



**KERALA REAL ESTATE REGULATORY AUTHORITY
THIRUVANANTHAPURAM.**

**Complaint No: 199/2023
Dated 9th February, 2024**

Present: Sri. P. H Kurian, Chairman
Dr. B. Sandhya, Member

Complainant

Villa and Plot Owners of Malabar Hills,

Address for Service of communications:
Beena V Menon, Villa No 42,
Malabar Hills, Kakooth,
Perinthalmanna, Kerala-679322

Respondent

Oak Hill Land Developers / Malabar Developers,
Represented by Abdul Salam T.V.
S/o Avaran Kutty Haji
Tharavattath, Post Arikkulam,
Quilandy, Kozhikkode

Office address:
Malabar Group Head Quarters,
Montana Estates, Peringolam P.O.
Kozhikkode.673571

[By Adv.Sameer Kharim]



The above Complaint came up for online hearing on 09.2.2024. Three villa owners represented the Complainant. Adv. Sameer Kharim appeared for the Respondent.

ORDER

1. According to the Complaint and the three villa owners present in the hearing, they are plot and villa owners in the villa project, namely Malabar Hills, Kakooth at Perinthalmanna, in Malappuram District, promoted by the Respondent. According to them the villa project was started in the year 2008-2010 and still not completed and the Respondent has not completed the K-RERA registration. The Complainant prays for direction to the Respondent to complete all mandatory pending works and to complete the K-RERA registration.

2. The Counsel for the Respondent submitted that the Complaint filed in Form-M itself is defective as the name of Complainant and the signatory to the Complaint are different persons. The Complaint is in the name of 'Villa and Plot Owners of Malabar Hills' which is not a registered association of allottees and the signatory to the Complaint is one Beena V Menon, one of the villa buyers.

3. When the Complaint came up for hearing on this day, this Authority considered the limited question of admissibility of the



Complaint in view of the contention of the Respondent that the Complaint filed was not as per Section 31 r/w Section 2(zg) of the Real Estate (Regulation and Development) Act, 2016 [herein after referred to as the Act, 2016] as the same was preferred by an individual raising independent claims in the name of 'Villa and Plot Owners of Malabar Hills' which is not a registered association of allottees and in such situation, the above Complaint is liable to be dismissed at the threshold. In the Authorization filed by Beena V Menon, on behalf of 'Villa and Plot Owners of Malabar Hills' in Form 7 of the Real Estate Regulatory Authority (General) Regulations 2020, three representatives are authorized to appear on behalf of 'Villa and Plot Owners of Malabar Hills', and it is submitted that they do not have an association and hence do not have a registration certificate. The authorization as per Form 7 of the Regulation is intended for the purpose of representing the Complainant in the hearing etc, and not to regularize the lacuna in filing the Complaint in the name of a different entity other than the signatory to the Complaint. Here the authorization is filed with respect to a Complaint which is not in order.

4. Section 31 of the Act, 2016 stipulates as follows:

31.(1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules



and regulations made thereunder against any promoter allottee or real estate agent, as the case may be.

Explanation.—For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

(2) The form, manner and fees for filing complaint under sub-section (1) shall be such as may be specified by regulations.

5. As per Section 31 of the Act, 2016, any person aggrieved, which includes the Association of Allottees can file a Complaint with the Authority. In this particular case, the Complainant, a buyer, has approached this Authority, by a different name, 'Villa and Plot owners of Malabar Hills' which is not a registered Association of Allottees, to consider their grievances through a Complaint as regards the common area development and utilization is concerned. This Authority explained the position of law to the buyers present in the hearing and they were convinced about the legal position and agreed to file Complaint afresh.

6. After hearing the representatives of the Complainant and the learned Counsel for the Respondent and perusing the documents produced, the Authority hereby dismisses the Complaint at the threshold with liberty to the Complainant to file fresh Complaint in the proper form through the Association of



Allottees or by individual Allottees. The Registry shall also be vigilant while scrutinizing the Complaints, with regard to its admissibility, in future.

Sd/-
Dr. B. Sandhya
Member

Sd/-
P. H. Kurian
Chairman

True Copy/Forwarded By/Order/



Secretary (Legal)

