

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,  
MUMBAI**

COMPLAINT NO: CC006000000001479

Mr. Nilesh Dave

.. .... Complainant

Versus

M/s. Shivam Parivar Developers Pvt Ltd and 3 others

MahaRERA Registration No. P51800011447

..... Respondent

Coram: Hon'ble Dr. Vijay Satbir Singh, Member 1

The complainant appeared in person.

Advocate Mr. Yogesh Naidu for the respondent No. 1.

The members of Nirlon Employees CHS Ltd Respondent No. 3 appeared in person.

**Order**

(19<sup>th</sup> December 2017)

1. The complainant, being a member of the respondent No. 3 Society viz. Nirlon Employees CHS Ltd. has filed this complaint seeking following directions from this Authority in MahaRERA registered project bearing No. P51800011447.
  - a) The respondent No. 1 M/s. Shivam Parivar Developers Pvt Ltd and MCGM be ordered to maintain status quo of the project.
  - b) The MCGM be ordered not to grant any further permission/CC or any type of construction in respect of the Nirlon project.
  - c) The respondent No. 1 be ordered to deposit 70% of the sale proceeds he has received by sale of 145 Apartments in the Nirlon Project till date.


d)The respondent No. 1 be ordered to deposit Rs.1 Crore towards society fund against utilization of FSI from 2.4 to 2.5 as per Redevelopment Agreement of 2006.

e) The respondent No. 1 be ordered to deposit Rs.60 Crore for delay of project by more then 10 years and harassmt caused to 128 members of the Society.

1. This matter was heard on several occasions and the same was finally heard today. The complainant says that he is the joint member of the respondent No. 3 Society. Respondent No. 1 was to complete the project within 22 months from the date of IOD/CC. It is stated that the conditions of development agreements were not complied with by the respondent. Now while registering the project with MahaRERA, the respondent No. 1 has given completion date in the year 2025. Further, the respondent No. 1 has not disclosed pending litigations while registering with MahaRERA. Even the fraudulent documents have been submitted to MahaRERA at the time of registration.
2. The respondent No. 1 has denied the contentions raised by the complainant in toto and stated that the present complaint is proxy litigation filed by the complainant on behalf of one Rujula Developer, who was appointed as developer by the respondent No. 3 society in the year 2013. Subsequently, the said appointment was terminated by the society. The said developer was doing all possible things to derail the said project. Therefore, the proxy litigation should not be entertained by this Authority. Even the respondent No. 3 does not support him to file this complaint. The relief claimed by the complainant is beyond the power vested with this Authority. Even the relation between the respondent no. 1 and 3 is governed by the registered development agreement dated 17-7-2006 along with addendum agreement dated 20-3-2013. In this regard, an

award has also been passed on 9-4-2013 in the arbitration proceeding filed by the society. In view of this above facts the respondent requested for rejection of this complaint.

3. To seek some clarifications with regard to the membership of the complainant, this Authority has called the Secretary of the respondent No. 3, who appeared during the hearing. He stated that the dispute between the society and the respondent No. 1 has been resolved and now the respondent has agreed to give flats admeasuring 494 sq.fts carpet area to each member of the society within time bound manner and the society is now going to execute the supplementary agreement with the respondent no. 1.
4. Considering the rival submissions made by the concerned parties, this Authority feels that by filing the present complaint, the complainant is making grievance on behalf of the 128 members of the respondent no. 3 society, however, no authorisation has been obtained from the respondent no. 3 society to file this complaint. Even the complainant has not proved with supporting documents as to which provision of RERA Act has been violated by the respondent no.1 for which this Authority should exercise its jurisdiction. Further, the reliefs sought by the complainant do not fall within the purview of this Authority. With regard to the revised date of completion of the project the respondent no. 1 has filed an undertaking on record of this Authority stating that it will give possession of flats to 128 members of the respondent no. 3 society on or before 28-08-2021 by obtaining part occupancy certificate.
5. In view of the above facts, the complaint stands dismissed.

  
(Dr. Vijay Satbir Singh)  
Member-1