

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

Virtual Hearing held through video conference as per  
MahaRERA Circular No.: 27/2020

**1. COMPLAINT NO. CC006000000194896**

1. DEVKUMAR RAMANI
2. MRS HEMA DEVKUMAR RAMANI
3. JEEN PRAKASH LUDHANI
4. NEHA DEVKUMAR RAMANI ...COMPLAINANTS

a/w

**2. COMPLAINT NO. CC006000000194917**

ASHISH HIRA LALWANI &  
LAXMI LUDHANI ...COMPLAINANTS

a/w

**3. COMPLAINT NO. CC006000000196381**

JYOTI NIRMAL ANAND ...COMPLAINANT

a/w

**4. COMPLAINT NO. CC006000000196392**

KAMAL K KALRA & ANITA MIRPURI ...COMPLAINANT

VS

1. PRABHAV REALTY & INFRASTRUCTURE  
PVT. LTD.
  2. SILVEX DEVELOPERS PRIVATE LIMITED ...RESPONDENTS
- (Respondent No. 2 is party in complaints at Sr. Nos. 3 & 4)*

**MAHARERA PROJECT REGISTRATION NO. P51800004072**

**Order**

June 30, 2023

*(Date of hearing mentioned in Para No.4 – matters reserved for orders)*

**Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA**

Advocate Shivani Shukla for the Complainants at Sr. No. 1 & 2  
Advocate Ooril Panchal a/w Advocate Mahesh Kukreja for the  
Complainants at Sr. No. 3 & 4

Advocate Vikramjit Garewal for Respondent No. 1 at Sr. No. 1 to 4  
Advocate Aditya Miskita for Respondent No. 2 at Sr. No. 3 & 4

1. The Complainants are home buyers and Allottees within the meaning of Section 2(d) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the “said Act”) of Real Estate Regulatory Authority (hereinafter referred to as the “RERA”) and the Respondent No. 1 is the Promoter/Developer within the meaning of Section 2(zk) of the said Act. The Respondent No. 1 is registered as the Promoter of the Project namely “SILVER SKYLINE” under section 5 of the said Act bearing **MAHARERA Project Registration No. P51800004072** (hereinafter referred to as the “said Project”). The said Project is a redevelopment project of Manish Sonal Co-operative Housing Society Ltd. (hereinafter referred to as the “Society”) which was to be earlier developed by the Respondent No. 2 namely Silvex Developers Private Limited.
  
2. On the MahaRERA Project registration webpage the proposed completion date is 31.07.2021, revised completion date is mentioned as 30.12.2022 and extended completion date is mentioned as 30.04.2023. The Project is a lapsed Project and Occupation Certificate/ Form 4 (Architect’s Certificate of Completion of Project) is not uploaded on the MahaRERA portal.
  
3. The Complainants are seeking the following reliefs:

SR. NO.	COMPLAINT NO.	RELIEFS SOUGHT
1.	CC006000000194896	<p><i>i. This Hon’ble Authority be pleased to direct the Respondent to pay interest on Rs. 2,18,78,350 /-(Two Crores Eighteen Lakhs Seventy Eight Thousand Three Hundred Fifty Only) paid by the Complainants to the Respondent from the agreed date of possession 12th November 2017 till the date of actual possession along with OC in accordance to Section 18 of the Real Estate (Regulation &amp; Development) Act 2016.</i></p> <p><i>ii. This Hon’ble Authority be pleased to direct the Respondent to execute the Sale Agreement in accordance with the provisions of the Real Estate (Regulation &amp; Development) Act 2016 and the Rules made thereunder for both flats as allotted pursuant to the Consent Terms signed and filed by the Hon’ble High Court of Bombay in Arbitration Petition (L) No: 474 of 2015 on 13th May 2015.</i></p> <p><i>iii. The Complainants are further entitled for appropriate compensation from the Respondent for the grave and irreparable loss and mental agony suffered by them from 2013.</i></p> <p><i>iv. Award the costs of these proceedings to the Complainants.</i></p> <p><i>v. Grant any other relief which this Hon’ble Authority deems fit and proper under the facts and circumstances of the present case.</i></p>
2.	CC006000000194917	<p><i>i. This Hon’ble Authority be pleased to direct the Respondent to refund the entire amount of Rs 1,07,20,000/- paid by the Applicants to the Respondent along with interest at the rate of 15% p.a. as confirmed by the respondent in its letter dated 13th May 2015 from the date of payment till the date of refund.</i></p> <p><i>ii. The Applicants are further entitled for appropriate compensation from the respondent for the grave and irreparable loss and mental agony suffered by them.</i></p> <p><i>iii. Award the costs of these proceedings to the Applicants.</i></p> <p><i>iv. Grant any other relief which this Hon’ble Authority deems fit and proper under the facts and circumstances of the present case</i></p>

SR. NO.	COMPLAINT NO.	RELIEFS SOUGHT
3.	CC006000000196381	<p>a) That this Hon'ble Tribunal be pleased to pass an order directing Respondent No.1 to pay a sum of Rs. 1,71,28,021/- being the interest payable @ 18 % p.a. from the respective dates of the payment made by the Complainant to Respondent No.2 towards part consideration of the said flat. The Complainant has prepared an interest chart till 15 March 2021 being the interest amounts payable by Respondent No.1 as per Exhibit 'J' hereto.</p> <p>b) That this Hon'ble Tribunal be pleased to direct Respondent No.1 to pay further interest on and from 16 March 2021 at the rate prescribed by RERA Act and Rules made thereunder i.e. SBI's highest MCLR + 2% on an amount of Rs. 86,00,000/- (Rupees Eighty Six Lacs Only) being the present market value of the said flat until handing over possession of said flat.</p> <p>c) That this Hon'ble Tribunal be pleased to order and direct the Respondent No.1 to prepare, execute and enter into RERA Agreements and get the said RERA Agreements registered with Sub Registrar of Assurances in respect of the said flat (as defined hereinabove) i.e. a flat bearing Flat No. 1801 on the 18th floor in 'A' Wing being a 3 bedroom hall kitchen apartment admeasuring approximately 1400 square feet carpet area along with an exclusive terrace admeasuring approximately 1400 square feet carpet area along with two stilt car parkings on land bearing CTS No. 826-B situate at J.P.Road, Manish Nagar, Andheri (West) Mumbai 400053 where-under from the total consideration of Rs. 1,80,00,000 the balance consideration of Rs. 94,00,000/- would be paid by the Complainant to Respondent No.1 after deducting the amount paid till date i.e. Rs. 86,00,000/-.</p> <p>d) That this Hon'ble Tribunal be pleased to order that in the event the Respondent No.1 fails and neglects to execute and register the RERA Agreements in favor of the Complainant within the time specified by this Hon'ble Tribunal, this Hon'ble Tribunal be pleased to pass an order directing the Secretary and/or any authorized person of this Hon'ble Tribunal to execute the RERA Agreements in respect of the said flat i.e. a flat bearing Flat No. 1801 on the 18th floor in 'A' Wing being a 3 bedroom hall kitchen apartment admeasuring approximately 1400 square feet carpet area along with an exclusive terrace admeasuring approximately 1400 square feet carpet area along with two stilt car parkings on land bearing CTS No. 826-B situate at J.P.Road, Manish Nagar, Andheri (West) Mumbai 400053, in favor of the Complainant on behalf of and at the cost of the Respondent No.1 herein and to perform their part of obligations under the RERA Act as amended.</p> <p>e) That this Hon'ble Tribunal be pleased to pass an Order of permanent injunction preventing/ restraining the Respondent No.1 acting by itself and/or through its agents, officers, representatives, servants, administrator, assigns, etc. from taking possession of and/or from in any manner selling, transferring, alienating, encumbering, dealing with and/or creating any third party right, title and/or interest in respect of the said flat i.e. a flat bearing Flat No. 1801 on the 18th floor in 'A' Wing being a 3 bedroom hall kitchen apartment admeasuring approximately 1400 square feet carpet area along with an exclusive terrace admeasuring approximately 1400 square feet carpet area along with two stilt car parkings on land bearing CTS No. 826-B situate at J.P.Road, Manish Nagar, Andheri (West) Mumbai 400053, as this Hon'ble Court deems appropriate in the facts and circumstances of the present case.</p> <p>f) That this Hon'ble Tribunal be pleased to pass an Order of permanent injunction preventing/ restraining the Respondents acting by themselves and/or through its agents, officers, representatives, servants, administrator, assigns, etc. from taking possession of and/or from in any manner selling, transferring, alienating, encumbering, dealing with and/or creating any third party right, title and/or interest in respect of any flats/shops/offices/car parking spaces in the building under construction on the said project until payment of Rs. 1,71,28,021/- (Rupees One Crore Seventy One Lac Twenty Eight Thousand Twenty One Only) (calculated along with interest until 15 March 2021) along with further interest on and from 16 March 2021 till date of possession of the said flat; by the Respondent No.1 to the Complainant;</p> <p>g) That this Hon'ble Tribunal be pleased to order and direct the Respondent No.1 to correctly incorporate exact details of amounts due and payable to the Complainant and until then the Complainant would have first charge on the said project property, in its Title Certificate, draft Agreement to be executed with its prospective flat purchasers and in its details of encumbrances uploaded in the website of this Hon'ble Authority within 30 days from the date of the order and also to order and direct the Respondent No.1 to erect a Board; at a conspicuous location on the said project property, intimating public at large about the factum of the Complainant having a charge on the said project property and/or permit the Complainant to erect a Board on</p>

SR. NO.	COMPLAINT NO.	RELIEFS SOUGHT
		<p><i>the said project property intimating public at large, the factum of Complainant having a charge on the said project property forthwith;</i></p> <p><i>h)In the alternative to all above prayer clauses above and only in the only in the event that the said prayer clauses cannot be granted, this Hon'ble Tribunal be pleased to revoke the registration granted to the Respondent No.1 in respect of the said Project and to hold that the Respondent No.1 cannot create any third party rights in respect of any unsold flats in the said project until payment of the amounts payable to Complainant as prayed for hereinabove;</i></p> <p><i>i)That this Hon'ble Tribunal be pleased to direct the Respondent No.1 to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) towards cost of the present Complaint i.e. as compensation to be provided for the mental trauma, loss of time, hardship caused to Complainants and the notional losses, legal fees incurred within one month from the date of disposal of the present Complaint;</i></p> <p><i>That this Hon'ble Tribunal be pleased to penalize the Respondent as per section 60 of RERA Act for giving false information as per section 4 of the Act;</i></p>
4.	CC00600000196392	<p><i>(a) That this Hon'ble Tribunal be pleased to pass an order directing Respondent No.1 to pay a sum of Rs. 86,57,366/- (Rupees Eight Six Lacs Fifty Seven Thousand Three Hundred Sixty Six only) being the interest payable @ 18 % p.a. from the respective dates of the payment made by the Complainants to Respondent No.2 towards part consideration of the said flat. The Complainants have prepared an interest chart till 15 March 2021 being the interest amounts payable by Respondent No.1 as per Exhibit 'J' hereto.</i></p> <p><i>(b) That this Hon'ble Tribunal be pleased to direct Respondent No.1 to pay interest on and from 15 March 2021 at the rate prescribed by RERA Act and Rules made thereunder i.e. SBI's highest MCLR + 2% on an amount of Rs. 44,55,000/- (Rupees Forty Four Lacs Fifty Five Thousand Only) being the present market value of the said flat until handing over possession of said flat.</i></p> <p><i>(c) That this Hon'ble Tribunal be pleased to order and direct the Respondent No.1 to prepare, execute and enter into RERA Agreements and get the said RERA Agreements registered with Sub-Registrar of Assurances in respect of the said flat (as defined hereinabove) i.e. a flat bearing Flat No. 1601 on the 16th floor in 'A' Wing being a 2 bedroom hall kitchen apartment admeasuring approximately 935 square feet carpet area along with one stilt car parkings on land bearing CTS No. 826-B situate at J.P.Road, Manish Nagar, Andheri (West) Mumbai 400053 whereunder from the total consideration of Rs. 92,38,000/- (Rupees Ninety-Two Lacs Thirty-Eight Thousand only) the balance consideration of Rs. 47,83,000/- would be paid by the Complainants to Respondent No.1 after deducting the amount paid till date i.e. Rs. 44,55,000/-.</i></p> <p><i>(d) That this Hon'ble Tribunal be pleased to order that in the event the Respondent No.1 fails and neglects to execute and register the RERA Agreements in favor of the Complainants within the time specified by this Hon'ble Tribunal, this Hon'ble Tribunal be pleased to pass an order directing the Secretary and/or any authorized person of this Hon'ble Tribunal to execute the RERA Agreements in respect of the said flat i.e. a flat bearing Flat No. 1601 on the 16th floor in 'A' Wing being a 2 bedroom hall kitchen apartment admeasuring approximately 935 square feet carpet area along with one stilt car parkings on land bearing CTS No. 826-B situate at J.P.Road, Manish Nagar, Andheri (West) Mumbai 400053, in favor of the Complainants on behalf of and at the cost of the Respondent No.1 herein and to perform their part of obligations under the RERA Act as amended</i></p> <p><i>(e) That this Hon'ble Tribunal be pleased to pass an Order of permanent injunction preventing/ restraining the Respondent No.1 acting by itself and/or through its agents, officers, representatives, servants, administrator, assigns, etc. from taking possession of and/or from in any manner selling, transferring, alienating, encumbering, dealing with and/or creating any third party right, title and/or interest in respect of the said flat i.e. a flat bearing No. 1601 on the 16th floor in 'A' Wing being a 2 bedroom hall kitchen apartment admeasuring approximately 935 square feet carpet area along with one stilt car parkings on land bearing CTS No. 826-B situate at J.P.Road, Manish Nagar, Andheri (West) Mumbai 400053, as this Hon'ble Court deems appropriate in the facts and circumstances of the present case;</i></p> <p><i>(f) That this Hon'ble Tribunal be pleased to pass an Order of permanent injunction preventing/ restraining the Respondents acting by themselves and/or through its agents, officers, representatives, servants, administrator, assigns, etc. from taking possession of and/or from in any manner selling, transferring, alienating, encumbering, dealing with and/or creating any third party right, title and/or interest in respect of any flats/shops/offices/car parking spaces in the building under construction on the said project until payment of Rs. 86,57,366/- (Rupees Eight Six Lacs Fifty Seven Thousand Three Hundred Sixty Six only) (calculated along with</i></p>

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		<p>interest until 15 March 2021) along with further interest on and from 16 March 2021 till date of possession of the said flat; by the Respondent No.1 to the Complainant;</p> <p>(g) That this Hon'ble Tribunal be pleased to order and direct the Respondent No.1 to correctly incorporate exact details of amounts due and payable to the Complainants and until then the Complainants would have first charge on the said project property, in its Title Certificate, draft Agreement to be executed with its prospective flat purchasers and in its details of encumbrances uploaded in the website of this Hon'ble Authority within 30 days from the date of the order and also to order and direct the Respondent No.1 to erect a Board; at a conspicuous location on the said project property, intimating public at large about the factum of the Complainants having a charge on the said project property and/or permit the Complainants to erect a Board on the said project property intimating public at large, the factum of Complainants having a charge on the said project property forthwith</p> <p>(h) In the alternative to all above prayer clauses above and only in the only in the event that the said prayer clauses cannot be granted, this Hon'ble Tribunal be pleased to revoke the registration granted to the Respondent No.1 in respect of the said Project and to hold that the Respondent No.1 cannot create any third party rights in respect of any unsold flats in the said project until payment of the amounts payable to Complainants as prayed for hereinabove</p> <p>(i) That this Hon'ble Tribunal be pleased to direct the Respondent No.1 to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) towards cost of the present Complaint i.e. as compensation to be provided for the mental trauma, loss of time, hardship caused to Complainants and the notional losses, legal fees incurred within one month from the date of disposal of the present Complaint;</p> <p>(j) That this Hon'ble Tribunal be pleased to penalize the Respondent as per section 60 of RERA Act for giving false information as per section 4 of the Act;</p>

4. The captioned complaints were heard by this Authority on the following dates respectively wherein the following roznamas were recorded:

SR. NO.	COMPLAINT NO.	DATE OF ROZNAMA	ROZNAMA REPRDUCED
1.	CC006000000194896		<p>"Both Parties are present.</p> <p>The Complainant avers that they had booked a flat with the Developer Silvoex in 2008 for which they paid part consideration of around Rs. 84 Lakhs. Subsequently, the erstwhile Developer Silvoex offered them an alternate flat in a redevelopment scheme which they accepted and certain further payments were also made. In the year 2014 the Society undergoing redevelopment terminated the development agreement of Silvoex and a new development agreement came to be executed with the current Respondent as the Developer. The Complainant avers that they were not a Party to this. Subsequently, a fresh set of consent terms were signed and a new allotment letter was given by the present Developer namely the Respondent. This was executed on 13.05.2015 wherein date of completion was promised to be 24 months. The letter also stated how the various remaining instalments towards consideration were to be paid. The Complainant however, avers that instalments were asked even though the milestones set had not been achieved. The Complainant now seeks execution of agreement for sale, possession, interest for delay and compensation. The Respondent avers that consent terms have been executed before the High Court and the higher terms payable were in fact decided in the Hon'ble High Court. The consent terms in Clause 8 clearly state that all the claims will be addressed by Silverex the erstwhile Developer. The Respondent further avers that they were called upon to execute the agreement for sale in 2015 and also subsequently which the Complainant never came forward. The Respondent also avers that around Rs. 83 Lakhs consideration is still outstanding from the Complainant and they have not paid the same. The Respondent avers the delays have taken place because of Society not assigning them the right which were as per the consent terms before the High Court.</p>
2.	CC006000000194917	01.02.2023	

SR. NO.	COMPLAINT NO.	DATE OF ROZNAMA	ROZNAMA REPRDUCED
			<p>The Complainant avers that they did seek the agreement for sale but were given the same with the revised date of possession which was not acceptable to them.</p> <p>Parties are at liberty to file written submissions, if any, by 13.02.2023. Subsequent to which, the matter will be reserved for orders."</p>
3.	CC006000000196381		<p>""All parties are present.</p> <p>The Complainant avers that a letter of allotment dated 15.05.2009 was executed by Respondent No. 2 - the erstwhile Developer, now Respondent No. 1 has stepped in as the current Developer. The Complainant had paid around Rs. 30 Lakhs at the time of letter of allotment and the further Rs. 56 Lakhs and in the aggregate has paid over Rs. 86 Lakhs. The date of possession was given as 31.12.2011. The Complainant avers that in 2012 the Project stopped and they were not able to communicate with the Promoter. Subsequently, a purported email was sent by Respondent No. 2 to the husband of the Allottee and not the Allottee himself which involved changing the terms of the agreement. The Complainant avers that the consent terms were signed between Respondent No. 1, Respondent No. 2 and the Society and they are now being asked to make higher payments against a lower area. The Complainant seeks execution of agreement for sale and also interest to be paid for the amounts paid by him and the delays therein. On the issues of the Complainant at Sr. No. 7 the facts of the case remain same except for the fact that the Complainant No. 7 did not even receive the email purported have been sent by the Respondent No. 2.</p>
4.	CC006000000196392	08.03.2023	<p>Respondent No. 1 avers that this as a society redevelopment Project undertaken by the Respondent No. 2 - the erstwhile Developer. This development agreement was terminated by the Society. The matter was taken up by the Bombay High Court as Society had appointed the Respondent No. 1 in 2015 to complete the Project. An arbitration proceeding took place subsequent to which 2 consent terms were signed - 1. Between Respondent No. 1, Respondent No. 2 and the Society and second between Respondent No. 1, Respondent No. 2, Society and the majority of the flat purchasers. The consent terms have been acted upon by the Parties and the same have also been filed before the High Court. The consent terms fundamentally gave 2 options to the Allottees namely to either pay escalation and continue in the Project and in case not willing to pay escalation then to take refund and claim the interest from Respondent No. 2. All flat purchasers were sent letters. The Respondent No. 1 further avers that from 2011 nothing has been paid by the Complainant further to an email dated 25.04.2015 a detailed computation giving the exact escalation involved was also sent on the mail address given by the Allottee. Th Respondent also avers that there was a group represented by the Allottee which also attempted to negotiate the escalation but it did not conclude as no response was forth coming.</p> <p>Th Respondent No. 1 says that Section 15 of RERA does not apply here as the consent terms were taken before the High Court in 2015 which is pre-RERA. The Respondent states that in case there are certain issues regarding interest then the same forms a part of liabilities of Respondent No. 2. The Respondent No.1 is today unable to offer terms different to those offered to other Allottees. The demand letters issued from 2015 onwards have also not been responded to by the Complainant. The Respondent No. 1 also states that RERA in no way leaves the Complainant remediless and there are other laws with provisions under which the Complainant can seek redressal.</p> <p>The Respondent No. 2 states that this is a misjoinder of Parties and that he is not a necessary Party as he has handed over the Project to Respondent No. 1 and as such Respondent No. 2 is not a Promoter anymore. In fact, the handing over took place prior to RERA. The Respondent No. 2 further avers that a scheme was formulated way</p>

SR. NO.	COMPLAINT NO.	DATE OF ROZNAMA	ROZNAMA REPRDUCED
			<p>back at the time of transfer of Project from Respondent No. 2 to Respondent No. 1 and today after 7-8 years the Complainants cannot come forward seeking compensation from the Respondent No. 2. The Respondent No. 2 avers that since he was dealing with the Project prior to RERA he was never a Promoter as defined and envisaged under RERA.</p> <p>The Complainant reiterates that they are not part of any group negotiating the terms and instead they have individual agreements and they seek performance of the same. There is no letter or any other document to show that they were represented by a particular person as a part of a group. In the consent terms and deed of assignment the term escalation is not mentioned.</p> <p>Parties are at liberty to file written submissions, if any, by 23.03.2023. Subsequent to which, the matter will be reserved for orders “</p>

5. The brief facts and submissions of the parties are as follows:

SR. NO.	COMPLAINT NOS./ COMPLAINT FILING DATE	FLAT / BUILDING NO.	DATE OF AL <sup>1</sup>	TOTAL CONSIDERATION (INR)	TOTAL AMOUNT PAID (INR)
1.	CC006000000194896 12.11.2020	1004/2003 & 2002	13.05.2015	1,94,03,350 & 98,75,000	2,08,78,350 (combined as per CT <sup>2</sup> )
2.	CC006000000194917 13.11.2020	1702 & 1802	13.05.2015	1,16,50,000 & 1,12,75,000	85,20,000 (combined as per CT)
3.	CC006000000196381 19.03.2021	1801	15.05.2009	1,80,00,000	86,86,520 (as per complaint)
4.	CC006000000196392 19.03.2021	1601	15.05.2009	92,38,000	44,55,000 (as per complaint)

6. The submissions of all the Parties herein are perused and taken on record by the Authority. However, before moving ahead, the following dates and events are noteworthy:

DATES	EVENTS
13.05.2008	A development agreement was executed between the Society and the Respondent No. 2 herein for redevelopment of the existing building and constructing the said Project.
Dates not submitted	Allotment letter issued to Complainants at Sr. No. 1 by the Respondent No. 2 herein for flat Nos. 103, 502, 503, 1602, 1702, 1805, 1905 & 2004 (no further details submitted).
	Allotment letter issued to Complainants at Sr. No. 2 by the Respondent No. 2 herein for flat Nos. 1702 & 1802 with one car park (no further details submitted).
15.05.2009	Allotment letter issued to Complainant at Sr. No. 3 by the Respondent No. 2 herein (details mentioned in table at para No. 5 hereinabove, copy not uploaded).
15.05.2009	Allotment letter issued to Complainant at Sr. No. 4 by the Respondent No. 2 herein (details mentioned in table at para No. 5 hereinabove, copy not uploaded).
31.01.2015	Termination Notice issue by the Society to the Respondent No. 2.

<sup>1</sup> AL- Allotment Letter

<sup>2</sup> CT -Consent Terms

16.03.2015	Respondent No. 2 filed an arbitration petition No.(l) 474 of 2015 before the Hon'ble Bombay High Court against the Society (" <b>said arbitration petition</b> ").
09.05.2015	The said arbitration petition was disposed of pursuant to consent terms being filed between the Respondents herein along with Society and also between the Complainants at Sr. Nos. 1 & 2 (" <b>said consent terms</b> ").
13.05.2015	
13.05.2015	Fresh allotment letters were issued to Complainants at Sr. No. 1 by the Respondent No. 1 herein with new flats numbers and with escalated prices ( <i>mentioned in table at para No. 5 hereinabove</i> ).
13.05.2015	Fresh allotment letters were issued to Complainants at Sr. No. 2 by the Respondent No. 1 herein with escalated prices for the flats retained from old allotments ( <i>mentioned in table at para No. 5 hereinabove</i> ).
29.07.2017	The Respondent No. 1 applied for seeking the said Project registration before MahaRERA.
07.08.2017	The Respondent No. 1 was granted the said Project registration.
28.03.2018	A deed of assignment was executed between the Respondents and the Society assigning the entire development rights to the Respondent No. 1 herein (" <b>said assignment deed</b> ").
12.11.2020	The complaint at Sr. No. 1 was filed by the Complainants at Sr. No. 1 against the Respondent No. 1 seeking reliefs mentioned in table at para No.3 hereinabove.
13.11.2020	The complaint at Sr. No. 2 was filed by the Complainants at Sr. No. 2 against the Respondent No. 1 seeking reliefs mentioned in table at para No.3 hereinabove.
19.03.2021	The complaints at Sr. Nos. 3 & 4 were filed by the Complainants at Sr. Nos. 3 & 4 against the Respondent Nos. 1 & 2 seeking reliefs mentioned in table at para No.3 hereinabove.

7. From the facts and the submissions, the issues that needs to be considered are as follows:
- a. *Whether the Complainants are entitled to seek reliefs under Section 18 of the said Act?*
  - b. *Any other order?*
8. From the above enumeration it is very clear that certain events have taken place before the advent of RERA and there are events that have taken place after RERA was notified. In the pre-RERA period, a development agreement was executed between the Society and Respondent No.2. Subsequently the Society terminated the development agreement. Upon the termination of the development agreement an arbitration proceeding took place before the Hon'ble Bombay High Court which culminated in the execution of said consent terms.
9. Some of the terms that were agreed upon under the said consent terms executed between the Respondents herein along with Society and the Complainants at Sr. Nos. 1 & 2 on 13.05.2015 before the Hon'ble Bombay High Court in the said arbitration petition are reproduced hereinbelow:

*"8. The Petitioners further agree and undertake to Hon'ble Court that in the event any claim or demand is made against the Respondent No. 2, and/or on respect of any of the flats, they will defend such claims/demands on their own cost and shall indemnify and shall keep indemnified the Respondent No. 2 against such claim/demand, loss/damages that may be suffered by the Petitioners as well as all cost, charges and expenses that may be incurred by the Respondent No. 2 to defend such claims or demands.*

*10. The Petitioners and Respondent No. 2 confirm that the allotment of Flat Nos. 1904/2003 and 2002 (collectively called "the said flats") along with exclusive right to use 4 (four) Car Parking Spaces ("said Car Parking Spaces") in favour of Respondents Nos. 3 to 6 as set out hereinafter in the proposed building to be named as "Silver Skyline" being constructed on the land bearing CTS No. 826 and 827 of village Ambivali pursuant to Development Agreement dated 13.05.2008 made between Respondent No. 1 Society and the Petitioners is valid, subsisting and binding upon them.*

*11. Respondent No. 2, at the request of the Petitioners and Respondent No. 3 to 6, agree to honour allotment of the aforesaid flats right to use 4 Car Parking Spaces and enter into and register formal Agreement for Sale in respect thereof with the Respondent No. 3 to 6 or such of them as may be directed by them. The details of the said flats, carpet area thereof, total consideration, amount received, balance payable and no. and nature of car parking spaces is set out hereunder...*

*13. In view of the consent terms and allotment letters executed in respect of the said premises, the earlier allotment made by the Petitioner to the Respondent No. 3 to 6 in respect of the remaining flats, i.e. Flat Nos., 103, 502, 503, 1602, 1702, 1805, 1905 and 2004 is cancelled. It is hereby clarified that the aforesaid cancellation shall not affect the rights of Respondent No. 7 & 8 in Flat no. 1702 as provided in Clause 18 herein below. Respondent No. 3 to 6 confirm that credit of the payment, if any, made in respect of the above cancelled flats is given in Flat Nos. 1904/2003 and 2002.*

*20. by separate Consent Terms of even date made between the Petitioners and Respondent No. 1 and 2, dispute with the Society being Respondent No. 1 herein is settled. Agreed, ordered and declared that the benefits of the said Consent Term in respect of the Premises set out hereinabove will ensure to the benefit of Respondent Nos. 3 to 6 subject to the Respondent Nos. 3 to 6 paying balance consideration and other amounts as per the agreed terms."*

10. It is also an admitted fact that none of the Complainants have executed agreements for sale with either of the Respondents herein. The only document that the Complainants hold as on date are the letters of allotment towards the apartments allotted to each and further the records of the payments made by each of them. The allotment letters of Complainants at Sr. Nos. 1 & 2 issued by Respondent No. 1 after the execution of the said consent terms mentions not only the escalated consideration amounts to be paid by them but also the new apartment numbers allotted to them. It is also observed that Complainants at Sr. Nos. 3 & 4 claim to have only the original allotment letters without any further documents indicating escalated amounts to be paid or the numbers of new apartments to be allotted. Even the original allotment letters claimed by the Complainants at Sr. Nos. 3 & 4 which have been issued by the Respondent No.2 herein have not been uploaded by them.

11. It is pertinent to note that the fresh allotments issued by the Respondent No. 1 to the Complainants at Sr. Nos. 1 & 2 at para No.5 stated as follows:

*"5. Subject to force majeure as well as other circumstances beyond our control including Policy of the Government/MCGM and sanction of the plans and requisite permission in time, we propose to complete the building and offer possession within a period of 24 months from the date hereof with a grace period of 6 months."*

12. It is pertinent to note that the said assignment deed at recital W stated the following:

*"W. The Assignee/ Developer confirms that they will carry out and complete the construction and offer possession of the premises to the existing members of the society within the period stipulated here under read with Development Agreement dated 13.05.2008 and the Terms dated 13.05.2015 subject to force majeure and/or other circumstances beyond the control of the Assignee. The Society confirms that period of 21 months during which the Assignee/ Developer could not get permission to carry out construction will not be taken into consideration while calculating the aforesaid period."*

13. It is thus clear that subsequent to the said consent terms filed as a result of the said arbitration petition the transactions between the Parties were to be carried out as per the said consent terms. These said consent terms were agreed upon and executed subsequent to an arbitration plea under the oversight of the Hon'ble Bombay High Court. These said consent terms predate the notification giving effect to the said Act. With these said consent terms on record, the Parties today have no option but to follow the terms as envisaged and laid out therein. As mentioned above the said consent terms have very clearly dealt with the escalation amounts, the completion dates and such other items that are necessary to conclude a real estate project. The Parties should have executed sale deeds / agreement for sale in keeping and in line with these consent terms. With these said consent terms on record the Authority has no mandate to interpret them and adjudicate upon the manner and the conditions that should be a part of the sale deed / agreement for sale to be executed between the Parties. These said consent terms were executed before the advent of RERA and as a part of the arbitration proceedings. Thus, issues relating to its interpretation cannot be a part of an adjudication process of this Authority.

14. The Complainants at Sr. Nos. 1 & 2 and the Respondent No.1 must hence proceed to execute the agreement for sale as laid out in the said consent terms. The Authority sees no reason to intervene in the same. With respect to reliefs under Section 18 for the Complainants at Sr. No. 1 & 2 it is to be noted that subsequent to the said consent

terms no document has been executed between the Parties to enable the Authority to adjudicate upon reliefs that they may be entitled to under Section 18 of the said Act. The Parties are seeking reliefs under Section 18 based on allotment letters which were issued prior to RERA. Not only were these allotment letters issued prior to RERA but further the said consent terms executed have overtaken the recitals in the allotment letters. The said consent terms have clearly laid out the profile of the relationship between the Respondent No. 1 herein and the Allottees i.e. the Complainants at Sr. Nos. 1 & 2 herein. The said consent terms have further gone and have also set out the manner in which any prior claims and liabilities would be sought and the Party against whom the same shall be executable. With the executing of the said consent terms a curtain has fallen on all events before that and it is the said consent terms that shall now hold ground and any other document subsequent to this. With these being the facts, the Authority observes that the allotment letter cannot be the basis for determining whether a grievance exists and for which a remedy should be granted. Hence the issue at **para No. 7(a)** is answered in the **negative**.

15. The Complainants at Sr. N so. 1 & 2 have also sought reliefs with regard to an order of permanent injunction and restraining of the Respondent No. 1 from disposal of their apartments. Since the Parties have failed to take action subsequent to the said consent terms which has resulted in them failing to re-establish their rights and obligations it would not be prudent to issue any injunction orders. Hence the issue at **para No. 7(b)** is answered in the **negative**.
16. In view of the above Complainants at Sr. Nos.1 & 2 and the Respondent at Sr. No. 1 are directed to take such steps to execute the agreement for sale in keeping with the said consent terms.
17. In the complaints at Sr. Nos. 3 & 4 the Complainants have failed to provide the original allotment letters. However, the Authority also notes that the availability of the allotment letters has not been challenged. The Authority would therefore assume that in view of the fact that there is no challenge to the statement being made by the Complainants Nos. 3 & 4, the allotment letters exist. However, since the Authority is

not privy to the allotment letters it would not be able to adjudicate upon the grievances sought to be redressed. Further since the said consent terms are on record, the Authority will limit itself to directing the Parties to abide by the said consent terms while moving ahead in the matters.

18. Thus, in view of the above, all the captioned complaints are disposed of. No order as to costs.
19. Further the said Project is lapsed and the Respondent No. 1 has taken no steps till date to seek any extension. This Authority shall keep the said Project registration in **abeyance** and the Respondent shall not advertise, market, book, sell or offer for sale, or invite person/s to purchase in any manner any apartment in the said Project till the Respondent No. 1 obtains extensions of the said Project from MahaRERA.

**(Ajoy Mehta)**  
**Chairperson, MahaRERA**