



GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:1/RERA/Enfor.Auth./Comp(329)/99/2023/ 406

Date:02/04/2025

(BEFORE THE MEMBER, SHRI VINCENT D'SILVA)

Mr. Anees Ahmed Shaikh,
Aman Carlos Paraiso,
Flat No. 403, Alto Mangor
Vasco, Goa-403802

.....Complainant

Versus

Aman Builders and Developers,
Shop No. 3 & 4 Karma Empress Building,
Next to KTC Bus Stand,
Vasco Da Gama, Goa-403802

.....Respondent

Advocate Richard Almeida for the complainant.
Mr. Adam Abdul Jumma for the respondent.

ORDER

(Delivered on this 2nd day of the month of April, 2025)

This order shall disposed of application filed by the respondent at exhibit 34/c under Section 39 of 'The Real Estate Regulation and Development Act, 2016'.

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

That the respondent is directed to execute a registered conveyance deed in favour of complainant along with undivided proportionate title in the common

areas to the association of the allottees/society and handover all the relevant documents as per the mandate of said Section 17. The respondent has intimated his willingness to sign, execute and register the conveyance deed and has also written letter to the complainant along with the draft of the sale deed to the complainant to act accordingly and has also intimated his willingness to furnish relevant documents.

3. The present project as per area is 1073 sq. mts. and proposed floor area is 1071.51 sq. mts. and total FAR is 99.86%. The respondent while conveying the flat along with proportionate undivided share in the land to each of the allottees shall be conveying flats along with the entire floor area thereby conveying entire plot to all the allottees and hence, the effective flat/floor area remaining with the respondent is 1.4875 sq. mts. and as such, the order of the Authority is vague and cannot be implemented and hence, necessary rectification be made and therefore, conveyance of any land in favour of association is not possible since respondent shall not have any land with him to convey as per the prevailing floor area ratio. Hence, the application.

4. The complainant filed a reply inter-alia contending that the application filed by the respondent is untenable in law in as much as Section 39 of the Act only permits rectification of any mistakes apparent from the record and not substantive and operational part of the order. The respondent is trying to challenge the order by

attempting its review, which is not permissible. The respondent is trying to evade compliance of the order citing flimsy reasons. The application therefore may be dismissed.

5. Admittedly, the respondent has filed the application for rectification of order passed by the Authority. Section 39 of the Act reads thus:

“The Authority may, at any time within a period of two years from the date of the order made under this Act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act:

Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act.”

6. Section 39 permits only rectification of any mistake apparent from the record, which is brought to the notice of the Authority. The respondent is trying to challenge the order by attempting its review which is not permissible and thus evade compliance of the order by citing flimsy reasons. The respondent in terms of the order is required to execute the registered conveyance deed for the aforesaid flat along undivided proportionate title in the common areas to the association of the allottees/society and handover all the relevant documents as per mandate of

Section 17. However, the respondent instead of complying with the order or seeking extension of time in terms of the said order is filing application allegedly on new grounds, which are not permissible under the law.

7. The application filed by the respondent for rectification of order is in fact a review of the order passed by the Authority dated 25.07.2023. It is also well settled in the case of *Prabhu Construction Rep. by Venkatesh Narayan Prabhu Versus State of Goa, thr. Chief Secretary and 38 Ors in Writ Petition No. 1498 of 2022 (F) dated 09.01.2023*, that the review application is not maintainable, since there is no power of review invested in the Authority under the Real Estate Regulatory and Development Act, 2016. It is therefore the application filed by the respondent deserves to be dismissed.

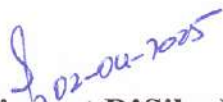
8. It is matter of record that the order was passed by the Authority on 25.07.2023 and since then, the respondent has not complied with said order nor preferred any appeal and therefore, the above matter shall be referred to Hon'ble Principal District Judge, Margao South Goa, for execution of the said order under Section 40(2) of the Real Estate (Regulation and Development) Act, 2016 read with Rule 4 of the Goa Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine Payable, Forms of complaints and Appeal etc.) Rules, 2017.

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9. Hence, I pass the following:

ORDER

- a) The application filed by the respondent at exhibit 34/c under Section 39 of The Real Estate Regulation and Development Act, 2016 stands dismissed.
- b) The above matter be referred to the Hon'ble Principal District Judge, Margao, South Goa, for execution of the Order dated 25.07.2023 passed by the Authority.


(Vincent D'Silva)
Member, Goa RERA

Panaji, Goa.

Date: 02.04.2025.