BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY, MUMBAI

1. Complaint No. CC12401289

Kukreja Gardens Allottees Association A Wing ... Complainant

Versus

Tolaram and Co. ... Respondent

MahaRERA Project Registration No. P51800020817

Along with

Complaint No. CC12401290

Kukreja Gardens Allottees Association B Wing ... Complainant

Versus

Tolaram and Co. ... Respondent

MahaRERA Project Registration No. P51800021344

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

Ld. Adv. Maheshwari a/w. Adv. Sunilraja Nadar appeared for the complainants.

None appeared for the respondent.

FINAL ORDER

(Order Pronounced on Monday, 12th January 2026)

(Matters reserved for orders on 28-10-2025)

(Hearing Through Hybrid Mode)

1. The complainants above named have filed these two separate online complaints before the MahaRERA on 30-12-2024 mainly seeking directions from the MahaRERA, to direct respondent to take further steps to form a society and for conveyance of land; fix the issues at point nos. 16(a) to 16(d)/ 17(a) to 17(d), mentioned in the complaints; and for compensation and legal cost, as prescribed under the provisions of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as

'RERA') in respect of booking of their flats/shops (hereinafter referred to as "the said units") in the respondent's registered projects known as "**KUKREJA GARDENS WING A**" and "**KUKREJA GARDENS WING B"** bearing MahaRERA registration Nos. **P51800020817 and P51800021344** located at CTS No 465 A 465a 1 To 20 And 465 B Of Village Bhandup Taluka Kurla Ward LBS Marg Bhandup W Mumbai, Taluka Kurla, Dist. Mumbai Suburban (hereinafter referred to as the 'said projects).

2. These complaints were clubbed together as the same pertain to the same project having one layout and the same were heard by MahaRERA on several occasions and finally on 28-10-2025 as per Circular no. 49 dated 12-09-2025 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, the complainants appeared as per their appearances recorded in the Roznamas and made their respective submissions. The MahaRERA heard the submissions of the complainants as per their appearances and also perused the available record.

3. After hearing the arguments of the complainants, the following Roznamas were recorded in these complaints:–

i) **<u>On 05-08-2025 :</u>**

"The complainants are present. The respondent is absent. Although the matters were referred to the conciliation and the consent terms were under discussion, the said consent terms could not be finalized between the parties in the conciliation forum. Therefore, the matters are referred by the conciliation forum for hearing on merits. The complainants have filed these complaints for completion of certain amenities, to take steps to form a society, conveyance deed and certain structural issues in the project. Admittedly, the OC for Wing A (Sr. No. 5) has been obtained in January 2020 while the OC for Wing B has been obtained in March 2022 (Sr. No. 6) and the complainants form the majority of the allottees (as per the complainants). The respondent is directed to file its reply to these complaints within a period of 4 weeks i.e. by 02-09-2025. Further 4 weeks' time i.e. till 30-09-2025 is granted to the complainants to file a rejoinder to the said replies. These matters are adjourned to 16-10-2025 for further hearing. The Registry is also

directed to verify the proceedings of the conciliation forum whether it mentions the consent terms."

ii) **<u>On 28-10-2025:</u>**

"The complainants are present. The respondent is absent. There were five hearings before the conciliation forum wherein the respondent has appeared, but the consent terms, although exchanged, have not yet been signed. The complainants are the associations formed in the Wing A and Wing B of the project, for which admittedly the full OCs have been received In November 2021 (Wing A - Sr. No. 25 - CC12401289) and in March 2022 (Wing B - Sr. No. 26 - CC12401290). The complainants are praying for common issues with respect to the project which have been recorded in the previous Roznama. The respondent has also not filed any reply to these complaints despite direction in the previous hearing and therefore, the respondent is given one last chance to file its replies to these complaints within a period of one week i.e. by 04-11-2025 along with written submissions. The complainants may file rejoinders to the replies of the respondent within a further period of one week i.e. by 11-11-2025 along with written submission, even if the respondent doesn't file any reply or written submissions. In case the respondent doesn't file any reply or written submission, the MahaRERA will be constrained to decide these matters ex-parte against the respondent on merits. Accordingly, these matters are reserved for order suitably after 11-11-2025 based on the arguments of the complainants in the hearing as well as the reply, rejoinder and written submissions filed in the complaints."

4. Despite directions in the aforesaid hearing, both the parties have not uploaded any reply/rejoinder/written submissions on record. Hence, the MahaRERA has perused the available record.

5. The said project, known as "Kukreja Gardens", comprises two wings, namely A Wing and B Wing, wherein A Wing consists of Ground + 7 storeys and B Wing consists of Ground + 23 storeys, constructed on land bearing Survey No. 109, Hissa No. 1, corresponding to C.T.S. Nos. 465A, 465A/1 to 20 and 465B, admeasuring approximately 2632.40 sq. mtrs., situated at Village Bhandup, Taluka Kurla, Mumbai Suburban, and developed by the respondent, also known as Kukreja Construction

Company. It is stated that the respondent obtained the Commencement Certificate on 09-06-2016 from MCGM and thereafter obtained MahaRERA registration on 10-05-2019. The complainants further stated that, pursuant to a resolution passed by the Managing Committee of the Association in its meeting dated 07-12-2024, Mr. Mahipati Salunkhe has been duly authorised to represent the complainants before all competent authorities. As per records, approximately 90% of the project inventory has been sold, and the Association represents about 75% of the sold units. The respondent has obtained the full Occupancy Certificate for A Wing on 21-01-2020 and has handed over possession of the flats and shops to the allottees. Although, the possession has been handed over within the stipulated time, the complainants contend that the respondent has failed to fulfil its post-possession statutory and contractual obligations, including ensuring quality of construction and providing promised amenities and services. It is further stated that the respondent collected amounts from the allottees towards share money, society formation charges, and other expenses, but has failed to take effective steps for formation of the society and execution of conveyance, in violation of Clause 13.11 of the Agreement for Sale. The transfer of title in favour of the Association remains pending. The complainants have also alleged non-compliance by the respondent in respect of several essential amenities, including DG backup for lifts and parking areas during power failure, compound wall and security measures, enhancement of underground water tank capacity, and provision of a separate borewell, despite repeated intimation. In view of the above, the complainants have prayed for directions to the respondent to take steps for formation of the society and execution of conveyance, to rectify the deficiencies listed at point nos. 16(a), 16(b), 16(c) and 16(d) of the complaint, and to grant compensation and costs.

6. (a) It is the case of the complainant at Sr. No. 1 that "Kukreja Gardens – A Wing" is a building comprising Ground + 7 storeys, consisting of 12 residential flats and 4 commercial shops, aggregating to 16 units, out of which all 12 residential flats and 2 commercial shops have been sold, resulting in 14 allottees in A Wing. Out of these, 10 allottees have formed an association known as "Kukreja Gardens Allottees Association – A Wing" (hereinafter referred to as the "Association of Allottees"), which represents a majority of the allottees, as defined under Section 2(d) of the RERA.

(b) It is the case of the complainant at Sr. No. 2 that "Kukreja Gardens – B Wing" is a 23-storey building comprising 44 residential flats and 4 commercial shops, making a total of 48 units. Out of these, 23 residential flats and 4 commercial shops have been sold, resulting in 27 allottees in B Wing. Out of the said 27 allottees, 24 members have formed an association known as "Kukreja Gardens Allottees Association – B Wing", which constitutes a majority of the allottees as defined under Section 2(d) of the RERA.

7. The members of the complainant Associations include owners of residential flats as well as certain commercial shops in the project known as "Kukreja Gardens", comprising two wings, namely Wing A and Wing B.. Pursuant to the resolution passed in the meeting of the Managing Committee/Authorised Representatives of the *Kukreja Gardens Allottees Association – B Wing* held on 07-12-2024, Mr. Chaitanya Keer has been duly authorised to represent the complainant Association before all competent authorities. As per the records, 23 residential flats and all 4 commercial shops have been sold, amounting to 27 sold units, which constitutes approximately 56% of the total inventory. The complainant Association comprises 24 members, representing approximately 90% of the sold units. The complainants further stated that the respondent obtained the full Occupancy Certificate on 15-03-2022, and possession of the flats and shops has been handed over to the respective allottees within the stipulated time. Although, the respondent has thereby complied with certain contractual obligations, the complainants contend that the respondent has failed to fulfil several post-occupancy obligations, including ensuring quality of construction and providing promised amenities and services. It is submitted that the respondent collected amounts from the allottees towards development and implementation of such amenities. Further, despite collection of share money, society formation charges and registration charges, the respondent has failed to take effective steps for formation of the society/association. The complainants further submit that conveyance of title of the land and building has not been executed due to the respondent's failure to comply with Clauses 13.1, 13.2, 13.11 and 16.2 of the Agreement for Sale. Hence, the complainants have prayed for directions to the respondent to take necessary steps for formation of the society and execution of

conveyance, to rectify the issues mentioned at point nos. 17(a) to 17(d) of the complaint, and for compensation and legal costs

8. The respondent has neither appeared for the hearings held in these complaints despite notice, nor has filed any reply to these complaints despite directions. Hence, the MahaRERA has no other alternative but to decide these complaints ex-parte against the respondent on merits.

9. The MahaRERA has examined the submissions made by the complainants and also perused the available record. The complainants which are the associations of the allottees formed in the said projects, by filing these complaints under Section 31 of the RERA, have approached the MahaRERA mainly seeking following reliefs under the provisions of the RERA:-

Complaint at Sr. No. 1:-

"a. That the Hon'ble Authority be please to direct and order the Respondent to take further necessary steps to form a society.

b. That the Hon'ble Authority be please to direct and order the Respondent to take further necessary steps towards conveyancing of land form a society.

c. That the Hon'ble Authority be please to direct and order the Respondent take further necessary steps in accordance with section 14(3) of RERA Act;

d. That the Hon'ble Authority be please to direct and order Respondent to take further necessary steps to fix issues mentioned in point no. 16(a), 16(b), 16(c) and 16(d) of this complaint.

e. That the Hon'ble Authority be please to direct and order the Respondent to pay a sum of Rs. 2,00,000/- (Rupees. Two Lakh Only) to each member of the Complainant or any such amount as compensation towards mental trauma caused to the members of the Complainant;

f. That the Hon'ble Authority be please to direct and order the Respondent to pay a sum of Rs. 5,00,000/- (Rupees. Five Lakh Only) or any such amount as legal cost incurred by the Complainant on this complaint; g. That the Hon'ble Authority may exercise its inherent power under the Real Estate (Regulation and Development) Act, 2016 to look into the breaches of the provisions of the Act committed by the Respondent and pass necessary orders and directions. h. For such other and further relief as the nature and circumstances of the case may require."

Complaint at Sr. No. 2:-

"a. That the Hon'ble Authority be please to direct and order the Respondent to take further necessary steps to form a society.

b. That the Hon'ble Authority be please to direct and order the Respondent to take further necessary steps towards conveyancing of land form a society.

c. That the Hon'ble Authority be please to direct and order the Respondent take further necessary steps in accordance with section 14(3) of RERA Act;

d. That the Hon'ble Authority be please to direct and order Respondent to take further necessary steps to fix issues mentioned in point no. 17(a), 17(b), 17(c) and 17(d) of this complaint.

e. That the Hon'ble Authority be please to direct and order the Respondent to pay a sum of Rs. 2,00,000/- (Rupees. Two Lakh Only) to each member of the Complainant or any such amount as compensation towards mental trauma caused to the members of the Complainant;

f. That the Hon'ble Authority be please to direct and order the Respondent to pay a sum of Rs. 5,00,000/- (Rupees. Five Lakh Only) or any such amount as legal cost incurred by the Complainant on this complaint; g. That the Hon'ble Authority may exercise its inherent power under the Real Estate (Regulation and Development) Act, 2016 to look into the breaches of the provisions of the Act committed by the Respondent and pass necessary orders and directions. h. For such other and further relief as the nature and circumstances of the case may require.."

10. The respondent, despite repeated opportunities being granted by the MahaRERA, has failed to file any reply or written submissions. Thereby all the averments made by the complainants against it remain unchallenged and undisputed, and the complaints are required to be decided on the basis of the available record.

11. Be that as it may, in the present case, admittedly, the members of the complainants associations are allottees within the meaning of Section 2(d) of the RERA and that the complaints have been filed through the Association of Allottees of Kukreja Gardens – Wing A, and Wing B, which represents a majority of the allottees of the said wings. The authority of the representative of the Associations are also duly recorded on the basis of the resolution dated 07-12-2024.Moreso, the said fact remains undisputed as the respondent has not raised any objection in that regard, by filing any written reply on record of MahaRERA.

12. It is further an admitted fact that , as appears from the record and the Roznamas, that the respondent has obtained full Occupancy Certificate for the said project (Wing A), on 21-01-2020 (wrongly mentioned as November 2020 in the Roznama dated 28-10-2025 and accordingly stands corrected) and for Wing B on 15-03-2022. Further, the possession of the units has admittedly been handed over to the allottees. It shows that, the projects have reached a stage where the post-occupancy statutory obligations of the promoter under the RERA become operative.

13. As far as the reliefs sought by the complainants in terms of Sections 11(4)(e) and 17 of the RERA, it is settled law that the promoter is mandatorily required to enable the formation of a society or association of allottees and to execute the conveyance of the title of the land and building in favour of such association within the prescribed period. The complainants have specifically pleaded that, despite collection of share money, society formation charges, and other amounts from the allottees, the respondent has failed to take effective steps for registration of the society and execution of conveyance, thereby violating its statutory obligations.

14. Furthermore, the complainants have also brought on record several deficiencies relating to amenities and facilities promised as part of the projects, such as provision of DG backup for lifts and parking areas, completion of compound wall and security arrangements, enhancement of underground water tank capacity and provision of separate borewell water facility etc.

15. Admittedly, these issues squarely fall within the promoter's obligations under Sections 11(4)(a), 11(4)(b), and 14 (3)of the RERA, which casts duty upon the promoter, to complete the project strictly in accordance with the sanctioned plans, specifications, and representations made to the allottees. However, in the present case, the respondent has chosen to remain absent during the hearings and has not disputed either the factual aspect or the statutory violations alleged by the complainants. Hence, in the absence of any rebuttal, the MahaRERA is constrained to accept the said submissions of the complainants about such alleged violations of the provisions of the RERA as mentioned above.

16. In view thereof, the MahaRERA is of the considered view that once possession and OC have been obtained, the respondent being the promoter of the said project cannot evade its continuing statutory duties relating to society formation, conveyance, and completion of common amenities. However, failure to do so defeats the very object of the RERA, which is to protect the interests of allottees and ensure transparency and accountability of promoters.

17. In view of the above, the MahaRERA prima facie feels that the complainants have made out a clear and sustainable case for issuance of directions under Sections 11, 17, and 19 of the RERA. However, the MahaRERA prima facie feels that in compliance of the principles of natural justice, one fair chance needs to be given to the respondent herein to comply with its statutory liability under the RERA. Further, as far as the prayer for compensation sought by the complainants, the MahaRERA is of the considered view that there is no explicit provision under RERA, under which the complainants being the associations of the allottees can seek such reliefs. Hence, the same stands rejected.

18. In view of the aforesaid findings, the following order is passed:

a) These complaints are partly allowed.

b) The claim of the complainants towards the compensation stands rejected.

b) The respondent is hereby directed to take all necessary steps for formation and registration of the Society/Association of Allottees of the said projects , in accordance with the applicable laws, within a period of 3 months from the date of this order.

c) The respondent is further directed to execute and register the conveyance deed in respect of the land and building pertaining to the said projects in favour of the duly formed society/association of allottees, strictly in accordance with Section 17 of the RERA, within a further period of 3 months thereafter.

d) The respondent shall complete and/or rectify the pending amenities and facilities as pointed out by the complainants at point nos. 16(a) to 16(d) and 17(a) to 17(d) of these complaints respectively, in accordance with the sanctioned plans, specifications, and representations, within a period of 3 months from the date of this order.

e) Failing to comply with the aforesaid directions, the appropriate penal action would be taken against the respondent under Section 63 of the RERA, if such non-compliance is brought to the notice of MahaRERA by the complainants.

19. With the above directions, both these complaints stand disposed of.

MAHESH DINKAR PATHAK
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(Mahesh Pathak)

Member – 1/MahaRERA