GOA REAL ESTATE REGULATORY AUTHORITY

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F.No: 3/RERA/Ongoing Proj.(28)/2018/ 276 Date: 16/02/2024

Goan Real Estate and Construction Pvt. Ltd.,
Aldeia De Goa,
Bambolim, Goa- 403206 .....**Applicant**

ORDER
(Date: 16/02/2024)

Whereas, Goan Real Estate And Construction Pvt Ltd, the promoter had applied through email dated 14/07/2022 for Correction in development details in their project 'Phase V Sector 2 Apartments'. This project is registered under the Real Estate (Regulation and Development) Act 2016 by Goa RERA as per registration no. PRGO03180177.

2. During the scrutiny of the application it was observed that since major alteration in the project plans had been made, Section 14(2)(ii) of the RERA Act is attracted. A notice was issued to the promoter by the Authority and the promoter was asked to give an explanation. In response, the promoter filed an affidavit dated 02/02/2023 and stated that the provisions of Section 14(2)(ii) RERA Act would not be applicable to the present case.

3. The Authority passed an order on 08/02/2023 and interalia held as follows:-

" As per the plain reading of the above mentioned provisions of Section 14(2)(ii), it is clear that matter of modifications and alterations in the sanctioned plan is

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dealt in respect of the project as a whole. The project registered in this case ie 'Phase V Sector 2 apartments' is one project and has been given one registration number by Goa RERA. Hence any major modification in respect of building plan as well as layout plan has to be dealt taking into consideration that this entire project as one project. The plea of the promoter that the proposed major changes are in respect of one of the three clusters and since no booking has been made in this cluster, Section 14(2)(ii) is not applicable; is not acceptable. The Section 14(2)(ii) deals with project registered under the Act as a whole and not in respect of the part of the project or cluster. If any major changes or alteration are taking place in the project, the written consent of 2/3rd allottees of the project must be taken and without the said modifications/major changes in the project cannot be permitted. The applicant has failed to submit the said consent of 2/3rd allottees.. In view of the above observations, the application dated 14/07/2022 is not tenable and the same is rejected."

6.

4. The promoter filed an appeal against the said order before the Maha Real Estate Appellate Tribunal. However during the pendency of the said Appeal, the promoter filed another application dated 13/11/2023 stating that they have received the written consent of 82 allottees out of 111 allottees = (74% of the total allottees) granting them consent to change the layout and building plans of Cluster 3 and requesting Goa RERA to permit them to submit the revised building and layout plans on the portal in accordance with Section 14(2)(ii) of the RERA Act without prejudice to the pending appeal.

5. The Goa RERA deliberated on the said application and it was conveyed to the promoter that "in view of the pending Appeal filed by Goan Real Estate and Construction Private Limited before Maharashtra Real Estate Appellate Tribunal and since matter is Sub judice before the Appellate Tribunal the said application cannot be allowed at this stage".

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6. On 18/01/2024 the Hon'ble Maha Real Estate Appellate Tribunal passed an order disposing the pending appeal and stating that "The appeal is dismissed as withdrawn with the liberty to file fresh appeal in case the need arises by keeping the rights and contentions of the parties open including the maintainability and scope of appeal".

7. On 29/01/2024 the promoter filed another application stating that they have received consent of at least 2/3rd allottees of entire project as required under Section 14(2)(ii) RERA Act, that they have withdrawn the Appeal and requesting Goa RERA to permit them to submit/upload the revised building and layout plans as submitted on 13/11/2023 on the portal in accordance with Section 14(2)(ii) of the RERA Act.

8. The Goa RERA deliberated on the said application and it was decided that, In view of the Order dated 18/01/2024 passed by the Hon'ble Maharashtra Real Estate Appellate Tribunal in Appeal No. G-01/23, and since the said Appeal has been withdrawn, the promoter be directed to file an Affidavit stating that, during the pendency of the Appeal the promoter has received written consent of at least two third of the Allottees, other than the promoter, as required under Section 14(2)(ii) of the RERA Act and also that the individual consent letters being furnished/ placed before the Authority have been issued by and obtained from each of such allottees who were duly apprised of the details of the matter in question.

9. On 03/02/2024 the promoter filed an application accompanied with an affidavit stating that the individual consent letters that have been furnished /placed before the Authority along with Application dated 13/11/2024 have been issued by and obtained from each of such allottees after sharing layout plans and informing

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them the benefits to the project and that the relevant extract of the written consent reads as below.

> " We are in receipt of the news letter dated 06/09/2023 in respect of our Project Aldeia De Goa Phase V Sector 2 Apartments(PRGO03180177). We have seen and understood the proposed revision and we hereby give our consent to the developer for proposal revised layout the reduction of the units in Cluster 3 to 19 units. We have also noted the reduction in height and number of units which enhance the air and ventilation and reduced the burden of infrastructure."

That the above extracted language unambiguously acknowledges that the allottee is fully aware of the changes proposed.

10. The Goa RERA discussed in detail the contents of the Affidavit filed by the promoter and decided to allow the said application of the promoter without prejudice to the rights of the allottees/buyers.

11. Therefore in view of the above, the Goa RERA has allowed the said application of the promoter to submit/upload the revised building and layout plans as submitted on 13/11/2023 without prejudice to the rights of the allottees/ buyers and on payment of necessary correction charges.

16/02/24

Virendra Kumar, IAS (Retd.)
Member, Goa RERA

16/2/24

Vijaya D.Pol
Member, Goa RERA

16/02/2024

S. Kumaraswamy, IAS (Retd.)
Chairperson, Goa RERA

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To,
Mr. B.K Satish
Goan Real Estate and Construction Pvt Ltd,
Aldeia De Goa,
P.O Goa University, Bambolim, Goa- 403206

CERTIFIED COPY for records

Date on which copy applied for : 16/02/2024
Date given for taking delivery : 16/02/2024
Date on which copy ready : 16/02/2024
Date on which copy delivered : 16/02/2024
Copying and comparing fees,etc. Rs. 50/-
Paid in Account Section of Goa Real Estate Regulatory Authority under Receipt No. 0583 Date: 16/02/2024

16/02/2024
Legal Assistant
Goa Real Estate Regulatory Authority

GOA REAL ESTATE REGULATORY AUTHORITY ★ GOA RERA

xerox verified with original