

BEFORE THE  
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY  
MUMBAI

1. COMPLAINT NO. CC006000000141077  
Cheshire Flat Owners Association
2. COMPLAINT NO. CC006000000001409  
Karan Anil Ghai
3. COMPLAINT NO. CC006000000044227  
Mohit Sureka and Sonal Sureka
4. COMPLAINT NO. CC006000000055063  
Vinay Soundade and Heera Chile
5. COMPLAINT NO. CC006000000089967  
Manish Jagdish Chheda
6. COMPLAINT NO. CC006000000055379  
Admind Media Solutions

... Complainants

Versus

Aanya Realtors  
MahaRERA Regn. No. P51700006040

... Respondent

**Coram:** Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainants (1) and (3) were themselves present.  
Complainant (2) did not appear.  
Complainants (4) were themselves present a/w Adv. Shraddha Patil.  
Complainant (5) was represented by Adv. Sanjay Rego a/w Adv. Niti Panchasara (i/b. Deven Dwarkadas and Partners).

Respondent, Mr. Rohit Chugani, Partner, was himself present.

**Final Order (Rectified)**

March 11, 2020

*[In Order dated February 03, 2020, complaint bearing no. CC006000000055379 was inadvertently not mentioned, which is hereby suo-motu rectified by this Order dated March 11, 2020, under section 39 of the Real Estate (Regulation and Development) Act 2016]*



1. The Complaint bearing no. CC006000000141077 has been filed by the association of allottees of the Respondent's project 'FALCO CHESHIRE' situated at Ambivali, Kalyan under the provisions of Section 7 of the Real Estate (Regulation and Development) Act, 2016. The Complainant has stated that the Respondent's project registration be revoked or the promoter may be allowed to complete the project completion as per the consent terms signed between the said association and the Respondent.
2. As per MahaRERA Order no. 8/2019 dated March 29, 2019 on Revocation of Registration of Project, all the Complaints filed against the said project viz; CC006000000001409, CC006000000044227, CC006000000055063, CC006000000055379 and CC006000000089967 were clubbed together and heard along with the present Complaint.
3. The Respondent explained that construction work of the project could not be completed because of reasons which were beyond the Respondent's control. Further, he submitted that the project completion can now be completed if the allottees resume making the payments that are due for completing the work of the project.
4. The Complainants and their representatives submitted that the said association, which consists of more than 51% of the allottees in the said project, has formulated new terms and conditions to be adhered to by the parties in the interest of project completion.
5. In Complaint nos: CC006000000001409 and CC006000000044227, MahaRERA and the Adjudication Officer respectively, vide Orders dated December 13, 2017 and February 5, 2019 had directed the Respondent to refund the amounts paid by the Complainants. The Respondent's authorised representative submitted that he has already settled the claims with the Complainant in complaint no: CC006000000001409.  
During the course of the hearing, it was explained to the Complainants that considering now that the project is moving towards completion, they should consider the option of continuing in the said project and not seek refund at this stage.  
Time was given to them to discuss a way forward with the said association and the Respondent.



6. The Respondent has informed that talks with the Complainant in complaint no: CC006000000001409 could not reach a consensus stage and therefore, it is delaying the project completion further. Further, he informed that the Complainants in Complaint nos: CC0060000000055063 and CC0060000000089967 have also consented to be with the association of allottees.

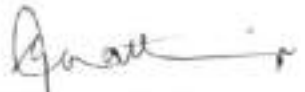
In Complaint no: CC0060000000055379, the Respondent submitted that he has allotted the apartments via provisional letters of allotment dated March 21, 2015 and May 13, 2015 to the Complainant in lieu of the invoices due against the services rendered by the Complainant and that he is willing to handover possession of the said apartments once the project is complete.

7. In para 115 of the judgement of Hon'ble Bombay High Court in *Writ Petition No. 2737/- U Neelkamal Realtors. Vs. Union of India*, it has observed that the object and purpose of the Real Estate (Regulation and Development) Act, 2016 is to complete the development work within the stipulated time frame. Accordingly, keeping the larger interest of project completion and the interest of the association of allottees in mind, it is reiterated that the Complainant in complaint no: CC006000000001409 should consider staying in the project.

8. In view of the above facts, the parties shall adhere to the new terms and conditions executed between the parties, which are annexed to this Order as "Annexure A" and the Respondent's project registration is permitted to remain in force as per the provisions of section 7(3) of the Real Estate (Regulation and Development) Act, 2016.

9. In case, the Complainant in complaint no: CC006000000001409 still insists on compliance of the Order dated February 5, 2019, the said Order shall continue to be a charge on the project and the Respondent shall be liable to comply with the same at an appropriate stage once the project is nearing completion.

10. Consequently, the matters are hereby disposed of.

  
(Gautam Chatterjee)  
Chairperson, MahaRERA

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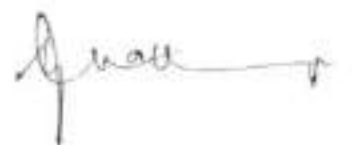
Complainant (5) was represented by Adv. Sanjay Rego a/w Adv. Niti Panchasara (i/b. Deven Dwarkadas and Partners).

Respondent, Mr. Rohit Chugani, Partner, was himself present.

**Final Order**

February 03, 2020

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registration be revoked or the promoter may be allowed to complete the project completion as per the consent terms signed between the said association and the Respondent.


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4. The Complainants and their representatives submitted that the said association, which consists of more than 51% of the allottees in the said project, has formulated new terms and conditions to be adhered to by the parties in the interest of project completion.
5. In Complaint nos: CC006000000001409 and CC006000000044227, MahaRERA and the Adjudication Officer respectively, vide Orders dated December 13, 2017 and February 5, 2019 had directed the Respondent to refund the amounts paid by the Complainants. The Respondent's authorised representative submitted that he has already settled the claims with the Complainant in complaint no: CC006000000001409. During the course of the hearing, it was explained to the Complainants that considering now that the project is moving towards completion, they should consider the option of continuing in the said project and not seek refund at this stage. Time was given to them to discuss a way forward with the said association and the Respondent.
6. The Respondent has informed that talks with the Complainant in complaint no: CC006000000001409 could not reach a consensus stage and therefore, it is delaying the project completion further. Further, he informed that the Complainants in Complaint



nos: CC006000000055063 and CC006000000089967 have also consented to be with the association of allottees.

In Complaint no: CC006000000055379, the Respondent submitted that he has allotted the apartments via provisional letters of allotment dated March 21, 2015 and May 13, 2015 to the Complainant in lieu of the invoices due against the services rendered by the Complainant and that he is willing to handover possession of the said apartments once the project is complete.

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8. In view of the above facts, the parties shall adhere to the new terms and conditions executed between the parties, which are annexed to this Order as "Annexure A" and the Respondent's project registration is permitted to remain in force as per the provisions of section 7(3) of the Real Estate (Regulation and Development) Act, 2016.
9. In case, the Complainant in complaint no: CC006000000001409 still insists on compliance of the Order dated February 5, 2019, the said Order shall continue to be a charge on the project and the Respondent shall be liable to comply with the same at an appropriate stage once the project is nearing completion.
10. Consequently, the matters are hereby disposed of.

  
(Gautam Chatterjee)  
Chairperson, MahaRERA

# "ANNEXURE A"

## BEFORE THE HON'BLE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY AT MUMBAI

Between

PURCHASERS

FALCO CHESHIRE (ALLOTTEES / FLAT OWNERS)

.... Applicant / Purchaser(s)

And

RESPONDENTS

M/s Aanya Realtors (For Falco Cheshire) (MahaRERA Regn No. P51700006040)

.... Developer / Respondent

### CONSENT TERMS

To

The Hon'ble Judge

Maharashtra Real Estate Regulatory Authority (MahaRERA)

Bandra (E), Mumbai

Dear Sir,

We, the flat Purchasers of Falco Cheshire project (list of purchasers appended herewith) wish to record and summarize the way forward in the form of Consent terms for the completion of our Project:

1. The Project **FALCO CHESHIRE** situated at Village Mohili, Ambivli (E), Kalyan has been registered with MahaRERA by the Promoter/ Developer / Respondent(s) under MahaRERA Regn No. **P51700006040** (hereinafter referred to as the "said Project") and We, the Purchasers, have booked the flats on various dates in the Project.
2. Due to certain issues, the Project is delayed and has already passed its original completion date.
3. Looking at the sensitivity of the situation, financial status of the Developer and given the overall Real Estate situation, we have realised and understood that co-operation by each and every client with timely payment is a must for the completion of our project at the earliest and that one or more negative judgements can completely stall / delay/ stay the completion of the project. Keeping the above in mind, we, the Purchasers of the Project alongwith the Developer have mutually executed these consent terms by taking the consent of more than 51% of the buyers in the said Project and submit the same to Hon'ble MahaRERA in the interest of completing the Project. We hereby give our consent to the Developer for revised completion date as was submitted to MahaRERA by the Developer, ie, December 31, 2021 on the following conditions:
  - (a) We, the undersigned, ie, the purchasers of Cheshire have formed an Association of Allottees with the name "CHESHIRE FLAT OWNERS ASSOCIATION" and will register the same, if required.
  - (b) We, the purchasers of Cheshire through our Association after many discussions and deliberations have agreed for the new completion date for the Project as December 31, 2021. We have received the list of inventory, flat details, estimated construction cost of completion including TDR, bank repayment and municipal corporation premiums, financials and overall costing by the Developer. After going through the same, we have understood that the cost of the Project has exceeded the projected Receivables resulting in a cost over-run. We, the



Purchasers shall collectively evaluate after reviewing the quotations from the Developer and other contractor/s and agree unanimously that in the event there is a cost overrun, it will be borne by all the Purchasers collectively after due assessment of the deficit.

- (c) We, the Purchasers (whether holding Agreement for Sale or Allotment Letters) hereby agree to make the balance payments including taxes and other charges and Cost Overrun (value to be determined after we get quotations from a few contractors and shall be borne by all purchasers prorata in terms of their carpet areas mentioned in the Agreement/ allotment letter) as per the work progress and as per the demand raised by Developer. If any Purchaser continues to default in making payment as per the Demand Letter beyond the period of 90 days from the date of the first Demand Letter, then as agreed by the Members/ Association of Allottees, his / her apartment shall stand cancelled. It is clearly agreed and understood in the best interest of the project completion, that upon any cancellation, the amount paid by client towards cancelled flat (not including any taxes paid/payable to the government, which is non-refundable) shall be refunded, subject to cancellation charges, in 4 equal instalments after the completion of the entire project by the Association and his/ her flat so cancelled shall belong to the Association. It has been agreed herewith that all the previously cancelled flats in the building by any of the clients even before MahaRERA where money paid on such cancelled flat is not yet refunded to the respective client in full or part, such refund of balance amount, subject to cancellation charges, shall also be made in 4 equal instalments after the completion and possession of the entire project.
- (d) Further, as the project is already delayed, few clients, in individual capacity, have approached various courts including Hon'ble MahaRERA to seek interest, payment waivers and other reliefs. Sir, we the Association of Allottees humbly request Hon'ble MahaRERA considering the overall delay and losses in the project to pass an order to this effect especially DEFERRING THE HEARING OF ALL NEW CASES AND EXECUTION OF ALL OLD CASES TO POST POSSESSION AND LIMIT THEIR CHARGES AND CLAIMS TO THEIR RESPECTIVE FLATS so that we the Association of Allottees can complete the project without any hindrance or stay through the same Developer or new contractor.
- (e) The Developer shall be responsible, subject to payments to be made by all Purchasers, for obtaining all the required permissions including purchase and loading of TDR above 7<sup>th</sup> floor and complete the Project.
- (f) The possession date of the Project as mentioned above, however, is subject to force majeure event as given in MahaRERA and **subject to timely payment by all the Purchasers and most importantly subject to withdrawal of each and every case/ complaint/ notice, etc, which is more particularly described in the clause below.** Sir, we humbly request you that all existing orders, judgments and existing cases to be deferred for hearing and/or execution post the completion and possession of building. This is the essence of the consent terms.
- (g) We, the Purchasers shall try and accompany the Developer to represent the Project before all forums, Tahsildar/Talathi or collector office, MahaRERA, consumer forums/courts, any civil or criminal court of law, police stations or to all or any such Government or private body where any complaint has been filed in the past or may anytime hereafter be filed by any of our fellow clients to avoid passing of any judgment or order which may hamper or in any manner affect the construction and completion of the project. We shall try to get all cases/complaints against the Developer and the Project withdrawn or stayed until the completion of the Project and in ensuring that in future no new cases/complaints are filed against the Developer in respect of said Project before any authority/court/police/politician/RERA/forum till December 31, 2021 or such extended date as may be mutually agreed upon and granted by Hon'ble MahaRERA.



- (h) We, the Purchasers through the Association shall take the responsibility along with the Developer to collect the dues from all the Purchasers as per the demand letter raised by the Developer in consensus with the Association. It is further clearly agreed and understood that all unsold and/or cancelled flats/units shall belong to the Association and Association shall refund their monies only post possession in 4 parts. We, the Purchasers through the Association and Developer have unanimously agreed, understood and decided that NO possession of any flat or unit shall be handed over until and unless all dues together with cost overrun if any, of such unit/flat/s which is/are ready for occupation, is paid in full by the respective Purchaser/s.
- (i) It is clearly agreed by all the Purchasers that the new date of possession for the Project is December 31, 2021 subject to what is mentioned hereinabove. As the Project is already running into losses, until such new date of completion is passed, no member of the project whether he is a member of the Association or not, shall be entitled or allowed to demand any interest/compensation and/or any other monetary claim whatsoever against the Developer under MOFA, RERA or any other statutory provisions and/or contracts or the agreement now or at the time of possession for any delay as per their agreement/s.
- (j) The Respondent shall form society and or/any other association as required for the project.
- (k) These consent terms between the Parties herein shall be considered as a part of the order of MahaRERA.
- (l) The Consent Terms are signed by the parties out of free wish and will without any coercion, force or pressure for signing the consent terms. This Consent term is binding upon each and every client of the Project whether they have individually signed it or not.

Identified, Explained and Interpreted on

28<sup>th</sup> day of July, 2019

**Read, understood and accepted by:**

NAME :  
FLAT NO. :  
SIGNATURE :