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

**COMPLAINT CC NO. OF 2025**

Prestige Mulund Realty Pvt. Ltd. …Complainant

Versus

Mahesh Chandwani …Respondent

**APPLICATION UNDER SECTION 31 OF THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016**

**Details of the Claim:**

1. **Particulars of the Complainant:**
2. **Details of the Complainant:** Prestige Mulund Realty Pvt. Ltd. having its registered office at Unit 1002, 10th Floor, Jet Airways Godrej BKC Plot C-68, G Block, Bandra (East), Bandra Kurla Complex, Mumbai , Bandra, Maharashtra, India – 400051.
3. **Address for service of all notices:** Trilegal, One Forbes @D, 2nd Floor, VB Gandhi Marg, Kala Ghoda, Fort, Mumbai – 400 001.
4. **Particulars of the Respondent:**
5. **Name of the Respondent:** Mahesh Chandwani
6. **Office address of the Respondent:** A-19, Indraprasth Society, Sarvodya Nagar, Jain Mandir Road, Mulund (W), Mumbai – 400080.
7. **Address for service of all notices:** A-19, Indraprasth Society, Sarvodya Nagar, Jain Mandir Road, Mulund (W), Mumbai – 400080.
8. **Jurisdiction of the Authority:**
9. I declare that the subject matter falls within the jurisdiction of MahaRERA;
10. Project Registration No. P51800005285
11. **Facts and Grounds for the Complaint:** 
    1. The Complainant is a private limited company registered under the provisions of the Companies Act, 2013 having its registered office at Unit 1002, 10th Floor, Jet Airways Godrej BKC Plot C-68, G Block, Bandra (East), Bandra Kurla Complex, Mumbai , Bandra, Maharashtra, India – 400051. The Complainant is the “Promoter” as defined under Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016.
    2. The Respondent is a citizen of India, whose allotment was terminated by the Complainant on [] in the Project (more particularly defined hereinafter) undertaken by the Complainant.
    3. The Complainant has undertaken the development of land bearing CTS No. 19/6 (p) of village Mulund, Taluka Kurla, Mumbai Suburban District, Swapna Nagari Mulund, Andheri, Mumbai Suburban – 4000069 under the name and style “SEISTA the Prestige City Project” (“**Project**”), which was earlier being developed by Arristo Developers Pvt. Ltd. (“**Erstwhile Developer**”) under the name and style “SEISTA”. It is pertinent to note that the Project stands completed and the occupation certificate has already been obtained on 30 April 2025. A copy of the Occupation Certificate is annexed and marked hereto as **Exhibit “A”**.
    4. On 11 July 2014, the Erstwhile Developer vide a Letter of Reservation allotted Flat No. A-3606 admeasuring 984 sq. ft. of carpet area inclusive of 2 balconies and approximately 446 sq. ft. of Deck/Dry Balcony area, totalling to useable area of approximately 1430 sq. ft. locating in ‘A’ Wing on 36th floor, along with 2 big car parks on the 8th Podium of the Project at the agreed consideration of Rs. 1,73,25,000/- (Rupees One Crore Seventy Three Lakhs Twenty Five Thousand only). A copy of the Letter of Reservation dated 11 July 2014 is annexed and marked hereto as **Exhibit “B”.** The relevant terms of the Letter of Reservation are as under:
12. **Clause 6** which specified the foreseeable charges in addition to the agreed consideration, is reproduced hereinbelow:

*“6. ln the event of failure of payment of any amount due hereof including any of the said instalments payable on their respective due dates or in the event of you falling to execute Agreement for Sale within 30 days from the date of intimation given by us, we shall be entitled to terminate this Letter of Reservation and refund the monies paid by you without interest and after deducting the brokerage amount, if any, paid by us to the concerned Broker and applicable service tax, VAT and any other applicable taxes and government charges and you shall have no claim of any nature whatsoever against us in respect of the said Flat and we shall be fully entitled to resell the said flat premises to anybody else and you shall not have any claim or object or obstruction the same in any manner whatsoever or initiate any proceeding restraining us in that behalf. However, notwithstanding anything contained herein and without prejudice to all other rights and remedies available in law, all overdue payments shall be charged interest @ 24% p.a. from the due date till the date of payment thereof.”*

1. **Clause 7** that entitled the developer to cancel the reservations for reasons set out therein and forfeit monies, is reproduced hereinbelow:

*“7. You agree that we shall be entitled to cancel the reservation/ booking, for any reason whatsoever attributable to you, including but not limited to (a) non-compliance of the terms and conditions of this Application Form or Agreement for Sale or (b) failing to sign Agreement for Sale within thirty (30) days from the date of intimation by us or (c) on making application for cancellation of this Lelter of reservation or Agreement for Sale; then in that eventuality it shall be open for us to forfeit the monies as follows:*

|  |  |  |
| --- | --- | --- |
| *Cancellation of reservation/booking subsequent to the sanction/approval of plans/drawings from the concerned authorities.* | *-* | *5% of the Total Price* |
| *Cancellation of booking subsequent to signing of Agreement for Sale.* | *-* | *10% of the Total Price* |

*“*

1. **Clause 9** which provides for payment of extra charges to enjoy amenities, is reproduced hereinbelow:

*“9. You have confirmed that you shall pay applicable Floor Rise, which will be levied as per Company's policy decided from time to time. You have further agreed and undertaken to pay the said applicable Floor Rise amount as per the work progress. You have confirmed that you shall pay all applicable charges to enjoy the benefits and advantages of the amenities and facilities such as Club House, Cable Services, etc., which are mandatory as per company's policy as decided from time to time.”*

1. **Clause 11** provides for amount with respect to provisions of amenities or facilities to be paid to the developer as applicable, is reproduced hereinbelow:

*“11. All kinds of taxes including Central / State Sales Tax, V.A.T., Works Contract Tax, Service Tax, in respect of the transaction here in contemplated including either as a whole or a part of any inputs or materials or equipments used or supplied in execution of or in connection with the construction/sale of the said Flat or provision of amenities, facilities etc. by the us, shall be paid by you to us like all other payments due hereunder, and you shall keep us duly indemnified in respect of all liabilities under the same. If such charges or taxes are increased (including with retrospective effect), then these charges or taxes shall be treated as unpaid sale price and we shall have lien on the said Flat for the recovery of such charges from you.”*

1. **Clause 22** which provides for liability to make further payments from a week after possession is offered, irrespective of whether possession is taken or not, is reproduced hereinbelow:

*“22. Commencing a week after notice in writing is given offering possession of the said Flat to you, you will be liable to pay all outgoings, taxes, water charges, electric charges, land under construction tax by MCGM, security deposit, cess etc. levied by the concerned authorities and maintenance/charges, development charges, administrative expenses, payment of service line charge of MSEB, legal charges, in respect thereof, irrespective of whether possession of the said Flat has been taken or not.”*

* 1. The Respondent, in furtherance of his Letter of Reservation was the member of the ASH Association that was actively involved in the said proceedings before NCLT wherein all the rights and entitlements of the flat buyers in the concerned building i.e. “Seista” were disclosed, adequately considered and discussed with utmost transparency.
  2. The initial date of possession as reflected on the MahaRERA website was 31 December 2019.
  3. However, on 20 November 2018, the Erstwhile Developer was admitted into corporate insolvency resolution process ("**CIRP**") under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“**Code**”). The Complainant is the Successful Resolution Applicant of the Erstwhile Developer, and as a consequence thereof, the Complainant has undertaken the Project.
  4. On 13 November 2019, the Complainant’s Resolution Plan dated 24October 2019 along-with subsequent amendments (“**Resolution Plan**”) was approved by the Committee of Creditors (“**COC**”) with a voting share of 85.48%, which subsequently increased to 90.68%. A copy of the said Resolution Plan is annexed hereto and marked as **Exhibit "C"**.
  5. However, certain homebuyers raised grievances with respect to the commercial terms of the Resolution Plan, and accordingly the Hon’ble National Company Law Tribunal, Mumbai (“**NCLT**”) *vide* Order dated 10 December 2019 directed the Complainant to amicably resolve the grievances raised by the homebuyers. Therefore, in compliance with the aforesaid Order the Complainant filed the Miscellaneous Application No. 3714 of 2019 and Additional Affidavit dated 26 October 2020 (“**Additional Affidavit**”), setting out the revised commercial terms for the homebuyers **(including the homebuyers of SIESTA)**, which were further treated as a part and parcel of the Resolution Plan *vide* Order dated 23March 2021. The relevant portions of the Additional Affidavit (more particularly of Annexure A thereto which sets out the commercial terms for homebuyers of SIESTA) are as follows:

1. *“****All the entitlements of the existing home buyers contained under the registered agreement or letter of allotment pertaining to (a) Floor plans & carpet area; and (b) Amenities and Car Park shall remain intact,*** *except where it is mandatorily required to be altered in order to comply with the requirements of Applicable Laws including MAHARERA.”*
2. *“Project Siesta home buyers shall be allocated homes in the same Tower, at the same location in which they had earlier booked homes.* ***The flat area including deck, as mentioned in the agreement as per the plan annexed thereto or letter of allotment, shall be provided.*** *All amenities as specified in the respective agreements or letter of allotment including parking space as allotted shall be provided to the home buyers.”*
3. *“No additional cost (other than what is statutory required to be paid for stamp duty, registration of documentations including fresh or supplemental agreement as the case may be and GST and any other Govt charges as per applicable laws) shall be imposed on the home buyers in any manner whatsoever****. However, the homebuyers shall have to make the balance payment towards their flat over and above the amounts already paid.****”*

A copy of the Miscellaneous Application along with the Additional Affidavit is annexed and marked hereto as **Exhibit “D”**.

* 1. The Resolution Plan (including the Additional Affidavit which was treated as a part and parcel of the Resolution Plan) of the Complainant was approved by NCLT *vide* Order dated 23 March 2021. A copy of the Order dated 23 March 2021 is annexed and marked hereto as **Exhibit “E”**.
  2. Approximately 80% of the homebuyers were in favor of the Resolution Plan. Notwithstanding this, a group of dissenting homebuyers challenged the Resolution Plan by filing an appeal before the Hon'ble National Company Law Appellate Tribunal (“**NCLAT**”). The Hon'ble NCLAT vide Order dated 23 December 2022, dismissed the appeal and upheld the approval of the Resolution Plan. A copy of the said Order is annexed hereto and marked as **Exhibit “F”.**
  3. The dissenting homebuyers further filed a second appeal before the Hon’ble Supreme Court, which was dismissed vide Order dated 29 March 2023. A copy of Order dated 29th March 2023 is annexed hereto and marked as **Exhibit "G".**
  4. Considering the aforesaid, the Resolution Plan filed by the Respondent has been approved by NCLT in its entirety and its approval has been upheld by the Hon’ble NCLAT and the Hon’ble Supreme Court. Therefore, the terms of the Resolution Plan are final and binding on the homebuyers (more particularly as set out in paragraph no. 4.8 above) *vis-à-vis* that (i) all entitlements with respect to the floor plan and carpet area shall remain intact; and (ii) The flat area including deck, as mentioned in the agreement as per the plan annexed thereto or letter of allotment, shall be provided.
  5. Crucially, the flat buyers in the Project (including the Respondent) were involved in the proceedings through their representative body namely the ASH association and were privy to and were at all times kept sufficiently informed with respect to the details, progress and developments of the CIRP including their rights and entitlements as an outcome thereof.
  6. The Complainant is implementing the Resolution Plan with full diligence and is fully compliant with all its obligations under the Resolution Plan. As a matter of fact, the Complainant has already completed the construction of the Project within the stipulated time period and has obtained the Occupation Certificate on 30 April 2025.
  7. On 30 November 2022, the Complainant *vide* email issued a Demand Notice calling upon the Respondent to pay the balance amounts towards his Flat (which included “other charges” as contemplated in clause 22 of his Letter of Reservation and the Resolution Plan) viz. Rs. 1,26,39,025 (Rupees One Crore Twenty Six Lakhs Thirty Nine Thousand and Twenty Five only) (“**Balance Amount**”). A copy of the email dated 30 November 2022 is annexed and marked hereto as **Exhibit “H”**.
  8. On 13 December 2022, the Complainant *vide* email (“**1st Onboarding Email**”) intimated the Respondent that the Project has been taken over from the Erstwhile Developer whilst requesting him to complete his onboarding formalities and applicable documentation on or before 23 December 2022. Further, the Respondent was also called upon to pay the Balance Amount, whilst attaching an explanatory statement viz. break up of the monies payable, which is based on the finalized commercial terms and payment schedule as agreed with the Erstwhile Developer and the commitment made by the Complainant under the Resolution Plan. The Respondent failed to complete the onboarding formalities and/or pay the Balance Amount due and payable by him to the Complainant. A copy of the email dated 13 December 2022 is annexed and marked hereto as **Exhibit “I”**.
  9. On 4 February 2023, the Complainant once again vide email (“**2nd Onboarding Email**”) called upon the Respondent to (i) complete his onboarding formalities; (ii) execute and register the Agreement for Sale for his Flat (a draft agreement for sale was shared with the ASH Association); and (iii) pay the Balance Amount to the Complainant. It is pertinent to note that as per the Respondent’s request the Complainant also provided a more beneficial construction linked payment plan instead of the aggressive old payment plans agreed to between the Respondent and the Erstwhile Developer. The Respondent again failed to complete the onboarding formalities. A copy of the email dated 4 February 2023 is annexed and marked hereto as **Exhibit “J”**.
  10. On 19 February 2023, the Complainant vide email (“**3rd Onboarding Email**”) once again called upon the Respondent to complete the onboarding formalities. A copy of the email dated 19 February 2023 is annexed and marked hereto as **Exhibit “K”**.
  11. On 6 May 2023, the Respondent vide email sought to allege that (i) a copy of the Draft Agreement for Sale has not been shared with him; and (ii) that he was asked to sign some papers that stated additional charges beyond the agreed amount vis-à-vis disputing the additional charges (which are admittedly charges in accordance with and as contemplated in the Letter of Reservation and Resolution Plan), despite being aware of the fact that the draft Agreement for Sale was duly shared with the ASH Association (of which the Respondent is a member of) and that the purported additional charges are the charges contemplated in his Letter of Reservation and the Resolution Plan. This is the very first time that the Respondent disputed the Balance Amount. A copy of the email dated 6 May 2023 is annexed and marked hereto as **Exhibit “L”**.
  12. On 8 May 2023, the Complainant vide email (“**4th Onboarding Email**”) once again called upon to complete his onboarding formalities by executing and registering the Agreement for Sale for his Flat. A copy of the email dated 8 May 2023 is annexed and marked hereto as **Exhibit “M”**.
  13. However, in response to the aforesaid email, the Respondent once again sought to allege that (i) a copy of the Draft Agreement for Sale has not been shared with him; and (ii) that he was asked to sign some papers that stated additional charges beyond the agreed amount. A copy of the email dated 8 May 2023 addressed by the Respondent is annexed and marked hereto as **Exhibit “N”**.
  14. On 9 May 2023, in response to the aforesaid email of the Respondent, the Complainant (“**5th Onboarding Email**”) clarified that (i) the purported additional charges are admittedly charges which are contemplated in his own Letter of Reservation and the Resolution Plan; and (ii) a copy of the draft Agreement for Sale has been shared with the ASH Association, whilst calling upon the Respondent to complete his onboarding process. A copy of the email dated 9 May 2023 is annexed and marked hereto as **Exhibit “O”**.
  15. In response to the aforesaid email of 9 May 2023, the Respondent vide email of even date once again disputed the Balance Amount payable to the Complainant, claiming that he is only obligated to pay Rs. 1,06,10,000 (Rupees One Crore Six Lakhs Ten Thousand only), thereby attempting to shy away from making payment of the Balance Amount as contemplated under the Letter of Reservation and the Resolution Plan. A copy of the email dated 9 May 2023 is annexed and marked hereto as **Exhibit “P”**.
  16. In order to not pay the Balance Amount (which is admittedly as per the Letter of Reservation and Resolution Plan), the Respondent through its Advocate issued a legal notice dated 7 June 2023 disputing the Balance Amount by inter alia alleging that the Complainant is overcharging the Respondent. A copy of the Legal Notice dated 7 June 2023 is annexed and marked hereto as **Exhibit “Q”**.
  17. Subsequently, with the intention to arm twist the Complainant into acceding to the Respondent’s demands vis-à-vis not charging the charges as contemplated in the Letter of Reservation and Resolution Plan, the Respondent filed RERA Complaint No. CC006000000000397589 before MahaRERA *inter alia* alleging that the Complainant has overcharged the Respondent in terms of the agreed consideration. A copy of the proceedings in the Complaint is annexed and marked hereto as **Exhibit “R”**.
  18. Being aggrieved by such conduct of the Respondent vis-à-vis not completing the onboarding formalities, failing to execute and register the Agreement for Sale and refusal to pay the Balance Amount (as per the Letter of Reservation and Resolution Plan), the Complainant vide email dated [INSERT] terminated the allotment of the Respondent, and called upon him to provide his bank details so as to refund the monies paid by him towards the consideration of the Flat. A copy of the email dated [INSERT] is annexed and marked hereto as **Exhibit “S”**.
  19. Pertinently, the Respondent is sufficiently aware that the Project i.e. Siesta was adopted in the manner sanctioned, from the Erstwhile Developers. This was explicitly set out in the Resolution Plan, which has been duly approved by the Hon’ble NCLT and upheld by the Hon’ble NCLAT and Hon’ble Supreme Court and is binding on all the homebuyers (including the present Respondent). No changes of any nature whatsoever were made to the plans/layout/area etc. from the time of Letter of Reservation, till date. This being the case, there was no alteration in facts and circumstances including the size, layout, areas etc. vis-à-vis the Respondent and his Flat since the date of Letter of Reservation for the same.
  20. In view of the above, the customers of the Project of the erstwhile developer i.e. legacy customers were simpliciter to be onboarded to the Respondent’s project without any changes whatsoever to their rights and entitlements in the Project, subject to them making payments of the balance amounts payable by them (under their respective Letter of Reservation/Agreement for Sale and Resolution Plan).
  21. After enduring tedious rounds of communication with the Respondent he reluctantly visited the office of the Respondent in May 2023 and when he was provided the requisite forms for signature and the requisite details of additional payments to be made for execution of the agreement for sale and towards other amenities and utilities as provided in the said Letter of Reservation. The Respondent decided to agitate issues of overcharging and refused to comply with the requisite formalities. After leaving the office of the Respondent, the Complainant addressed the email dated 6 May 2023 insisting that a copy of the agreement be provided to him. Pertinently, the onboarding formalities of the Complainant have not been completed till date.
  22. As the Respondent was adequately aware, a standard format of the draft agreement was shared with the ASH Association representing the interest of the flat buyers who vetted the same on behalf of the flat buyers in order to maintain uniformity in the terms. Despite being well aware of this arrangement, the Respondent chose to create a paper trail in support thereof by issuing several false emails and frivolous emails and legal notices.
  23. The Respondent has in furtherance of his motive to be of nuisance value deliberately feigned ignorance to all the aspects that he was evidently privy to and sufficiently cognizant of, including the express terms of the letter of reservation, the proceedings before the NCLT (i.e., the Resolution Plan), NCLAT and the Hon’ble Supreme Court as well as the fact that the draft agreement was uploaded on the RERA website and was also provided to the ASH committee viz. the association of the flat purchasers for a collective response and comments in the interest of all the flat buyers for uniformity.
  24. The Respondent has, instead of having a healthy dialogue with the Respondent in respect of its rights and entitlements chosen to overlook and ignore all the efforts of the Complainant who has repeatedly without prejudice reached out to the Respondent to provide him with the requisite comfort and instead the Respondent has sought to make allegations and initiate unprecedented searches and enquiries against the Complainant thereby tarnishing the name of the Respondent who is a reputed developer.
  25. The Respondent has failed to pay the Balance Amount despite being aware of the fact that the Balance Amount (which included “other charges” as contemplated in clause 22 of his Letter of Reservation) is in terms of the Letter of Reservation and the Resolution Plan, and has sought to wrongly allege that the Complainant is overcharging the Respondent, which is entirely misplaced in facts. As a result of which the Respondent has failed to execute and register the Agreement for Sale for the Flat.
  26. It is on account of the Respondent’s conduct vis-à-vis not completing the onboarding formalities, failing to execute and register the Agreement for Sale and refusal to pay the Balance Amount (amounting to breaches on the Respondent’s part) that the Complainant on [INSERT] has terminated and cancelled the Respondent’s allotment by exercising its right under clause 7 of the Letter of Reservation.

1. **Prayers:**
2. That this Hon’ble Tribunal be pleased to declare that in view of the Termination dated [INSERT] the Respondent is no longer an “Allottee” as defined under Section 2(d) of the Act;
3. For any other reliefs that this Hon’ble Tribunal deems fit and proper.