



## GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:3/RERA/Complaint (417)/2024/ 1089

Date: 14/08/2024

**Dr. Nikhil N Sontakke and**

**Dr. Tripti Bansal,**

H. No. 503, Building 2, Kamat Royal Apartment,  
Caranzalem, Panaji, Goa-403002.

.....**Complainants**

*Versus*

**1. M/s. Prestige Estates Projects Limited,**

Office at 'Prestige Falcon Tower'  
No. 19, Brunton Road Bangalore,  
Karnataka-560025.

**2. M/s. Mathias Constructions Private limited,**

Having office at H.No. C-13/156 Mathias House,  
Near Luis Gomes Garden,  
Campal Panaji-Goa, 403001.

.....**Respondents**

### **ORDER**

**(Dated 14.08.2024)**

This order shall dispose an application dated 25.06.2024 filed by respondent no. 2 to cross examine the complainants.

2. Heard Learned Advocate Shri D. D'Souza for respondent no.2, Learned Advocate Ms. D. Valvaikar for respondent no. 1 and Learned Advocate Shri M. Govekar for the complainants.

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3. Short point that arises for my determination is:-

Whether the requests to cross examine complainants by respondent no.2 is to be granted?

Ans: No.

### REASONS

4. It is contention of respondent no. 2 that in affidavit in evidence the complainants have made some unjustified allegations against respondent no.2. Therefore, respondent no. 2 wants to cross examine and put some suggestions to the complainants on those allegations.

5. RERA Act came into force on 01.05.2016. The object of the Act is to establish Real Estate Regulatory Authority and among other, one of the purposes in passing this Act is to establish an adjudicating mechanism for **speedy dispute redressal**.

6. A dispute arises when the aggrieved person files a complaint under Section 31 of the Act complaining violations or contraventions of the provisions of the Act or the Rules and Regulations. The Act does not prescribe procedure to deal with such dispute. The procedure for adjudicating dispute is provided under Rule- 6 of The Goa Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of complaints and Appeal etc.) Rules, 2017. Rule 6 is relevant it lays down as under:-

7. **Rule-6. Manner of filing a complaint with the Authority and the manner of holding an inquiry by the Authority.**— (1) Any aggrieved person, having any interest in the project, may file a complaint with the Authority for any violation under the Act or the rules and regulations made thereunder, save as those provided

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to be adjudicated by the Adjudicating Officer, in Form 'A' hereto, in triplicate, which shall be accompanied by a fee of rupees five thousand paid through NEFT or RTGS system or any other digital transaction mode:

Provided that, when the Authority makes a provision for filing a complaint online/web-based, it shall not be necessary to submit such form in triplicate.

(2) The Authority shall follow the following procedure for the purposes of deciding any complaint filed under sub-rule (1):—

- (a) The Authority shall, upon receipt of the complaint, issue a notice along with the copy of such complaint and the relevant documents to the respondent. Such notice shall specify a date and time for further hearing of the case;
- (b) In case the Authority is satisfied on the basis of the submissions made that the complaint does not require any further inquiry it may dismiss the complaint.
- (c) In case the Authority is satisfied on the basis of the submissions made that there is need for further hearing into the complaint it may order production of documents or other evidence on a date and time fixed by it.
- (d) On the date so fixed, the Authority shall require the applicant and respondent to give evidence or to produce any document which in the opinion of the Authority, may be useful for or relevant to the subject matter of the inquiry. Thereafter, the Authority shall have the power to carry out an inquiry on the basis of documents and submissions.
- (e) The Authority upon consideration of the evidence produced before it and other records and submissions is satisfied that,—



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- (i) the respondent is in contravention of the provisions of the Act or the rules and regulations made thereunder it shall pass orders, adjudging the quantum of compensation as it thinks fit in accordance with the provisions of the Act, the rules and regulations made thereunder with reasons to be recorded in writing; or
  - (ii) the respondent is not in contravention of the provisions of the Act, the rules and regulations made thereunder, the Authority may, by order in writing, dismiss the complaint, with reasons to be recorded in writing.
- (f) If any person fails, neglects or refuses to appear, or present himself as required before the Authority, the Authority shall have the power to proceed with the inquiry in the absence of such person or persons after recording the reasons for doing so.

8. Thus, the Rules prescribe summary procedure for enquiry before this Forum. In case of summary procedure, this Forum is not required to follow the regular formal procedure, but is authorized to follow a short and quick procedure for expeditious disposal of cases under the RERA Act for speedy dispute redressal in conformity with the object of the Act. Therefore cross-examination of a witness or a party before this Forum under the Act is not a rule. It is only an exception. When it is merely a question as to veracity of the statement of the witness, cross-examination cannot be permitted. If cross examination of a person is to be permitted in every case under the RERA Act, the whole object of the Act would be lost and there would hardly be any difference in proceedings before this Forum under this Act and a Civil Court.

9. The combine reading of clauses (c) and (d) of sub rule-2 of rule-6 shows that the Authority is required to carry out an inquiry on the basis of documents and submissions. Thus inquiry envisage under rules is restricted to the documents and

submissions only. This is also in consonance with the object of the Act for speedy dispute redressal.

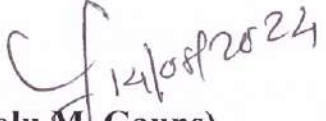
10. Moreover the disputes under the Act are document based disputes for the redressal of which cross-examination is not warranted.

11. Further, Section 38 of the Act empowers the Authority to regulate its own procedure. Following of the procedure by this Authority of dispensing with the lengthy cross-examination of the witnesses is the best suited in cases of summary inquiries.

12. In the circumstances, I am not inclined to grant request of respondent no. 2 to cross examine the complainants on their affidavits in evidence. Accordingly, my answer to the point for determination is in the negative and following:-

### **ORDER**

Application dated 25.06.2024 filed by the respondent no. 2 to cross examine the complainant's stands dismissed.

  
(Cholu M. Gauns)  
Member, Goa RERA