered the state of the property and even created third party rights in the property or the construction carried out to be carried out. -----

----- and the rights created under it."

37. Further, their lordship of the High Court of Judicature at Bombay in WP No. 8030 of 2017 in the case of **Suhas Damodar Sathe Vs State of Maharashtra and othr**, while referring to *Chheda Housing Development Corporation v. Bibijan Shaikh Farid* (2007) 3 Mah.L.J 402 noted that in development agreement where the owner handed over rights of construction and sale to the developer, the agreement ceases to be a simple license for construction and further observed vide para 22 of the said judgment that Instead, it vests in the developer an enforceable interest in the land, rendering the owner duty-bound to complete the ultimate conveyance to the purchasers or their society.



38. Their lordships vide para 23 & 30 of the said judgment further observed as follows:

23. ----- The underlying rationale is that the developer's right to carry out construction and to sell the resultant premises amounts to an immediate transfer of certain rights in land, be it the development rights or attendant possessory interests. Thus, while the original owner may retain title in name, a portion of the estate or interest passes to the developer in a legally cognizable manner, -----.

30. "In the present matter, whilst the document is labeled a "Development Agreement," a closer examination reveals that the developer has been granted an extensive authority—indeed, a right—to occupy the property for construction, to build new structures, and to negotiate their sale. By these very terms, the developer is clothed with a proprietary stake in the project land, one that extends well beyond the ordinary scope of a mere building contract. The jurisprudence of this Court, notably in earlier decisions, has recognized that a contract conferring upon the developer a right to deal with or alienate newly constructed units is effectively transferring a property interest, though described in the language of "development rights."

xiv. In view of the case law laid down by Hon'ble Apex Court and High Court as referred to above and also the factual matrix and analysis of the case, it is clear that various clauses of the agreement dated 04.04.2025 and also of the subsequent sale deeds pertaining to purchase of 2.5% share of the Project land by M/s Victorino Luxury Homes Pvt. Ltd. are eloquent of the substantial rights that has been created by land owners in favour of the Promoter Builders M/s Victorino Luxury Homes Pvt. Ltd. Besides, the clause (o) of the agreement (at page 24 of the agreement) specifically provides the entire costs, expenses, charges including stamp duty, registration and other expenses for execution of



present Agreement and Sale Deed/s to be executed shall be borne by the PROSPECTIVE PURCHASER. The said clause not only clarifies the original intent of registering of the said agreement by the parties thereto but also is supportive of the view that the said agreement was executed primarily for transferring the development rights in favour of M/s Victorino Luxury Homes Pvt. Ltd. Accordingly, the natural inferences is that the said agreement dated 04.04.2025 is compulsorily registrable under the provisions of the Registration Act.

xv. In view of what has been discussed herein above Point No. III is answered in affirmative.

31. **Point No. IV**

- i. The Promoter Applicant in the later submissions also stated that owing to certain circumstances, the parties have now mutually decided to re-align the arrangement whereby the original landowners retain 81% of the undivided rights in the project land and balance 19% of the undivided rights would be sold / transferred to VLH. Accordingly, the Agreement dated 04/04/2025 is not operative and does not confer any development rights upon VLH. It was also stated that though the payment of ₹ 1.90 Crores have been made for 19% Undivided Share by VLH; the balance transfer shall be completed by a registered deed immediately only upon the disposal of the Collector's proceedings under Section 31 of the Stamp Act.
- ii. This submissions of the applicant that the said agreement is no more operative since the parties have mutually reworked the arrangement as above; cannot be commented/ considered at this stage as no such revised arrangement/agreement duly signed by both the parties have been submitted so far on record. Once the same is submitted, the matter would have to be scrutinized afresh for taking a view as to the application for registration of the Project 'The Capital'. However, it would be suffice to observe at this stage that the requisite agreement/documents pertaining to the revised arrangement as referred to

above, would have to be in consonance with the laid down requirements and the observations made herein above if so applicable in the context of the said revised arrangement.

32. **Point No.V**

- i. The promoter/applicant also submitted that Section 5 of the RERA Act obligates the Authority to either grant registration or reject the application, with reasons, within 30 days of receipt of the application. Submitting that the application was filed on 28/06/2025 and the statutory period of 30 days expired on 28/07/2025 itself, it was also stated that even though there is statutory basis for Applicant/Promoter to seek recourse under Section 5 of the Act, the applicant does not intend to move such an application/ representation/ appeal as it was confident about the merits of its case. The Applicant Promoter further referred to the Judgment of Hon'ble Supreme Court in the case of ***Mansi Brar Fernandes v. RERA (Civil Appeal No. 3826 of 2020)***, submitting that Hon'ble Apex Court vide the said Judgment has asked RERA Authorities to conduct due diligence of every application before granting registration and they have accordingly actively and transparently participated in the proceedings by furnishing all the information, clarifications and supporting documents asked by the Authority at every stage. Further, they have also refrained from resorting to any proceedings for invoking the provisions of Section 5(2) of the Act and have instead chosen to facilitate a clear, transparent and fair evaluation by the Authority, in recognition that the law and regulatory standards continue to evolve.
- ii. It is relevant to note that though the applicant has claimed to have applied online on 28.06.2025 at web portal of Goa RERA for the registration of the project 'The Capital'; the said application was deficient in material particulars and was incomplete since the time of making of the application itself which prompted inquiry from the Authority, the last being seeking of the copy of the



agreement dated 04.04.2025 which was intrinsically linked to the sale deeds executed between the land owners and Promoters Builders herein having been executed in terms of the said Agreement. Pertinently, the online application form provides dedicated space for uploading all related land documents and the copy of the Agreement dated 04.04.2025 was a necessary document to be submitted/uploaded alongwith the copies of the sale deeds particularly when parties of the said Agreement dated 04.04.2025 were also the parties to the sale deeds. The perusal of the said Agreement dated 04.04.2025 as submitted by the promoter, led to further queries and seeking of clarifications from the promoter culminating into issuance of notice dated 09.09.2025. Needless to add that the incomplete application particularly in view of deficiencies like non submission of a clear copy of title report, incomplete CA certificate and Affidavit Form II, illegible copy of Technical clearance order and non furnishing of complete sale documents particularly the copy of Agreement dated 04.04.2025 as noted above; could not have been processed for taking a final view of the matter.

- iii. As the Promoter Applicant has itself submitted that it was not inclined to prefer any proceedings under section 5(2) of the Act and has instead actively and transparently participated in the proceedings by furnishing all the information, clarifications and supporting documents asked by the Authority at every stage to facilitate, a clear, transparent and fair evaluation by the Authority; this issue needs no further deliberation at this stage.

D. Order

- i. In view of what has been observed herein above the various points of determination, this Authority is of the view that various clauses of the Agreement dtd 04.04.2025 are eloquent of the substantial rights that have been created in favour of the Applicant Promoter(Developer/Builder) and therefore, the said Agreement dated 04.04.2025 is compulsorily registrable under the provisions of the Registration Act. Pertinently, both the developer and the land



owners are jointly liable for the functions and responsibilities of the promoter specified under RERA Act as per the explanation under Section (2)(zk) RERA Act, 2016. The Joint Development Agreement thus becomes the basis of the joint liability of both the promoters. Therefore the requirements of registration of the said agreement dated 04.04.2025 being applicable in the instant case, needs to be complied with before registration of the Project applied for is granted. Accordingly, the Promoter Applicant is given two months time to submit a copy of the Agreement dated 04.04.2025 duly registered with jurisdictional Sub- Registrar.

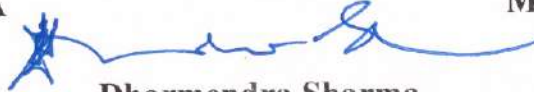
- ii. In case, any revised agreements is executed between the parties and same is preferred for making the application for registration of the Project 'The Capital' the matter would have to be scrutinized afresh for taking a view as to the application for registration of the Project 'The Capital'. It goes without saying that the requisite agreement/documents pertaining to the revised arrangement as referred to above, would have to be in consonance with the laid down requirements and the observations made herein above if so applicable in the context of the said revised arrangement.



Virendra Kumar
Member, Goa RERA



Vincent D'Silva
Member, Goa RERA



Dharmendra Sharma
Chairperson, Goa RERA

To,
Victorino Luxury Homes Private Limited,
H No 178 SH 2 Street No,
Verna Salcete, South Goa, Goa