



GOA REAL ESTATE REGULATORY AUTHORITY

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No.3/RERA/ONGOING PROJ (28)/2018/113

Date: 08/02/2023

Goan Real Estate and Construction Pvt. Ltd.,

Aldeia de Goa,

Bambolim-403206.

.....Applicant

ORDER

(Dated 08.02.2023)

This is to dispose of the application of '**Goan Real Estate and Construction Pvt. Ltd**' Bambolim, Goa received through email dated 14.07.2022 for correction in the development details in their project '**Phase V, Sector 2 apartments**'. This project is registered under the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the said Act) by Goa RERA as per registration no. PRGO03180177.

2. The project is located in Survey No. 95/1, 96/1 and 100/1 of Village Bambolim. In respect of the said application dated 14.07.2022, various clarifications were sought by the office of Goa RERA through email dated 09.08.2022, 19.08.2022 and 19.09.2022. The promoter replied these queries through emails dated 11.08.2022, 23.08.2022 and 19.09.2022. During the course of scrutiny of this application, it was noticed that since major alterations in the project had been

made in the plans, and hence Section 14 (2) (ii) of the said Act is attracted in this case. Accordingly, a notice dated 16.12.2022 was issued by this Authority, giving an opportunity of hearing to the applicant on 04.01.2023. On 04.01.2023, the applicant remained present, explained the case and requested for more time to give the full clarification. Hence, the case was adjourned for next hearing on 07.02.2023.

3. On the day of hearing on 07.02.2023, applicant remained absent. However, it was found that applicant has given an application dated 02.02.2023 enclosing a copy of affidavit dated 02.02.2023 wherein applicant has tried to explain the case. Since, applicant has given this application and has not requested for any more time, it is presumed that applicant has nothing to say beyond this application and affidavit.

4. The applicant has given his explanation in the affidavit dated 02.02.2023. According to this, the said project consisted of 3 different cluster of buildings namely W1-5 Blocks, V1-5 Blocks, A1-4 Blocks, as per the layout plan duly approved by the Town and Country Planning and the Village Panchayat of Curca-Bambolim & Talaulim. As per applicant the structure of W1-5 Blocks and V1-5 Blocks, have been completed. Since there were no buyers for one BHK apartment in respect of A1-4 Blocks, it was decided by the applicant to

change the entire plan in respect of this block and as per revised plan, there are three BHK apartments and villas in respect of this Block.

5. Applicant in the affidavit has pleaded that provisions of Section 14 (2) (ii) would not be applicable to present case for simple reason that as per original sanctioned plans, no apartments in A1-4 Blocks were allotted to any prospective purchasers/allottees and hence the question of taking any previous written consent of 2/3rd allottees does not arise. Accordingly, as per the applicant, compliance of the Section 14 (2) (ii) of RERA Act 2016 is not attracted in the present case.
6. I have considered the case. As per Section 14 of the said Act, the project has to be developed and completed by the promoter in accordance with the sanctioned plans and layout plans. Any change or modification in the plan has to be carried out in accordance with sub-Section (ii) (2) of 14 of the said Act. For the convenience sake, **Section 14 (2)** of the said Act is given below:-

“14. Adherence to sanctioned plans and project specifications by the promoter.-

(2) Notwithstanding anything contained in any law, contract or agreement, after the sanctioned plans, layout plans and specifications and the nature of the fixtures, fittings, amenities and common areas, of the apartment, plot or building, as the case may be, as approved by the competent authority, are disclosed or furnished to the person who agree to take one or

more of the said apartment, plot or building, as the case may be, the promoter shall not make—

(i) any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities described therein in respect of the apartment, plot or building, as the case may be, which are agreed to be taken, without the previous consent of that person:

Provided that the promoter may make such minor additions or alterations as may be required by the allottee, or such minor changes or alterations as may be necessary due to architectural and structural reasons duly recommended and verified by an authorised Architect or Engineer after proper declaration and intimation to the allottee.

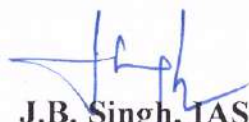
Explanation.—For the purpose of this clause, "minor additions or alterations" excludes structural change including an addition to the area or change in height, or the removal of part of a building, or any change to the structure, such as the construction or removal or cutting into of any wall or a part of a wall, partition, column, beam, joist, floor including a mezzanine floor or other support, or a change to or closing of any required means of access ingress or egress or a change to the fixtures or equipment, etc.

(ii) any other alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project without the previous written consent of at least two-thirds of the allottees, other than the promoter, who have agreed to take apartments in such building.”

7. 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 plans is dealt in respect of the project as a whole. The project registered in this case i.e. 'Phase V Sector 2 apartments' is one project and has been given one registration number by Goa RERA. Hence, any major modifications 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 part of the project or cluster. If any major changes or alterations are taking place in the project, the written consent of 2/3rd allottees of the project must be taken and without that the said modifications/major changes in the project cannot be permitted. The applicant has failed to submit the said consent of 2/3rd allottees.
8. In view of the above observations, the application dated 14.07.2022 is not tenable and the same is rejected.

The copy of this order to be uploaded on the web portal of the project.

Order accordingly.


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

To,
Goan Real Estate and Construction Pvt. Ltd.,
Aldeia de Goa,
Bambolim-403206.