

**BEFORE THE MAHARASHTRA REAL ESTATE  
APPELLATE TRIBUNAL MUMBAI**

**Appeal No. AT005000000174633 of 2023**

**IN**

**Complaint No. CC005000000095950**

**Mr. Sudhir Vithal Mulay** ]  
B/102, Everest Cleopatra, Park Road, ]  
Vile Parle (East), Mumbai - 400057 ] **... Appellant**

*-Versus-*

**Rui Universal Realities** ]  
**(through its proprietor** ]  
**Mr. Sham Prabhakar Deshpande)** ]  
39 + 40, Yugay Complex, Opp. Gandhi ]  
Lawns, Erandawane, Pune - 411004 ] **... Respondent**

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*Mr. Sudhir Vithal Mulay, appellant in person*

*Adv. Nilesh Borate for Respondent*

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**CORAM : SHRI SHRIRAM R. JAGTAP, MEMBER (J), &  
DR. RAJAGOPAL DEVARA, MEMBER (A)**

**RESERVED ON : 16<sup>th</sup> APRIL 2026**

**PRONOUNCED ON : 04<sup>th</sup> MAY 2026**

(THROUGH VIDEO CONFERENCE)

**JUDGMENT**

**[PER : DR. RAJAGOPAL DEVARA, MEMBER (A)]**

1. The captioned appeal arises from the impugned order dated 04.07.2023 passed by the learned Chairperson, Maharashtra Real



Estate Regulatory Authority (for short "the Authority"), in complaint No. CC00600000095950 filed by the Appellant/Allottee, whereby the complaint was dismissed as not maintainable. Being aggrieved thereby, the Appellant/Allottee has preferred instant appeal and assailed the impugned order on the grounds enumerated in the memorandum of appeal.

2. For the sake of convenience, "Appellant" will hereinafter be referred to as "Allottee", and "Respondent", will hereinafter be referred to as the "Promoter".
3. The brief facts gathered from the pleadings of the parties, impugned order and material on record revealed that the Appellant/Allottee is a Member of "Padmarekha CHS Ltd" (hereinafter referred to as "the said society") situated at Kothrud, Pune, registered on 06.12.1989. Owing to the dilapidated condition of the building, the said Society, after obtaining requisite permissions, executed development agreement dated 14.02.2019 with the Respondent/Promoter, thereby granted rights of redevelopment to the Respondent. The said real estate project is registered as "69 Padma" under Section 5 of RERA Act, 2016. The Allottee, being an existing member of the Society was to be allotted a separate apartment, Flat No. 302 having an aggregate area of 518.60 sq. ft. along with car parking space as per the approved plan. The said development agreement further



provided an option to purchase additional area of 100 sq. ft. at the rate of Rs.10,250/- per sq. ft. to be paid to the Respondent. The Allottee remitted Rs.10,25,000/- on 02.08.2021, being consideration amount for purchase additional area 100 sq. ft. in terms of development agreement. However, the Respondent/Promoter refused to accept the same on the ground that the option was not exercised within one month from the date of registration of project under RERA, as stipulated in the development agreement dated 14.02.2019.

4. It is pertinent to note that being aggrieved by the impugned order, the Allottee sought the following reliefs:
- i) To execute the agreement for sale of additional area of 100 sq. ft. in terms of Development Agreement.*
  - ii) To provide 100 sq.ft. usable carpet area in the flat No. 302 at price of Rs.10250/- per sq.ft. in terms of Development Agreement.*
  - iii) To provide open terrace of the same space as per sanctioned original plan.*
  - iv) To provide separate toilet in the master bedroom as per sanctioned original plan.*
  - v) To declare altered/amended plan as null and void which affected the area of the Appellant.*



5. The Appellant/Allottee submitted that the development agreement dated 14.02.2019 entitled him to purchase additional area upon payment of consideration amount and accordingly the Allottee remitted an amount of Rs.10,25,000/- to the Promoter. It is further contended that the Promoter failed to complete registration formalities within one month and did not provide copy of original building plan, sanctioned layout plan along with specifications of building construction. Thus, the Respondent totally ignored and violated provisions of RERA Act, 2016.
6. The Appellant/Allottee further submitted that the Promoter unilaterally altered the sanctioned plan and reduced carpet area of the allotted flat by 100 sq. ft. by removing the provisions of toilet for the master bedroom and open terrace without written consent of the Appellant which is against Section 14 (1)(2) of RERA Act and Development Control Rules of MRTP Act. It is further submitted that the Respondent failed to approach the Appellant for registration of sale agreement within one month of RERA registration.
7. The Appellant/Allottee further submitted that as per Section 3(2)(c) of RERA Act, no registration of the real estate project shall be required in case of *renovation or repair or redevelopment which does not involve marketing, advertising, selling or new allotment of any apartment, plot or building*. However, in the instant project,



flats are sold to new buyers/third parties and additional area sold to existing members of the said Society. Therefore, the Appellant claimed that he falls within the definition of 'Allottee' under Section 2(d) of RERA Act, 2016 and as aggrieved person filed complaint for violation and contravention of provisions of the RERA Act and Rules and Regulations against the Promoter.

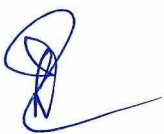
8. Per contra, the Respondent/Promoter submitted that the Appellant being member of the Society, has been allotted new flat under redevelopment component of the development agreement dated 14.02.2019 in lieu of his old premise. It is not a sale transaction between the Allottee and the Promoter and thus the appeal is non-maintainable. The Hon'ble Chairperson, MahaRERA has rightly dismissed the said complaint by recording its finding that *the role of the Authority is to regulate and promote the real estate sector to ensure efficiency and transparency such that the interest of the home buyer is protected. The said Act has consciously excluded from its scope of the registration of any redevelopment project under RERA. The very obvious reason being that the redevelopment of any real estate project involves a Society/Association of Persons who by way of a resolution appoint the Developer and the terms of contract are incorporated in a development agreement which are signed by the Members of such Society/Association of Persons. Thus, the*



*Society/Association of persons is governing body of such redevelopment project comprising of the rehab component. This, disputes with regard to the rehab component of redevelopment needs to first resolved by the Society/Association of Persons and then as per the said agreement dispute resolution mechanism therein. This Authority has no jurisdiction to interfere in any such rehab component issue of any redevelopment project; therefore, captioned complaint is dismissed as not maintainable.*

On perusal of the finding, it concludes that since the redevelopment is exempted from registration, the RERA provisions would apply only to the sale component and not to rehab component upon registration of a redevelopment project of a hybrid nature. Therefore, the present appeal is to be dismissed as non-maintainable.

9. The Respondent/Promoter further submitted that no agreement for sale has been executed between the Appellant and Respondent in respect of the subject flat. In the options of such an agreement, the Appellant/Complainant cannot be treated as 'Allottee' under RERA Act. In fact Appellant himself as a member of the said Society which owns the land, the Appellant is akin to a Co-Promoter rather than a Purchaser and Allottee as per RERA Act, 2016.



10. The Respondent/Promoter further submitted that by virtue of development agreement, a new flat No. 302 has been allotted to the Appellant in a rehab component and not in a sale component. Further, clause 25 of the development agreement provided for redressal of disputes in case of any dispute arising out of the said agreement. Any dispute regarding performance of the development agreement must therefore be adjudicated before the appropriate forum and not under the provisions of RERA Act.
11. The Respondent/Promoter further submitted that the Appellant neither challenged the said order nor sought any relief for setting aside the impugned order dated 04.07.2023. The prayer clause 7 of the appeal memo never sought relief for setting aside the final order. The Appellant has not approached the Tribunal with clean hands and he is not entitled to any kind of relief as sought under the present appeal. It is further submitted that the issue is squarely covered in the decision of the Tribunal in the appeal **Savita Ravindra Deokar Vs Bhalchandra Vinayak Wadnerkar (2021)**, wherein it has been held that:

*"15. ... in the kind of project of hybrid nature like the project relating to Appellant, erstwhile occupants or members of the society cause the redevelopment by appointing a developer. Such a project has two components (1) rehab component, and (2) sale component. Developer normally provides free of costs permanent alternate accommodations to erstwhile occupants and in lieu of that gets incentives FSI/TDR to construct sale component. Developer is allowed to sell units in the sale component to*



*subsidise costs of unit of rehab component meant for original members/tenants. As the project involves unit in sale component, such a project is required to be registered. Liability to register arises only on account of sale component. As the sanction is accorded to the whole project, the entire project mandatorily requires registration. It is often misconstrued as does the Appellants herein that on registering such a project, the RERA applies to the entire project including the rehab component. We would like to reiterate that as expressly provided U/s. 3(2)(c), since redevelopment is exempted from registration, the RERA provisions would apply only to sale component and not to rehab component upon registration of redevelopment project of hybrid nature. **In view of the foregoing reasons, we are of the considered view that a redevelopment project or rehab component of a redevelopment project of hybrid nature do not fall within the purview of the RERA and flat taker/Appellant in rehab component is not entitled to any relief as provided under the RERA.**"*

This judgment made it crystal clear that RERA applies only to the sale component and not to rehabilitation component of redevelopment projects of hybrid nature.

12. We have heard arguments of Appellant/Allottee in Person and Advocate Nilesh Borate for Respondent/Promoter. The submissions advanced by the respective parties are nothing but reiteration of the contents of complaint, affidavit in reply, appeal memo and written submissions.

13. Mr. Sudhir Mulay Appellant in person, placed his reliance on the following citation:

- i. Macrotech Developers Limited Vs. The State of Maharashtra and Ors. [Writ Petition (ST) No. 1118 of 2021] dated 1<sup>st</sup> March 2021.*



ii. *Faqir Chand Gulati Vs. Uppal Agencies Pvt. Ltd. & Anr. [Civil Appeal No.3302 of 2005] dated 10<sup>th</sup> July 2008.*

iii. *Shri Pravin Kumar Bhikhahal Patel Vs. M/s. Gunatit Infrastructure Pvt. Ltd. & Ors. [GUJRERA – dated 30<sup>th</sup> January 2025]*

14. Adv. Nilesh Borate appearing for Respondent/Promoter placed his reliance on the following citation:

i. *Maharashtra Real Estate Appellate Tribunal, Mumbai in the case of Madhusudan Chintaman Pitkar Vs. M/s. Chetna Enterprises & Anr. [Appeal No. AT1250085/2025] [dated 11<sup>th</sup> December 2025].*

ii. *Maharashtra Real Estate Appellate Tribunal, Mumbai in the case of Girish Shrikant Lad & Anr. Vs. Ashwamedh Spaces Private Limited [dated 5<sup>th</sup> January 2026]*

15. After considering the submissions advanced by Appellant/Allottee in Person and Advocate Nilesh Borate for Respondent/Promoter, pleadings of the parties, impugned order and material placed on record, the following points arise for our determination, and we have recorded our findings thereupon for the reasons to follow:

<b>Sr. Nos.</b>	<b>Points</b>	<b>Findings</b>
1.	Whether the impugned order dated 04.07.2023, passed by the Chairperson, MahaRERA, in the complaint filed by the	In the Negative

	Allottee/Appellant, warrants interference in the captioned appeal?	
2.	Whether the Allottee/Complainant is entitled to relief sought in the complaint?	In the Negative
3.	What Order?	As per final Order

### REASONS

16. Upon careful examination of the pleadings of the parties, the submissions advanced by the parties and material on record, it is clearly revealed that the Appellant is a member of "Padmarekha CHS Ltd", registered on 06.12.1989. The said Society executed development agreement dated 14.02.2019 with the Respondent, wherein the rights of redevelopment of the property of the Society were granted to the Respondent. As per the development agreement, the Appellant/Allottee, being an existing member of the said Co-operative Housing Society, was allotted Flat No. 302 admeasuring 518.60 sq. ft. along with one car parking space in lieu of the existing flat in the Society. Besides, the said development agreement provided an option to avail additional area of 100 sq. ft. against payment of consideration amount at agreed rate per sq. ft. to be paid by the Allottee. However, the said provision is subject to the condition that the option has to be availed within one month from the date of RERA registration of the said project.



17. The record reveals that the Appellant paid consideration amount to the Respondent after expiry of one month stipulated in the development agreement. The Respondent, therefore, has returned the said consideration amount on the ground that the option was not exercised within the prescribed period as per the development agreement.
18. The Appellant/Allottee further contended that the development agreement mandated completion of registration of flats along with saleable component, within one month of RERA registration, and the Appellant had paid Rs.10,25,000/- to the Respondent/Promoter as consideration amount towards purchase of additional 100 sq. ft. area. It is further contended that the Respondent/Promoter reduced the carpet area of 100 sq. ft. by excluding toilet in the master bedroom and an open terrace without consent of the Appellant, thereby violated provisions of RERA Act, 2016. We do not find merit in the contentions of Appellant/Allottee. The material on record clearly establishes that the option to acquire additional area was required to be exercised within a period of one month from the date of registration of project with RERA. The said project was registered with RERA on 29.05.2020, whereas the Allottee made payment on 02.08.2021, which was promptly returned by the Respondent within few days, as the said payment was made beyond the stipulated



period. Hence, the Appellant/Allottee failed to comply with terms of the development agreement and the Respondent was justified in rejecting the request made beyond the stipulated period.

19. The Appellant/Allottee further contended that under Section 3 of RERA Act, 2016, the project required RERA registration as flats are sold to new buyers and additional area is sold to existing members of the Society. Therefore, the Appellant qualifies as 'Allottee' under Section 2(d) of RERA Act since additional area was being sold to the existing members of the said Society. We do not find merit in the contention of the Appellant/Allottee. It is worthy to note that the Preamble of the Real Estate (Regulation and Development) Act, 2016, and Statement of Objects and Reasons of the RERA Act clearly indicates that the legislation is intended to regulate and promote transparency and efficiency in real estate sector, primarily concerning '*sale transaction*' between Promoter and flat buyers. The legislation also provided fast-track dispute redressal mechanism in furtherance of the said objective. Therefore, the protections under the RERA Act, 2016, are applicable to sale component of the project who entered into agreement for sale with the Respondent/Promoter. In other words, those who have purchased flats from the Respondent from sale component are directly governed by the provisions of RERA Act, 2016.



20. In redevelopment projects of hybrid nature, the distinction between sale component and rehabilitation component is well recognized. In the case of Savita Ravindra Deokar V/s. Bhalchandra Vinayak Wadnerkar [Appeal No.AT00600000004207], this Tribunal has held that the redevelopment projects of hybrid nature do not fall within the provisions of RERA Act, 2016. In the said judgment, this Tribunal in para-15 has observed as under:

*"15.... We would like to reiterate that as expressly provided u/s. 3(2)(c), since redevelopment is exempted from registration, the RERA provisions would apply to sale component and not to rehab component upon registration of redevelopment project of hybrid nature. In view of the foregoing reasons, we are of the considered view that a redevelopment project or rehab component of a redevelopment project of hybrid nature do not fall within the purview of the RERA and flat taker/Appellant in rehab component is not entitled to any relief as provided under the RERA."*

21. In the instant case, it is pertinent to note that there is no agreement for sale executed between the Appellant and Respondent. The Appellant acquired flat in the said project from rehabilitation component by virtue of the development agreement executed between the Co-operative Housing Society and the Respondent/Promoter. Accordingly, the transactions and contractual obligations are directly governed by the said development agreement. Any dispute arising therefrom must be enforced either individually or through the Society, in accordance with the terms of



said development agreement. The said development agreement cannot be enforced under the provisions of RERA Act, 2016. Therefore, we are of the considered view that the appeal is not maintainable under provisions of RERA Act, 2016. The disputes with regard to the rehab component of redevelopment need to be resolved by the said Society.


22. In view of the foregoing reasons, we are of the considered view that the present appeal is not maintainable under the provisions of the RERA Act, 2016. Disputes pertaining to rehabilitation component of redevelopment project are required to be resolved in accordance with the development agreement through appropriate forums. The impugned order, therefore, warrants no interference in the captioned appeal. We answer point Nos. 1 to 3 accordingly. Consequently, we proceed to pass the following order.

**ORDER**

1. Appeal No. AT006000000174633 of 2023 is dismissed.
2. Parties shall bear their own costs.
3. Copy of this order be communicated to the learned Authority and respective parties as per section 44(4) of RERA Act 2016.

  
(DR. RAJAGOPAL DEVARA)

*V. K. Bhople*

  
(SHRIRAM. R. JAGTAP)