



GOA REAL ESTATE REGULATORY AUTHORITY

DEPARTMENT OF URBAN DEVELOPMENT

GOVERNMENT OF GOA

101, 1st Floor, 'SPACES' Building, Plot No. 40, EDC Patto Plaza, Panaji 403 001 GOA

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No.3/RERA/Complaint (305)/2022/ 980

Date: 20/12/2022

Ms. Veena Wadkar and Pitu Wadkar,

H.No. 50, VhodleBhat,

Near HP gas godown Post Chicalim,

MatweDabolim,

South Goa, 403711.

..... **Complainants**

Versus

M/s Prabhu Realtors,

Office No:1, Rutirai Plaza,

Behind Bank of India, Mapusa,

North Goa, 403507.

..... **Respondent**

ORDER

(Dated 20.12.2022)

This order disposes of the online complaint filed by the complainants, wherein it is mentioned that by allotment letter dated 07.03.2020, the complainants were allotted a flat bearing no. A-308 situated on the third floor of the complex known as Prabhus Violetta situated at Alto Dabolim Goa for a total consideration of ₹33,50,000/- (Rupees Thirty Three Lakhs Fifty Thousand only) admeasuring 80.00 sq. mtrs. and in the said allotment letter GST payable was shown as ₹33,500/- to be paid as well as the infrastructure tax, water and

electricity connection charges including transformer was shown as ₹1,00,000/- as one time payment. It is stated that payment schedule was drawn mentioning all the details of the payment and the net flat value was stated as ₹35,92,500/- which included the cost of the flat, stamp duty, advocate fees and registration charges, GST and infrastructure tax.

2. It is further stated in the complaint that an agreement for construction and sale dated 08.07.2020 was duly registered on 09.07.2020 and accordingly the complainants cleared all the payments as per schedule F of the said agreement for construction and sale and the complainants received a letter from the respondent informing the complainants to come forward to take possession after inspection of the premises and also to clear the outstanding amount of ₹ 1,89,000/- regarding which the complainants sought an explanation from the respondent on the additional amount charged towards society formation, sale deed draft and electricity meter which was included in the letter dated 17.01.2022 and the respondent by letter dated 27.01.2022 sent their reply explaining about additional charges and informing the complainants to come forward to take possession after taking inspection of the premises. It is further stated that the complainants carried out a joint inspection of the said flat and noticed that a lot of work was incomplete and there were defects therein.
3. It is further stated by the complainants that by letter dated 04.02.2022 to the respondent, they pointed out the incomplete work and the construction work



which requires repairs to which the respondent by letter dated 19.02.2022 stated that in the previous letter there is an error in the calculations and calling upon the complainants to pay the additional amount of ₹10,07,000/- (Rupees Ten Lakhs Seven Thousand only) i.e. balance GST ₹3,68,000/- and transformer charges ₹4,50,000/- thus increasing the cost of the transformer and GST amount in violation of the terms stated in the allotment letter dated 07.03.2022. According to the complainants, in the reply dated 25.02.2022, the complainants stated that they had paid the entire applicable amount of ₹2,42,500/- as other charges/additional expenditure and that they were willing to take possession of the flat after it is completed in all aspects. It is stated that the respondent again requested the complainants to clear the aforesaid payment and come forward to take possession of the premises to which the complainants by reply dated 21.03.2022 stated that they have already paid the final installment as per the schedule amount of ₹1,34,000/- through bank transfer on 07.03.2022 as per the agreement for sale and the offer letter and had also paid the amount as per their letter dated 17.01.2022 and requested the respondent to hand over possession of the premises.

4. According to the complainants, thereafter the respondent sent a termination notice dated 17.01.2022 to the complainants terminating the agreement for construction and sale dated 08.07.2020 and cancelling the booking for flat no. A-308 and requesting the complainants to collect the cheque of the payments made



of ₹24,40,000/- after deduction of 20% as cancellation charges. To the said termination letter, the complainants sent another letter dated 17.01.2022 to the respondent stating therein that the respondent had already obtained the occupancy certificate and there was no ground for the respondent to terminate the said agreement.

5. In the complaint, the complainants have stated that termination of the above agreement is arbitrary and in violation of the agreement for construction and sale dated 08.07.2020; that the respondent has violated the rules framed under the RERA Act; that the respondent has considered the super built up area of the flat as 80.00 sq. mtrs. instead of the carpet area of 42.77 sq. mtrs. which is not permissible under the RERA Act; that the respondent has charged excessive payment towards GST and transformer charges contrary to what was agreed in the allotment letter; that the respondent failed to carry out the work as agreed and there are defects in the said flat and the respondent has issued the termination letter with a deduction of 20% on the amount paid which is not mentioned in the agreement for construction and sale. Hence the prayers of the complainants as stated above.
6. In the reply, the respondent has stated that the present complaint is not legally maintainable before this Authority. On the merits the respondent has stated that the respondent allowed sufficient time to the complainants to comply with the payment schedule but the complainants did not discharge their liability and that



the notice of termination was rightly issued to the complainants. It is further stated that the complainants have been charged for the carpet area only and that the built up area and the super built up area have been mentioned in the agreement only to provide the clarity as to the corresponding built up and super built up area of the flat. Regarding excessive charging of GST, the respondent stated that GST is payable as levied by the Government and the respondent has no say in determining the percentage of GST.

7. According to the respondent, the demand of fees towards society formation and for drafting of sale deed was as per clause 14 (i) and clause 14 (ii) of the said agreement for construction and sale and hence not an unauthorized demand. It is further stated that the respondent completed the work as requested by the complainants and accordingly the flat is complete in all aspects.
8. During the course of the proceedings, the parties settled the matter and filed the consent terms which are as follows:-

“Consent Terms

1. It is been agreed by the Complainants and the Respondent that the Respondent will hand over the possession on or before 31st December 2022 of the said flat bearing Flat No: A-308 located on the Third Floor of the building Block A of the complex known as “Prabhus Violetta” based on the terms and conditions mentioned in



the Allotment Letter dated 07-03-2020 and the Agreement of Construction dated 08-07-2020.

2. The Respondent should handover a draft of Deed of Sale to the Complainants and the same shall be executed within a period of 15 days from the date of handing over and taking possession of the said flat.

3. The complainants have inspected the above mentioned flat on 11th November 2022 in the presence of the authorized person of the Respondent and after being satisfied with the work undertaken has agreed to take possession of the above mentioned flat. The Complainants have no dispute as to the quality of the construction of the flat and acknowledges that the same has been constructed as agreed with such specification as agreed in the agreement. The Complainants acknowledge that the Carpet area, built up area and super built-up area as mentioned in the Agreement for Construction dated 08/07/2020 is only for better understanding of the areas of the said flat and no violation of any provision of RERA is committed by the Respondent.

4. It is been agreed by the Respondent that the complainants will pay only 1% GST of Rs. 33,500/-



(Rupees Thirty-Three Thousand Five Hundred Only) as mentioned in the Allotment Letter dated 07-03-2022 which is already been paid by the Complainants and the Respondent acknowledge of receiving the same.

5. It is been agreed by the Respondents that the complainants shall pay the infrastructure tax, water & Electricity Connection charges including transformer charges (1 time payment) Rs. 1,00,000/- (Rupees One Lakh Only) as per Allotment Letter dated 07-03-2020 which is already been paid by the Complainants and the Respondent acknowledge of receiving the same.

6. It is been agreed by the Respondents that the Complainants have paid the entire amount of the consideration of Rs. 33,50,000/- (Thirty Three Lakhs Fifty Thousand Only) towards the purchase of the above mentioned flat which is also acknowledged by the Respondent.

7. The Complainants hereby agrees to pay the legal fees towards society formation the amount of Rs. 10,000/- (Rupees Ten Thousand only), Legal fees towards drafting of Deed of Sale of Rs. 10,000/- (Rupees Ten thousand Only) and Electrical Meter Charges Rs.



5,000/- (Five Thousand only) as per the letter dated 17-01/2022 vide Cheque bearing No. 434930 drawn on Indusind Bank, Vasco Branch, dated 12-12-2022 in the name of the Respondent.

8. It is agreed by the Respondent that he will provide all necessary documents i.e., Occupancy Certificate, NOCs for the transfer of House tax, Electricity Connection or any other document as and when required for the effective transfer of the said flat in the name of the Complainants.

9. It is also been agreed by the Respondents that all the taxes, charges, bills, etc payable in respect of the said flat shall be paid by the Respondent till the date of handing over the possession and after taking over possession of the said flat by the complainants the Complainant shall bear the same.

10. The complainants hereby agree to pay towards the maintenance of the said buildings for a period of six years commencing from 17-01-2023 which ends on 16-09-2028 and hereby hand over six postdated Cheques in favour of the Respondent which are as follows:-



- a) Maintenance fees from 17-01-2023 to 16-01-2024
vide Cheque bearing No: 464087 drawn on Indusind
Bank, Vasco Branch, dated 14-01-2023 of Rs. 30,000/-
(Rupees Thirty Thousand only).
- b) Maintenance fees from 17-01-2024 to 16-01-2025
vide Cheque bearing No: 464088 drawn on Indusind
Bank, Vasco Branch, dated 14-01-2024 of Rs. 30,000/-
(Rupees Thirty Thousand Only).
- c) Maintenance fees from 17-01-2025 to 16-01-2026
vide Cheque bearing No: 464089 drawn on Indusind
Bank, Vasco Branch, dated 14-01-2025 of Rs. 30,000/-
(Rupees Thirty Thousand Only).
- d) Maintenance fees from 17-01-2026 to 16-01-2027
vide Cheque bearing No: 464090 drawn on Indusind
Bank, Vasco Branch, dated 14-01-2026 of Rs. 30,000/-
(Rupees Thirty Thousand Only).
- e) Maintenance fees from 17-01-2027 to 16-01-2028
vide Cheque bearing No: 464091 drawn on Indusind
Bank, Vasco Branch, dated 14-01-2027 of Rs. 30,000/-
(Rupees Thirty Thousand Only).
- f) Maintenance fees from 17-01-2028 to 16-09-2028
vide Cheque bearing No: 464092 drawn on Indusind



Bank, Vasco Branch, dated 14-01-2028 of Rs. 22,500/-
(Rupees Twenty-Two Thousand Five Hundred Only).

11. Upon signing of the present Consent Terms all the claims, disputes among both the parties are resolved and neither of the party should have or raise any claim against each other in the future with regards to the said flat and or the Agreement for Construction dated 08/07/2020.

12. The Respondent should not cause any sort of inconvenience or have enmity or cause any hardships to the Complainants due to the present proceedings and the Respondent and the Complainants shall maintain cordial relations with each other.

13. All the above-mentioned terms are agreed by both the parties without any undue influence but out of their own wish and shall abide to all the clauses mentioned herein above.

14. The Complainants in the aforesaid circumstances have no claim of whatsoever nature as against Respondent, whether arising from the Agreement for Construction dt. 08/07/2020 or whether arising on account of alleged violation of any provision of Real

Estate Regulatory Act, except for specific performance of the present consent terms and thus the Complainant be disposed off in terms of Consent Terms with no order as to cost to any party.”

9. Perused the aforesaid consent terms. The instant complaint is disposed of as per the aforesaid consent terms.

Vijaya D. Pol
20/12/2022
(Vijaya D. Pol)
Member, Goa RERA