



GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:3/RERA/Complaint (491)/2025/107

Date: 19/01/2026

Olivia Braganza

Milroc Kadamba, Block 21/302,
Bainguinim, Panaji, Goa-403402.

.....Complainant

Versus

Expat Projects and Development

Private Ltd,
A-2-213, 2nd Floor, Next to Ronaldo
Banqueting Kadamba Plateau,
Panelim Village Goa-403402.

.....Respondent

O R D E R **19.01.2026**

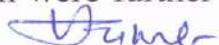
This order shall dispose off the application on maintainability of petition and preliminary objections filed by the Applicant Respondent in the complaint case no. 3/RERA/Complaint (491)/2025 which was filed by the complainant herein alleging failure of the respondent Promoter to handover the possession of the unit booked i.e. one BHK in Expat Vida Phase 2 to the complainant despite inordinate delay beyond the committed deadline; and thereby seeking refund of the total amount paid by the complainant to the respondent along with interest as due thereon.

2. The Applicant/Respondent while raising objections to the maintainability of the said complaint, has submitted that the complainant at the outset is required to establish her status as an "allottee" and an "aggrieved person" under

the Real Estate (Regulation and Development) Act, 2016 ("the Act") in relation to the alleged violation or contravention of the Act since the complainant is not a genuine allottee but an investor. The complainant has admitted receiving interest from previous projects, indicating a pattern consistent with investment motives and not bona fide homeownership. Further, the contents of the earlier communications/(emails) and the letters dated 06/09/2018, 21.08.2022, copies of which were annexed to the complaint, makes reference to the investment made by Mr Walter Braganza that too in various other project and not in the project where the subject property is located. It was also stated that once it is clear that the transactions made by the allottee was in the nature of investment, it would constitute financial arrangements and the agreement for sale dated 06/09/2022 thus needs to treated to have been executed pursuant to such financial arrangements and to serve as security to the investment.

3. It was also stated that there are no recitals of the payment of Rs. 30,20,000/- in the agreement for sale dated 06.09.2022 to show that it is paid for the said project in Goa. Moreover, Mr. Walter Braganza is also not a party to the said agreement for sale dated 06/09/2022 executed between the complainant Ms. Olivia Braganza and the respondent herein. The Respondent/Applicant further thus sought to argue that the said agreement dated 06.09.2022 being executed without any consideration is void in the eye of law and thus cannot be enforced.

4. Referring to the provisions of Section 18(1)(b) of the Act, it was submitted that while the amount that could be refunded under the provisions of Section 18 of the Act is the amount received by the promoter for the apartment for which the complainant is an Allottee, the complainant herein has not placed on record any document to show that the amount received by the respondent was for the subject property. The complainant needs to demonstrate payments were made for the project or for his apartment construction which were further

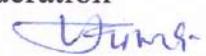


duly reflected in escrow account of the project as this authority cannot consider payments made for some other projects and its interest for the project related to subject property as being sought by the complainant. Further, the swap deals agreed to by Mr Walter Braganza in respect of amounts invested in other projects, does not pertain to the project pertaining to the subject property (registration No. PRGO04180244) where he is not even an allottee as the Agreement For Sale dated 06.09.2022 was executed between the complainant Olivia Braganza and the Respondent herein.

5. Besides stating that the Agreement for Sale dated 06.09.2022 was in contravention of Section 13 & Section 19(6) of the Act, it was also sought to be pleaded that dispute is purely of a civil nature and does not pertain to any contravention of the Real Estate (Regulation & Development) Act, 2016. The applicant respondent also submitted that the complainant has approached this Hon'ble Authority with unclean hands, suppressing material facts and misrepresenting their role as an investor, thereby rendering the present complaint liable for dismissal at the threshold.

6. Per contra, the complainant while terming contents of the present application filed by the respondent and objections raised on maintainability of the subject complaint as frivolous, stated that the said application appears to have been made without studying the entire case and evidence placed on record and thus needs to be dismissed in limine.

7. Referring to the prior event relating to the other projects referred to by the Applicant Respondents, it was stated that Agreement For Sale dated 06.09.2022 was executed between the Complainant and the Respondent Applicant herein, clearly identifies Ms Olivia Braganza, as the allottee and also provides the details of the payment made at page 21, of the said agreement. It was further submitted that terming the said agreement as void being without consideration

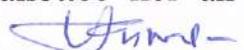


or in violations of Sec 13 and Sec 19(6) of the RERA Act at this stage, only indicates mala fide intent of the respondent.

8. With regard to the averments made by the Respondent Applicant that the earlier communications(emails) and the letter dated 06.09.2018 & 11.08.2022 (confirmation of transfer of booking)were addressed to Mr Walter Braganza and the agreement for sale dated 06.09.2022 was executed between the complainant Ms Olivia Braganza and the respondent herein, it was submitted that the respondent is well aware of the email dated 18.08.2022 sent by Mr Walter Braganza furnishing an NOC to make the agreement to sell in the name of his wife Olivia Braganza. Pertinently, the said arrangement was suggested by respondent itself as it was difficult for Mr Walter Braganza to repeatedly take leave and travel. The complainant draw attention to the email dated 11.08.2022 sent by the promoter Respondent to the allottee in this regard.

9. Referring to the issue that no specific payment was made by the complainant for the said project, the complainant has stated that the respondent itself transferred full payment towards the apartment in Vida Phase 2 by adjusting the dues from the prior bookings, before the agreement to sell was executed and registered. It was further submitted that the same would be clear from a mere perusal of schedule IV available at page 21-22 of the agreement of sale dated 06.09.2022 read with the communications dated 11.08.2022 which while providing the new booking details not only provides the specific names, Unit No of the property booked but also provides the details of the total consideration, amount considered from the old booking and the balance of Rs. 2,77,864/-.

10. As would be evident from the above, the application on maintainability and preliminary objections filed by the applicant respondent rests mainly on the plea of the Respondent that the complainant is neither an allottee nor an



aggrieved person as the swap deal in respect of prior investments made in other projects was agreed to between Mr. Walter Braganza and the Respondent and not with the complainant herein, that there are no documents to show that the said amount of Rs. 30,20,000/- was paid for the unit booked in the said project and hence the relief sought in terms of Section 18(1) of the Act is not tenable and thereby the dispute being of Civil nature, the complaint filed u/s 31 of the Act is liable to be dismissed. The Respondent also pleaded that the initial letter offering swap deal to the complainant clearly shows that complainant is an investor as it has been shown to have received interest on the said amount from the promoter and also that the dispute in the said complaint case is of civil nature and is thus not covered under provisions of RERA Act.

11. The first & foremost question which needs to be looked into and decided at this stage is whether the complainant herein is neither an allottee nor is an aggrieved person as the swap deal in respect of prior investments made in other projects was finalized between the Respondent and Mr. Walter Braganza and not with the complainant herein, that there are no documents to show that the said amount of Rs. 30,20,000/- was paid for the unit booked in the said project and hence the relief sought in terms of Section 18(1) of the Act is not tenable.

12. With regard to the averments of the Respondent Applicant that the earlier communications(emails) and the letter dated 06.09.2018 & 11.08.2022 (confirmation of transfer of booking)were addressed to Mr Walter Braganza and the agreement for sale 06.09.2022 was executed between the complainant Ms Olivia Braganza and the respondent herein, the complainant allottee has submitted that the respondent is well aware of the email dated 18/08/2022 sent by Mr Walter Braganza furnishing an NOC to make the agreement to sell in the name of his wife Olivia Braganza. Pertinently, the said arrangement was suggested by respondent itself as it was difficult for Mr Walter Braganza to repeatedly take leave and travel. Referring to the issue that no specific payment

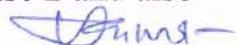
was made by the complainant for the said project, the complainant has stated that the respondent itself transferred full payment towards the apartment in Vida Phase 2 by adjusting the dues from the prior bookings, before the agreement to sell was executed and registered. It was further submitted that the same would be clear from a mere perusal of schedule IV available at page 21-22 of the agreement of sale dated 06.09.2022 read with the communications dated 11.08.2022 which while providing the new booking details not only provides the specific names, Unit No of the property booked but also provides the details of the total consideration, amount considered from the old booking and the balance of Rs 2,77,864/- due to the complainant. While the above averments made by the complainant are apparently well supported from the submissions and records submitted on record by both the parties and is thus reliable, the Applicant Respondent has also not specifically controverted the above contention of the complainant. Thus this plea of the Respondent Applicant is apparently devoid of any merit, needs no further consideration.

13. It is also observed that the letter dated 11.08.2022 while providing details of prior booking, also records the understanding arrived at by the complainant and the respondent herein as follows:-

“As agreed, principle amount along with applicable compensation paid for inconvenience, post deduction of all applicable statutory, levies and taxes payable to you is Rs. 32,97,864/. The same will be refunded as per the agreed schedule.

As per our discussion and terms agreed between us, it was decided to adjust the said amount towards booking of a new unit in another project of the company for which we will issue a separate document.”

14. Hereinafter the said communication dated 11.08.2022 further provides the details of the new booking i.e. Unit No.A01-103, Vida Uptown Phase 2 and also



that the cost of the unit was Rs. 30,20,000/- as against which the total amount paid was Rs. 32,97,864/- (accrued on account of swapping of prior bookings in other projects) and thereby the balance payment payable to the complainant was shown as 2,77,864. It was further clarified that since the amount from the old booking is adjusted towards consideration, the complainant shall no longer have any right, title claim or interest in the property booked earlier.

15. Pertinently, the agreement for sale dated 06.09.2022 registered on 09.09.2022 when the RERA act was already in force, pertains to the subject property which was part of a project "Vida Phase 2" registered with RERA vide No. PRGO04180244. Further, it clearly describes the Complainant herein as allottee which in the context of the present complaint could only be interpreted as an allottee as defined under Section 2(d) of the Act which reads as follows:-

"allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"

16. The above definition reveals that the Act gives wider connotation to the term allottee as it includes not only the person to whom a plot, apartment or building has been allotted, by the promoter, be it freehold or lease hold but also any person who has even otherwise been transferred a plot, apartment or building by the promoter and further also includes the person who subsequently acquires the said allotment through sale, transfer or otherwise.



17. Evidently, the above referred definition of the allottee covers all possible kind of arrangements qua the transfer of a plot, apartment or building and the contents of the earlier communication referred to hereinabove, in no way impact the status of the complainant as an allottee qua the unit booked i.e. one BHK in Expat Vida Uptown Goa Apartment Phase IV particularly when these communications expressly describe the amount accrued as due on account of swapping of the prior bookings as 'the money paid in addition to the principle amount was as per applicable compensation paid for inconvenience' and further that the same is being adjusted against the booking of the new property and also that since the amount from the old booking is adjusted towards consideration, the complainant shall no longer have any right, title, claim or interest in the property booked earlier.

18. Further, the submission made and documents placed on record by both parties reveals that the agreement for sale dated 06.09.2022 which is a duly registered document, was executed after the issuance of letter dated 11.08.2022 which records the net resultant position qua the prior transactions between the complainant and the respondent and the same stands reflected at Clause 3 (page 6) of the said Agreement under the heading '**CONSIDERATION**' and also in Schedule IV(page 21-22) of the said Agreement. Even otherwise, the agreement for sale dated 06.09.2022 being a registered document would take effect against every unregistered document relating to the same property as per the provisions of section 50(1) of the Registration Act which reads as follows:

"Certain registered documents relating to land to take effect against unregistered documents-(1) Every documents of the kinds mentioned in clauses (a), (b), (c), and (d) of section 17, sub-section (1), and clauses (a) and (b) of section 18, shall , if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same



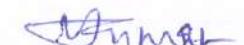
property, and not being a decree or order whether such unregistered document be of the same nature as the registered document or not.”

19. The other point raised by the applicant that the complainant is an investor on account of having received interest from the earlier booked projects is also not in consonance with the facts of the case as the letter dated 03.01.2018 issued by the respondent himself, clearly reveals that the earlier booking was cancelled by mutual agreement and the money paid in addition to the principle amount was as per applicable compensation paid for inconvenience.

20. It is further relevant to note that while the Act does not provide for any definition of the term “Investor”, it gives a wider connotation to the term ‘allottee’ which further gets amplified in the Explanation given under Section 14 of the Real Estate (Regulation and Development) Act, 2016 which reads as follows:-

“For the purpose of this clause, the allottees, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, etc., by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.”

21. In view of what has been discussed herein above, the complainant herein is evidently an allottee as per the Agreement of Sale dated 06.09.2022 and the total consideration for the subject property has already been received by the promoter as admitted by him in terms of Schedule IV (page 21-22) of the said agreement read with communicated dated 11.08.2022. Also with regard to the averments of the respondent that the swap deal in respect of prior investments made in other projects was agreed to between Mr. Walter Braganza and the

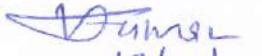


Respondent and not with the complainant herein, the issue has already been dealt with in detail at para 12 above and was found to be devoid of any merit. Further, the other plea of the Respondent that there are no documents to show that the said amount of Rs.30,20,000/- was paid for the unit booked in the said project, was also dealt with in detail at para 12 above and was found to be devoid of any merit. Thus, the plea of the Respondent that the complainant is neither an allottee nor an aggrieved person and that there are no documents to show that the said amount of Rs.30,20,000/- was paid for the unit booked in the said project and hence the relief sought in terms of Section 18(1) of the Act is not tenable; is found devoid of any merit and is thereby rejected.

22. It is also noted that the plea of the Respondent that the dispute is purely civil in nature is not in consonance with the provisions of the Act particularly in view of the provisions of Sec 79 of the Act which reads as follows:-

“No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the Adjudicating Officer or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this act”.

23. In above view of the matter, the complaint referred by the complainant under section 31 of the Act is evidently maintainable particularly when the complainant has claimed to be aggrieved on account of non completion of the project and failure to handover the possession of the unit booked by the respondent as per the timelines agreed to between the parties in terms of Agreement for Sale dated 06.09.2022.


19/01/26

24. The application preferred by Respondent Applicant thus stands dismissed and the case is fixed for filing of reply by the respondent on 05.02.2026 at 12:00 p.m.

Virendra Kumar - 19/01/26
(Virendra Kumar, IAS Retd.)
Member, Goa RERA