



GOA REAL ESTATE REGULATORY AUTHORITY

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F.No:3/RERA/Complaint (375)/2023/ 2 2 3

Date: 21/02/2025

(BEFORE THE MEMBER SHRI VINCENT D'SILVA)

1. Mr. Aashish Gupta,

2. Ashwini Gupta

E/3/1, Vijay Kiran Apartments,
32 Victoria Road, Bangalore South,
Bengaluru, Karnataka-560047.

.....Complainants

Versus

M/s Paradise Estate,

a partnership firm duly

registered under the Indian Partnership Act, 1932.

17, Gulmohar Apartments,

East Street, Pune, Maharashtra -411001.

Represented by its Partners:-

1. Mr. Mohit Aurora

R/o Yogi Park, Flat No. 102,

C-2, Koregaon Park, Pune-411001.

2. Mr. Mohamadali Haji

R/o Ganga Satellite, Flat no. 201, A1,

Wanowrie, Pune-411040.

3. Mr Moiz Poonawala

R/o C/o Shiv Sharma, Clover Plaisades,

Flat No. 1063, building A, NIBM,
Undri Road, Pune-411048.

4. Smt. Inderjeet Kaur,

W/o Late Mr. Shiv Dev Singh Malhotra alias S.D.S. Malhotra,
R/o A-103, Gautam Complex, Plot No. 17 and 18,
Sector 11, CBD, Belapur Navi Mumbai,
Thane, Maharashtra-400614.

(amended as per order dated 10.04.2024)

.....**Respondents**

Ld. Advocate Atmaram Desai for the Complainants.

Ld. Advocate Ms. R. Harmalkar for Respondent no. 1, 2 and 3.

None present for respondent no. 4.

ORDER

(Delivered on this 21st day of the month of February, 2025)

This is a complaint filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016.

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

That the Complainants entered into an agreement dated 26.08.2021 with the Respondents no. 1, 2, and 3 with respect to the Villa bearing No. B-03 having RERA carpet area admeasuring 131 sq.mts, consisting of ground plus first floor, in Block-B in the project 'AMADO VITAS' along with undivided proportionate share in the project land corresponding to the said Villa, constructed on the land described in Schedule-I of the agreement. However, the Respondents have not executed the Deed of sale till date. The complainants therefore be granted the reliefs as prayed for.

3. The respondents no. 1 to 3 filed a reply inter-alia contending that the respondents have handed over possession of the said villa to the complainants on 29.03.2022 and there is no grievance vis-à-vis the said villa or construction thereof.

The relationship between the complainants and the respondents is governed by the terms enumerated in the Article of agreement dated 16.08.2021 which is binding on the parties, more particularly Clause 11 where it is stated that a promoter shall join in forming and registering the Condominium, Society or a Limited Company to be known by such name as the promoters may decide. A bare reading of the said terms makes it clear that the respondents are liable to and bound to execute conveyance of land to society and it is mandatory for complainants to become members of such a society or association. The complainants are not willing to come to form an association or society. The respondents are willing and ready to execute conveyance deed of the land in favour of the housing society. The terms of the agreement were made keeping the same in mind and considering the larger interest of all the unit holders and the same is a binding contract on the complainants.

4. It is a matter of record that respondent no. 4, Ms. Inderjeet Kaur, the land owner was added as respondent no.4 vide order dated 10.04.2024.

5. Argument heard.

6. The points for my determination along with the reasons and findings thereon are as follows:-

| Sr. No. | Points for determination | Findings |
|------------|--|---------------------|
| 1. | Whether the respondents are liable to execute a deed of conveyance with respect to the Villa bearing No. B-03 in favour of the complainants? | In the affirmative. |
| 2. | What order? What reliefs? | As per final order. |

REASONS

Point no. 1 and 2

7. The complainants have sought following reliefs:

(a) Directing the respondents to execute a Deed of Sale with respect to the Villa bearing no. B-03, situated in Block B of the project AMADO VISTAS with a period of 30 days from the date of passing of the order.

(b) The applicants be compensated with an amount of Rs. 10,00,000/- (Rupees Ten Lakhs only) for mental agony, pain and suffering occasioned to her on account of non-execution of Deed of Sale by the respondents even after several requests.

8. There is no dispute that the possession of the said villa has been given by the respondents and that the complainants have paid the entire consideration amount to the respondents. The complainants sought for execution of deed of sale with respect to the said villa as well as compensation.

9. Section 17 of the RERA Act states as follows:-

“17. Transfer of title.-(1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by

the promoter within three months from date of issue of occupancy certificate.

10. The respondents have categorically stated that they are ready and willing to execute the deed of conveyance as per Clause 11 of the Article of agreement dated 26.08.2021. Section 11(4) (a) and (f) of the RERA Act imposes obligations, responsibilities and functions on the promoters till the conveyance of the apartment/villa is done in favour of the allottees along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under Section 17 of this Act.

11. It is thus evident that the functions and the duties of the respondents under Section 11(4) (a) and (f) read with Section 17 of the Act is to execute a registered conveyance deed of the villa/apartment in favour of the complainants along with undivided proportionate title in the common areas to the association of allottees and handover physical possession of the villa/apartment to the allottees/complainants in the real estate project within three months from the date of issue of occupancy certificate. There is no dispute that the entire consideration amount has been paid to the respondents and that the possession of the said villa has been handed over to the complainants and that the complainants as well as the respondents are ready and willing to register a conveyance deed as well as participate towards the formation of the association or society in terms of the Act. Hence, the above points are answered in the affirmative.

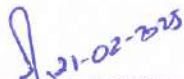
12. The complainants are also seeking compensation of an amount of Rs. 10,00,000/- (Rupees Ten Lakhs only) for mental agony, pain and suffering occasioned to them on account of non-execution of Deed of Sale by the respondents. However, under Section 71 of the said Act, compensation under Sections 12, 14, 18 and 19 of the Act has to be adjudged only by the Adjudicating

Officer. Accordingly, the above prayer for compensation has to be dealt with by the Adjudicating Officer for adjudging the compensation, if any. The complainants may prefer an application before the Adjudication Officer for compensation, if so desires.

13. In view of above, I pass the following:-

ORDER

- i. The respondents are directed to execute a Deed of Sale in favour of the complainants with respect to Villa bearing No. B-03 having carpet area admeasuring 131 sq.mts consisting of ground plus first floor, in Block-B in the project 'AMADO VITAS' along with undivided proportionate share corresponding to the said villa, constructed on the land described in Schedule-I of the Agreement within a period of two months.
- ii. The complainants shall participate towards formation of an association or society of allottees as per mandate of Section 19(9) of the Act.
- iii. The respondents shall file compliance report in the form of an affidavit after two months of passing of this order, failing which penalty would be imposed on the respondents for non compliance of this order and execution proceedings will be initiated by the Authority.


(Vincent D'Silva)
Member, Goa RERA

Panaji, Goa.

Date: 21.02.2025