BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY, MUMBAI

Complaint No. CC12501193

Vijay Sundarrao Pachlore ... Complainant

Versus

Tulsi Construction ... Respondent

MahaRERA Project Registration No. P51600022835

Coram: **Shri. Mahesh Pathak, Hon'ble Member – I/MahaRERA.**

Ld. Adv. Aniket Worlikar appeared for the complainants.

Ld. Adv. Manali Saraf appeared for the respondent.

FINAL ORDER

(Order Pronounced on Friday, 30th January 2026)

(Matter reserved for orders on 19-11-2025)

(Hearing Through Hybrid Mode)

1. The complainant above named has filed this online complaint before the MahaRERA on 09-04-2025 mainly seeking directions from the MahaRERA, to the respondent to execute the final sale deed, to provide a final demand letter to the concerned Bank and impose appropriate penalties on the promoter for non-compliance; remove the illegal construction done on the 8th floor of the said building and make the entire terrace on the said floor open for common use; for legal expense and compensation etc, as prescribed under the provisions of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as 'RERA'), in respect of the booking of a Flat No. 19 (hereinafter referred to as "the said flat"), in the respondent's registered project known as "**TULSI RATNA**" bearing MahaRERA registration No. **P51600022835** located at S.NO. 204/13 AND 14, PLOT NO. 1 AND 2, NASHIK, Dist. Nashik (hereinafter referred to as the 'said project').

2. This complaint was heard by MahaRERA on several occasions and the same was heard finally on 19-11-2025 as per Circular no. 49 dated 12-09-2025 onward) issued by MahaRERA for hearing of complaints through Hybrid Mode. Both the parties have been issued prior intimation of this hearing, and they were also informed to file their written submissions if any. On the said dates of hearing, both the parties appeared as per their appearances recorded in the Roznamas and made their respective submissions. The MahaRERA heard the submissions of both the parties as per their appearances and also perused the available record.

3. After hearing the arguments of both the parties, the following Roznamas were recorded in this complaint:–

i) **<u>On 13-05-2025 :</u>**

"First Hearing Matter"

"The complainant is present. The respondent is absent. The complainant desires that this matter be fixed for hearing on merits. Therefore, this matter is to be fixed for hearing on merits strictly as per seniority."

ii) **<u>On 24-09-2025:</u>**

"Both the parties are present. The complainant has filed this complaint for three issues: i) execution of sale deed; ii) for removing the structural defects in his flat; iii) removal of illegal construction on the 8th floor and compensation for the above. It is pointed out to the complainant that there is no section in the RERA for sale deed and that since the full OC has been obtained in January 2022, any issue of illegal constructions would have to be taken up with the concerned Planning Authority. The respondent may reply to the issue of structural defects which the complainant contends he has informed the respondent by a written notice. Therefore, the matter be restricted to the issue of structural defects only and the respondent may file a reply to the complaint on the said issue whether the notice has been

received from the complainant and what has been done about the repairs. The respondent has also contended that it has filed a police complaint in December 2023 against the complainant since he has obtained possession forcibly, as the OC was admittedly received in January 2022 and Form 4 has been uploaded in February 2022. Further, the respondent has also contended that an amount of Rs.2,38,777/- is still pending from the complainant i.e. Rs.1,00,000/- towards the consideration and the remaining amount towards formation of Society as well as the advance maintenance charges. However, the complainant refutes this contention of the respondent. The respondent may file a reply to the complaint within a period of three weeks i.e. by 15-10-2025. Further, three weeks' time i.e. till 05-11-2025 is granted to the complainant to file rejoinder to the reply of the respondent. The complainant may include the notice issued to the respondent along with his rejoinder. The matter is adjourned to 19-11-2025 for final arguments by both sides."

iii) **<u>On 19-11-2025:</u>**

"Both the parties are present. The respondent has already filed a reply to the complaint and the complainant has already filed a rejoinder to the said reply. The only issue for which this complaint has been restricted is to section 14(3) of the RERA. Accordingly, the respondent has pointed out that the advanced maintenance dues are still pending with the complainant and that the complainant himself has made certain changes which have led to leakages. However, the complainant refutes this contention of the respondent and admits that there's an amount of Rs.2,38,777/- still pending from the complainant i.e. Rs.1,00,000/- towards consideration and the amount towards formation of society as well as advance maintenance charges. On this, the complainant has clarified that it is because of the said leakages that the said amount is withheld and it is ready and willing to make the payments. It is pointed out to the complainant that the said withholding of the payment is contradictory to the procedure mentioned under section 14(3) of the RERA. Be that as it may, both parties may file

written submissions within a period of two weeks i.e. by 03-12-2025 subsequent to which, the matter would be reserved for orders. The respondent has clarified that the western commode is changed to Indian style commode and because of inadequate waterproofing the said leakage is happening. Be that as it may, the matters are reserved for orders suitably after 03-12-2025 based on the arguments in the hearing as well as the reply, rejoinder and written submissions filed in the complaint."

4. Pursuant to the directions issued in the aforesaid hearing, the complainant filed his written arguments on 03-12-2025, and the respondent filed its written submissions on 03-12-2025. The same have been accepted and taken on record. Accordingly, MahaRERA has perused the material available on record.

5. It is the case of the complainant that he executed a registered Agreement for Sale dated 17-12-2020 in respect of Flat No. 19 for a total consideration of Rs. 49,21,000/-, which was primarily financed through a housing loan from ICICI Bank. He further stated that the promoter did not provide a draft Agreement for Sale and instead instructed him to directly attend the office of Sub-Registrar No. 2, Nashik, near Pinnacle Mall, for execution of the document. The complainant submitted that he booked a flat in the said project and has made payments amounting to Rs. 48,21,000/- in accordance with the agreement, and that only Rs. 1,00,000/- remains outstanding. He further submitted that despite much follow-up, the respondent failed to raise a proper demand letter upon the bank. The complainant further alleged several deficiencies in the flat, including water leakage causing damage to the POP ceiling and electrical fittings, damage to walls, non-provision of door stoppers, deterioration of bathroom door lamination, improper fitting of the main door, non-installation of taps in galleries, and parking spaces not conforming to prescribed standards. He also alleged absence of visitor and cycle parking, unauthorized construction and encroachment upon the

common terrace, mismatch in the number of units, and discrepancies between the area mentioned in the Occupancy Certificate and the RERA application. Alleging violations of Sections 13 and 18 of the RERA , the complainant prayed for directions to the respondent to execute the final sale deed, issue a final demand letter to the bank, remove the alleged illegal construction on the terrace, restore the terrace for common use, and grant compensation and legal costs.

6. The respondent has filed its reply on 26-09-2025, denying the allegations made in the complaint. The respondent submitted that it is a reputed construction company in Nashik and that it completed all statutory formalities for construction of the project "Tulsi Ratna Apartment." It was submitted that the project was registered with MahaRERA on 30-10-2019, revised approvals were obtained on 18-11-2021, and an Occupancy Certificate dated 31-01-2022 was granted by Nashik Municipal Corporation. The respondent submitted that demand letters were issued to the complainant on 07-10-2023 and to ICICI Bank on 30-11-2023, and that the complainant admitted the outstanding amount in his communication dated 10-10-2023. It was further submitted that non-payment of full consideration constitutes default under the Agreement for Sale and that execution of the sale deed is contingent upon complete payment. The respondent denied any violation of Section 13 of the RERA. The respondent further submitted that the complainant was permitted limited access to the flat on 11-06-2022 only for a religious ceremony and that the complainant thereafter continued unauthorized occupation of the flat. It was submitted that the complainant carried out unauthorized alterations and construction and failed to clear outstanding dues. The respondent denied allegations regarding parking, amenities, staircase construction, and misrepresentation, and submitted that all construction was as per sanctioned plans and applicable regulations. Accordingly, the respondent prayed for directions to the complainant to pay the outstanding balance along with 18% interest, or alternatively, to permit

termination of the Agreement for Sale, and for dismissal of the complaint with compensatory costs.

7. The complainant filed his rejoinder on 17-11-2025, submitting that the alleged demand letters did not specify the amount payable or the payment heads. He denied any default on his part and submitted that possession was offered after grant of the Occupancy Certificate and that his possession is lawful. He further submitted that the respondent failed to update MahaRERA records, did not upload Form 5, and unilaterally altered sanctioned plans. The complainant reiterated his readiness to pay the balance consideration and sought execution of the sale deed and rectification of defect.

8. The respondent has filed its sur-rejoinder on 18-11-2025, submitting that the rejoinder was filed beyond the stipulated time. The respondent reiterated that it was not obliged to communicate the complainant's dues to the lending bank and that the complainant continues in unauthorized occupation of the flat despite non-payment. It was further submitted that allegations of defects were raised belatedly, after issuance of multiple demand letters. The respondent denied responsibility for leakage and submitted that the same arose due to unauthorized modifications carried out by the complainant. The respondent reiterated its prayer for recovery of dues with interest or termination of the agreement.

9. The complainant filed his written arguments on 03-12-2025, reiterating his earlier submissions. He submitted that the respondent attempted to mislead the Authority by alleging registration of FIRs, whereas the documents on record show only police complaints. He further submitted that transfer of the electricity meter in his name could not have occurred without a No Objection Certificate from the promoter. Accordingly, the complainant prayed for allowing the complaint.

10. The respondent filed its written submissions on **03-12-2025**, placing reliance on the terms and conditions of the registered Agreement for Sale and the stipulated payment schedule.

11. The MahaRERA has examined the aforesaid rival submissions made by both parties and also perused the available record. The complainant who is an allottee of the said project registered by the respondent promoter, by filing this complaint on record of MahaRERA under Section 31 of the RERA, has approached the MahaRERA mainly seeking various reliefs under the provisions of the RERA towards (i) execution of the sale deed, (ii) rectification of structural defects in the flat, and (iii) removal of alleged illegal construction on the 8th floor along with compensation.

12. The complainant has contended that he had duly informed the respondent about structural defects, particularly water leakages, through written notice, but no effective repairs were carried out. He denied the allegation of forceful possession and submitted that possession was offered after receipt of the OC. However, the complainant has admitted that an amount of Rs. 2,38,777/- is due and payable by him. However, he clarified that the said amount was withheld due to unresolved leakages and defects, and stated that he is ready and willing to pay the same upon rectification of defects.

13. The respondent on the other hand has refuted the aforesaid claims and contentions of the complainant mainly contending that execution of a sale deed does not fall under any provision of the RERA and that the project has already received full OC on 31-01-2022 and the complainant has forcibly taken possession of the flat, for which a police complaint was filed in December 2023. The respondent further contended that structural defects alleged by the complainant are a result of unauthorised alterations carried out by the complainant himself, particularly replacement of the western commode with an Indian-style commode without proper waterproofing.

14. Be that as it may, in the present case on bare perusal of the aforesaid submissions made by both parties and after perusing the available record, the following observations are noteworthy:-

a) Admittedly, the complainant has booked the said flat by virtue of the registered agreement for sale dated 17-12-2020 for total consideration of Rs. 49,21,000/-. It is an admitted position on record that an amount of Rs. 2,38,777/- remains unpaid by the complainant towards balance consideration and other agreed charges.

b) The complainant although has prayed for 3 substantive reliefs as stated in the aforesaid para no. 11 above, as recorded in the Roznama dated 24-09-2025, it is evident that the MahaRERA had specifically restricted the scope of the present complaint to the issue of structural defects under Section 14(3) of the RERA, after clarifying that: i) the execution of sale deed is not independently provided for under RERA once a registered agreement for sale exists; ii) the issues relating to alleged illegal construction on the terrace fall within the jurisdiction of the concerned Planning Authority (in this case Nasik Municipal Corporation) and not with MahaRERA.

c) By virtue of the said clarification, all other prayers of the complainant stood excluded, and the only surviving issue for adjudication is whether the respondent has failed to discharge its statutory obligation under Section 14(3) of the RERA in respect of structural defects brought to its notice.

d) In this regard, the MahaRERA has noticed that the complainant has alleged water leakage causing damage to the POP ceiling, electrical fittings, doors, bathroom lamination and other internal components of the flat, which facts have been denied by the respondent on the ground that the OC for the said project was obtained on 31-01-2022. Further, the alleged leakage is attributable to unauthorised alterations carried out by the complainant, including conversion of western commode into

Indian-style toilet without permission. It has therefore claimed that no structural defect existed prior to such alterations.

e) In this regard, the MahaRERA has noticed from the record that the complainant has admitted withholding the balance amount of Rs. 2,38,777/- on account of alleged defects. However, Section 14(3) of the RERA does not permit unilateral withholding of payment by an allottee on the ground of defects. The statutory mechanism requires defects to be notified to the promoter, who is then obligated to rectify the same within the stipulated time period of 30 days, failing which the allottee becomes entitled to appropriate compensation.

f) However, at the same time, the respondent has not disputed that complaints regarding leakage were raised by the complainant and that seepage was noticed. However, whether such leakage arose due to original construction or subsequent alterations is a disputed question of fact which cannot be conclusively determined without technical examination.

g) In this regard, it is pertinent to note that the provisions of Section 14(3) of the RERA casts a mandatory obligation upon the promoter to rectify structural defects or defects in workmanship, quality or provision of services, if brought to its notice within 5 years from the date of handing over possession, without further charge. However, in the present case, since the OC was obtained on 31-01-2022, the complaint regarding leakage was raised within the statutory defect-liability period and both parties have attributed responsibility to each other. Further, the complainant has shown his willingness to pay the balance amount upon rectification. Hence, the MahaRERA finds it just and proper to balance equities by directing inspection and rectification strictly in accordance with Section 14(3) of the RERA.

15. In view of these observations, the following order is passed:-

a) The respondent–promoter is directed to inspect the complainant's flat

through a qualified engineer within 15 days from the date of this order and identify defects, if any, relating to seepage/leakage or workmanship.

b) If the inspection reveals defects attributable to construction, workmanship or quality of material, the respondent shall rectify such defects at its own cost within 30 days thereafter, as mandated under Section 14(3) of the RERA.

c) If it is found that the leakage has occurred due to unauthorised alterations carried out by the complainant, the respondent shall place the inspection report on record and shall not be liable for rectification under Section 14(3) of the RERA.

d) The complainant is also directed to deposit the admitted outstanding amount of Rs. 2,38,777/- with the respondent immediately with interest as per section 18 (7) of RERA, without prejudice to his rights, if any, in accordance with law since he is enjoying possession since June 2022.

e) Non-compliance of the aforesaid directions issued at point nos. (a) to (d) by either party would be viewed seriously and appropriate penal action under Section 63 of the RERA would be taken against the party if the same is brought to the notice of MahaRERA by the other party.

16. With these directions, the present complaint stands disposed of.

MAHESH DINKAR PATHAK
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Date: 2026.01.30 19:17:40 +05'30'

(Mahesh Pathak)

Member – 1/MahaRERA