



**KERALA REAL ESTATE REGULATORY AUTHORITY  
THIRUVANANTHAPURAM**

**Complaint No: 204/2022**

Present: Sri. P. H. Kurian, Chairman.  
Smt. Preetha P. Menon, Member

**Dated 5<sup>th</sup> April 2024**

**Complainant**

1. Royal Mangrove Apartment Owners Association  
Royal Mangrove, Sarovaram Biopark Road  
Kozhikode 673020  
Represented by Secretary  
Ravi Gupta

**Respondents**

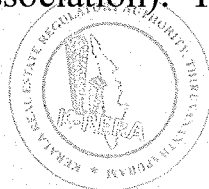
1. M/s Malabar High View Builders P Ltd.  
16/201 O, Montana Estate  
Peringolam P.O  
Calicut 673571.
2. Shafeekh Veerankutty Safiya  
Director, Malabar High View Builders P Ltd  
Calicut 673571.
3. Abdul Yashir Adi Raja  
Director, Malabar High View Builders P Ltd  
Calicut 673571.



4. Abdul Salam Tharavattath  
Director, Malabar High View Builders P Ltd  
Calicut 673571.

### **ORDER**

1. The above Complaint was filed by the Apartment Owners Association, 'Royal Mangrove' at Eranhipalam, Kozhikode submitting that the Respondent/promoters has handed over the building on June 2017 and it has been occupied by the members of the Complainant association on various dates. There are 49 apartments in the project and all the flats were purchased by the complainants individually on various dates. The complainant further stated that the Respondent had charged Rs 2 lakh per car park from all the buyers and allotted one park for each buyer. The Respondent further states that roof sheets were erected on the adjoining compound wall for 32 car parks which was not part of the sanctioned plan and it is a total violation of the building rules of Kerala as well as RERA rules. The space allotted for car parking is lesser than the stipulated size determined by the building rules. The Complainant submitted that the Respondents are bound to build and allot the sufficient car parks without demanding additional cost from the flat owners. The Complainant further submitted that the Respondents had collected a sum of Rs 24.5 lakhs from the flat owners for the corpus fund of the association (Royal Mangrove Apartment Owners Association). The Respondents had initially



managed the maintenance for 17 months and after deduction, the Respondents had to return a sum of Rs 8 lakhs to the Association by February 2018. The complainant submitted that the Respondents had only returned in part sums of Rs 2 lakh on various dates taking over 3 years for the same. Rs. 54,000/- is to be returned by the Respondent to the Complainant towards interest @18% p.a. The completion/occupancy certificate of the project was issued on June 2017. The reliefs sought by the Complainant were as follows:-

- i) To return the balance refund of Rs 54,000/- towards interest at the rate of 18% from February 2018 (the date on when the entire amount is due till date of refund) to the association.
- ii) Direct the Respondent to remove the unauthorized and ineligible allotment of car park adjacent to the compound wall erected with the roof sheet and make it common for the flat owners while providing separate car parks of stipulated dimensions to each flat owner.
- iii) Reimburse the cost of swimming pool repairs and rectification of defects towards safe use for residents without physical injury and risk to life.

2. The Authority issued show-cause notice dated 19.11.2022 to the Respondent/Promoters calling explanation as to why penal actions shall not be initiated under section 59 (1) of the Kerala Real Estate Regulation and Development Act, 2016 [hereinafter referred to as 'the Act, 2016'] for not registering the



project “Royal Mangrove” under Section 3 of the Act, 2016. The Respondents/Promoters stated that the project was completed as early on 05.10.2015 and had proceeded on the basis of deemed occupancy as on 30.10.2015 as contemplated under Rule 22(3) of Kerala Municipality Building Rules, 1999 and the project will not come under the purview of the Act, 2016. The Respondents further contented that the application for the Occupancy certificate was given to the Kozhikode corporation on 14.10.2015. The Respondents had obtained physical copy of deemed occupancy of the project vide certificate dated 30-05-2017, wherein the date of completion of the project was specifically noted as 05.10.2015 and argued that since the project was completed much before the date on which the Act, 2016 came in to force, not liable to be registered under Section 3 of the Act, 2016, before the Authority.

3. This Authority passed order dated 27.03.2023 directing the Respondents/Promoters to register the project before the Authority under section 3 of the Act, 2016 within 30 days from the date of receipt of the said order, failing which the Authority would be constrained to proceed against the Respondent/Promoter as provided under Section 59 of the Act 2016.

4. The order of this Authority dated 27.03.2023 in the above Complaint was challenged by the Respondents in Appeal before the Hon’ble Kerala Real Estate Appellate Tribunal [herein



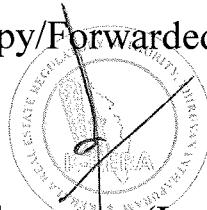
after referred to as 'the Appellate Tribunal'] and vide order dated 17.01.2024 in REFA No. 34 of 2023, the Appellate Tribunal allowed the appeal and set aside the order passed by this Authority dated 27.03.2023 on the finding that the project is not an ongoing project liable to be registered under Section 3 of the Act, 2016 and that was a finished and completed project before coming into force of Section 3 of the act, 2016.

5. In view of the above facts and findings, the above Complaint is hereby dismissed as not maintainable before this Authority.

Sd/-  
Preetha P. Menon  
Member

Sd/-  
P.H. Kurian  
Chairman

True Copy/Forwarded By/Order/



Secretary (Legal)

