BEFORE THE MAHARASHTRA

REAL ESTATE REGULATORY AUTHORITY, MUMBAI

Virtual Hearing held through video conference as per
MahaRERA Circular No.: 27/2020
COMPLAINT NO. CC001000000040279

CHIRAG THAKKAR …COMPLAINANT/S

VS.

PRASHANT HARCHAND PATIL …RESPONDENT/S

MAHARERA PROJECT REGISTRATION NO. P51600009658

Final Order
July 17th, 2025
(*Date of hearing – 02.07.2025 matter was reserved for order*)
Coram: Manoj Saunik, Chairperson, MahaRERA
Complainant present in person
Advocate Pawar for the Respondent; Mr. Prashant Patil in Person

1. The complainant is a home buyer and an allottee within the meaning of Section 2(d) of the Real Estate (Regulation and Development) Act, 2016 ("**The Act**") of the Real Estate Regulatory Authority ("**RERA**") and the respondent is the Promoter within the meaning of Section 2 (zk) of the said Act who has registered the Project namely **"PRABHU ATLANTIS"** under Section 5 of the said Act bearing **MAHARERA Project Registration No. P51600009658** ("**The Project**").

2. On the MahaRERA project registration webpage, the proposed date of completion of the project is mentioned as 31.03.2023 and the revised proposed date of completion is mentioned as 30.06.2023. The said project has received the occupancy certificate dated 10.12.2018, issued by Nashik Municipal Corporation, Nashik.

3. The complainant is seeking the following reliefs:
   a) *That this Hon'ble Authority may be pleased to direct the respondent to provide all the amenities that were shown in the Facebook advertisement.*
   b) *That this Hon'ble Authority may be pleased to direct the respondent to pay an amount of Rs. 1,00,00,000/- as compensation for physical, mental and financial distress suffered.*
   c) *Legal cost.*

4. The complaint was heard on 02.07.2025 and the following roznama was recorded by this Authority:
"Heard both the parties on issue of maintainability. The issue of maintainability was raised by respondent. The matter is reserved for order on issue on maintainability."

5. The brief facts in the captioned complaint are as follows:

Date of Filing	Flat No.	Date of Agreement for Sale	Date of Possession	Total Consideration (In Rupees)	Amount Paid (In Rupees)	Reliefs Sought
26.03.2024	B-1202	02.11.2018	31.12.2022	Rs. 40,50,000/-	Rs. 40,50,000/-	Amenities; Rs. 1,00,00,000/- Compensation

6. The brief submissions of the complainant are as follows:
   A. That, the complainant states that he came across a Facebook advertisement for the "Prabhu Atlantis" project, which showcased various promised amenities such as a temple, landscaped garden, children's play area, yoga and meditation spaces, sports facilities, clubhouse, library, CCTV surveillance, and allotted parking.
   B. That, influenced by these representations, the complainant booked a flat and executed a registered agreement for sale on 02.11.2018, followed by a deed of apartment on 17.08.2021, whereby Flat No. B-1202 was allotted. The total price included charges for the promised amenities, as recorded in both documents.
   C. That, despite taking possession, the complainant alleges that the construction of the promised amenities remains incomplete, with repeated assurances from the respondent but no definite timelines provided.
   D. That, the complainant further submits that he made several inquiries regarding the delay, but the respondent failed to offer any satisfactory response, despite multiple attempts through emails and other means.
   E. That, the parking areas and common spaces have been reduced, resulting in restricted movement and lack of access for emergency vehicles.
   F. That, the complainant also claims that balconies on the 14th floor in A Wing and B Wing have been enclosed for alternative use, and penthouses have been constructed and sold on the 14th floor.
   G. That, several construction defects are highlighted, including wall leakages, misaligned windows, broken bathroom frames, and poor-quality bathroom fittings.

H. That, the complainant denies any suppression of facts and asserts that the respondent has not produced any substantial documents in support of the dismissal application.

I. That, the complainant disputes the respondent's claim that possession was taken on 22/12/2018, maintaining that actual possession was given only in March 2019 and alleging that the possession receipt is false and fraudulently signed.

J. That, the complainant states that maintenance charges were collected from apartment and shop owners as early as 2016, even before possession or approval of revised building plans on 16/08/2017.

K. That, the project comprises around 172 flats and 39 shops, and individual electricity meters were installed only after possession in March 2019, with the first meter in the complainant's name dated 19/03/2019.

L. That, the complainant contends that Section 14(3) of the RERA Act, 2016, does not bar the complaint as it is filed within limitation, and further argues that the legal precedents cited by the respondent are irrelevant.

M. That, it is clarified that the reliefs sought before the Consumer Redressal Forum, Nashik, differ from those in the present RERA proceedings.

N. That, the complainant alleges that a total one-time maintenance amount of ₹4,00,00,000/- was collected by the respondent, but interest earned on the amount has not been handed over to the Apartment Management Committee.

O. That, several grievances remain unresolved despite possession, and that the dismissal application is merely a tactic by the respondent to delay proceedings, seeking its rejection accordingly.

P. That, in view of the above, the complainant seeks promised amenities and that the respondent should be directed to pay a sum of Rs. 1,00,00,000/- as compensation for physical, mental, and financial distress suffered.

7. The brief submissions of the respondent are as follows:

A. That, the complaint filed by the complainant is misconceived, bad in law, and constitutes an abuse of the process, warranting dismissal at the outset.

B. That, the complainant has not approached the Authority with clean hands and has suppressed various material facts, documents, and records with the intention of securing a favourable order.

C. That, the complaint is defective as it is not filed in the proper format and fails to specify the reliefs sought or the relevant provisions under the RERA Act, 2016, under which such reliefs are claimed.

D. That, the possession of the flat was handed over to the complainant on 22.12.2018. Further, referring to section 14(3) of the RERA Act, the respondent contends that the period for raising claims regarding structural defects or deficiencies is limited

to five years from the date of possession, which in this case expired on 22.12.2023. Since the complaint was filed on 26.03.2024, it is argued to be barred by limitation and not maintainable.

E. That, there is no provision under RERA Act, 2016, that allows for condonation of delay for complaints filed beyond the five-year period prescribed for structural defect claims.

F. That, the complainant had previously filed a similar complaint, CC/179/2022, before the District Consumer Forum at Nashik, in which reliefs were granted by an order dated 14.10.2024, including compensation of Rs. 1,00,000/- with interest, Rs. 15,000/- for mental suffering, and Rs. 7,000/- towards cost. That, the respondent has challenged this order before the State Consumer Dispute Redressal Commission, where the matter remains pending.

G. That, in accordance with a judgment of the National Consumer Disputes Redressal Commission, complainants cannot simultaneously pursue remedies before both the RERA Authority and the consumer forum for the same grievance.

H. That, the doctrine of election applies in this case, arguing that an allottee who has already pursued a complaint in one forum cannot seek the same relief in another forum simultaneously.

I. That, by seeking similar reliefs before both the MahaRERA Authority and the Consumer Forum, the complainant demonstrates a mala fide intent to extract money under the guise of compensation, warranting punitive measures and imposition of heavy costs.

J. Therefore, the respondent prays that the present complaint be dismissed with heavy costs and further requests that no proceedings in the complaint be undertaken until the pending application is finally adjudicated and seeks that costs of no less than Rs. 30,000/- be imposed on the complainant, along with any other reliefs the Authority may consider just and appropriate.

8. From the facts and submissions of the complainant and the respondent, the issue that needs to be examined is *whether the complainant is entitled to seek reliefs under Section 18 of the said Act?*

9. Before determining the issue at para no. 8, the following observations are noteworthy:

A. It is observed that, under Section 14(3) of the RERA Act, 2016, the promoter's liability to rectify structural defects or defects in workmanship, quality, or services continues for a period of five years from the date of handing over possession. As per the possession letter dated 22.11.2018 placed on record, possession of the flat was handed over to the complainant on that date. Although the complainant

disputes this and asserts that possession was actually received in March 2019, no credible documentary evidence has been produced to substantiate this claim conclusively. Accordingly, the date of possession is taken as 22.11.2018, and the statutory period for raising such claims expired in November 2023. Therefore, the present complaint, filed in March 2024, stands barred by limitation insofar as it relates to claims regarding structural defects or quality issues.

B. It is pertinent to note that possession was taken in 2018, yet the complainant has filed the present complaint only in 2024. The complainant has failed to provide any satisfactory explanation or justification for this significant delay of over five years in approaching the Authority. No application seeking condonation of the delay has been filed, nor have any reasons been put forth to justify the belated filing of the complaint. This unexplained delay has a direct bearing on the maintainability of the complaint.

C. It is further noted that the complainant had previously filed Complaint No. CC/179/2022 before the District Consumer Forum at Nashik, seeking reliefs similar to those pursued in the present proceedings. That complaint resulted in an order dated 14.10.2024, granting compensation and costs in favour of the complainant. However, the respondent has challenged this order, and the matter is currently pending before the State Consumer Dispute Redressal Commission. Pursuing parallel remedies before both the RERA Authority and the Consumer Forum for the same grievances is impermissible in law and constitutes an abuse of process.

D. The Authority observes that, given the similarity of reliefs sought in both forums and the pendency of the appeal before the State Consumer Dispute Redressal Commission, proceeding with the present complaint at this stage poses a risk of conflicting judicial outcomes.

E. The Authority, considering the expiry of the statutory limitation period under Section 14(3) of the RERA Act, 2016, the substantial and unexplained delay in filing the present complaint despite possession having been taken in 2018, and the pendency of related proceedings before the consumer forum, is of the view that the present complaint is **not maintainable** and is liable to be **dismissed**.

FINAL ORDER

10. Therefore, after considering the aforementioned observations and provisions of the Act, the materials placed on record, the facts of the case and submissions made by the parties, the Authority passes the following order:

    A. The captioned complaint is **dismissed** for reasons more specifically mentioned hereinabove.

    B. No order to cost.

MANOJ SAUNIK
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Manoj Saunik

Chairperson, MahaRERA