



## GOA REAL ESTATE REGULATORY AUTHORITY

101, 1<sup>st</sup> Floor, 'SPACES' Building, Plot No. 40, EDC Patto Plaza, Panaji 403 001 Goa  
www.rera.goa.gov.in

Tel: 0832-2437655; e-mail: goa-rera@gov.in

F.No:3/RERA/Complaint(29)/2018/224

Date: 27/03/2023

**Mr. Sanjay Laxman Raut,**

House no. 172, Bagbandirwada, tuem,  
Pernem-Goa, 403512.

.....Complainant

*Versus*

**M/s Prabhu Construction**

Represented by its proprietor,  
Shri Venkatesh Narayan Prabhu Moni,  
R/o "Prabhu Moni Palace" H.No. 371/2,  
Umbra, Salvador-Do-Mundo, Bardez, Goa.

.....Respondent

### ORDER

(Dated 27.03.2023)

This is to dispose of the application dated 27.06.2022 received from Mr. Sanjay Laxman Raut i.e. complainant herein under Section 59(2) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the RERA Act'). The complainant herein is the purchaser of two units in the building complex project which is known and identified as "Prabhu Chambers" situated in the city of Mapusa, Goa who had filed a complaint before this Authority against the respondent/promoter herein for non-registration of the

said building complex project under the RERA Act. Earlier in this case, an Order dated 17.03.2020 was issued under Section 59(1) of the said Act directing the respondent to pay the penalty of Rs. 5,00,000/- (Rupees Five Lakhs only) for not registering the project under Section 3 of the RERA Act. The respondent has not paid the said penalty till date. Now the complainant has filed the said application against respondent under Section 59(2) of the RERA Act.

2. A notice dated 19.01.2023 was issued to respondent requiring him to file the reply within 10 days. The respondent has filed the reply dated 26.01.2023. An opportunity of hearing was given to both the parties on 09.02.2023, 01.03.2023 and finally case was heard on 13.03.2023.
3. It was pleaded by the Ld. Advocate for the complainant that Order dated 17.03.2020 directing the applicant to pay the penalty of Rs. 5,00,000/- and getting the project registered under the RERA Act was passed by this Authority almost three years back and so far it has not been complied by the respondent hence, it is a fit case to initiate the action under Section 59(2) of the RERA Act against the respondent.
4. The Ld. Advocate for the respondent pleaded that appeal against the Order dated 17.03.2020 has already been filed by the respondent along with the application for staying the impugned order. However, neither stay order nor appeal has been decided by the Hon'ble Appellate Tribunal so far. In view of this it was pleaded by Ld. Advocate for the respondent that this Authority

should keep the proceedings under Section 59(2) of the RERA Act in abeyance till application for stay is decided.

5. I have considered the case. The Order dated 17.03.2020 was issued almost three years back and so far respondent has been unable to obtain any stay Order from the competent court against the said Order. In the absence of any stay order, this Authority is very well within its jurisdiction to proceed under Section 59(2) of the RERA Act. It is seen that project in which Order dated 17.03.2020 was passed was an on-going project and hence it was subject matter of registration under Section 3 of the RERA Act. The respondent has not registered the project and hence the said Order was passed under Section 59 of the RERA Act directing him to pay the penalty of Rs. 5,00,000/- (Rupees Five Lakhs only).
6. Since, he has not paid the said penalty as per order dated 17.03.2020, he will be liable for further proceedings under Section 59(2) of the said Act. For the convenience, Section 59(1) and (2) of the said Act is transcribed below:-

**“59. Punishment for non-registration under section3.-** (1) If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent of the estimated cost of the real estate project as determined by the Authority.

(2) If any promoter does not comply with the orders, decisions or directions issued under sub-section (1) or continues to

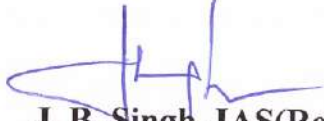
violate the provisions of section 3, he shall be punishable with imprisonment for a term which may extend up to three years or with fine which may extend up to a further ten per cent of the estimated cost of the real estate project, or with both.

7. Under Section 59(2), it has been provided that non-compliance of the order under section 59(1) is punishable offence and hence the same is to be tried and disposed by the Metropolitan Magistrate or a Judicial Magistrate of the first class as per Section 80(2) of the said Act which is as follows:-

“80.(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.”

8. In view of above, the complaint will be filed before the Judicial Magistrate first class having jurisdiction over the matter.

Order accordingly,

  
**J. B. Singh, IAS(Retd.)**  
Member, Goa RERA

To,

**1.Mr. Sanjay Laxman Raut,**  
House no. 172, Bagbandirwada, tuem,  
Pernem-Goa, 403512.

**2.M/s Prabhu Construction**

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