

**THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI.**

COMPLAINT NO: CC0050000000011257.

Shankar Raghmal Rohida

... Complainant.

Versus

Hemant Navinhandra Asher
(The Orchard - Phase I)

... Respondents.

MahaRERA Regn: P52000012218

Coram: Shri B.D. Kapadnis,
Hon'ble Member & Adjudicating Officer.

Appearance:

Complainant: Adv. Amrut Joshi.

Respondents: Adv. Rahul S. Kadam.

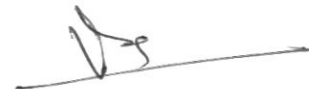
FINAL ORDER

2nd August 2018.

Heard learned Advocates of the parties on the issue of maintainability of the complaint. Perused the papers.

2. The complainant relies upon Section 4(2)(d) and Section 7 (1)(b) of RERA. It is fact that any aggrieved person can file the complaint against the promoter of the project if he contravenes or violates any provisions of RERA or Rules or Regulations framed thereunder. The complainant has some issue with the respondents regarding the ownership of the land upon which the project is being erected. Therefore, to this extent, I find that the complainant has authority to file the complaint.

3. It is the contention of the complainant that Survey No. 91/1 measuring 4 hectares 35 Are now numbered as Block No. 661 of Village Waghule, Taluka Haveli District Pune was previously owned by late Shivaram Hargude who



sold it to Smt. Rukminibai Shreekrishna Joshi in the year 1982 by executing and registering the sale deed in her favour. Thereafter, Smt. Joshi sold the said property to the complainant by executing and registering sale deed on 11.04.2018 and thus, the complainant has become the owner of the land.

4. The legal heirs of late Shivram Hargude and his brother Bhiwa Hargude filed the Regular Civil Suit No. 428 of 2011 which is now numbered as Special Civil Suit No. 538 of 2013 in Civil Court, Pune to get their ownership declared in respect of Block No. 661 measuring 20 Acres 12 Gunthas and the matter is pending before the Court. However, the Civil Court has passed an order and directed the parties to maintain status-quo. All these facts have been suppressed by the respondents. Therefore, he seeks revocation of the registration of the respondents' project on the ground that the respondents indulged in fraudulent act. They have submitted the false declaration of their ownership. However, they have also mentioned that the respondents have purchased one-Hectare area out of project property from heirs of late Bhiwa Hargude, though those heirs do not have legal title or interest in the said land.

5. I find that there is dispute regarding the ownership of the land under the project and it is pending before the competent Civil Court. It is yet to be adjudicated upon. It appears from the contentions of the complainant that the respondents have the sale deed of one Hectare land which is executed by the heirs of late Bhiwa Hargude. There is also the dispute regarding the demarcation of the land which is pending before the competent authority. In other words, it is the contention of the complainant that there is dispute of boundary and the project is being erected on some part of his land. For this dispute they have already approached the Civil Court. Considering all these aspects of the matter, I find that prima facie there is no material to show that the respondents have contravened the provisions of Section 4 & 7 as alleged by the complainant. The complainant claims that he alone is the owner of the entire land and on these footings the suit in Civil Court is filed. This fact is yet to be



established before the civil court and it will be cleared after the decision of the civil court alone. The complainant has to get his grievance redressed with the help of Civil Court. So his allegations based upon assumption of his ownership do not make out prima facie case to proceed with under Section 31 of RERA. Hence this Authority and for that sake, complainant will have to wait for proceeding against the respondents under the provisions of RERA till the decision of the civil dispute. In view of these facts, I find that complaint is not maintainable at this stage, hence the order.

ORDER

The complaint is dismissed as not maintainable at this stage.

He is at liberty to file another complaint on complete adjudication of civil disputes lying between the parties.

Mumbai.

Date: 02.08.2018.



(B. D. Kapadnis)
Member & Adjudicating Officer,
MahaRERA, Mumbai.