

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3607 OF 2021**

Parinee Almog Buyers Welfare Association ...Petitioner
Versus
State of Maharashtra & Ors ...Respondents

**WITH
WRIT PETITION NO. 1610 OF 2021**

Michelle D'Souza ...Petitioner
Versus
State of Maharashtra & Ors ...Respondents

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**Ms Siddha Pamecha, with Tanuj Lodha & Simran Gulabani, i/b
Lodha and Lodha Advocates, for the Petitioner in
WP/1610/2021.**

**Mr Tanuj Lodha, with Simran Gulabani, i/b Lodha and Lodha
Advocates, for the Petitioner in WP/3607/2021.**

Mr SB Kalel, AGP, for the Respondent-State in both Writ Petitions.

Mr AK Saxena, for Respondent No.2 (RERA) in both Writ Petitions.

**CORAM G.S. Patel &
 Neela Gokhale, JJ.
DATED: 28th March 2023**

PC:-

1. The Affidavit in Reply of the developer states that the petition is misconceived for various reasons. First, it points out that there is

an efficacious remedy of an appeal and a Second Appeal to the High Court. It is then pointed out that the project of which the Petitioners claim to be the allottees has received no permission whatsoever. There is no Intimation of Disapproval (“**IOD**”). There is no sanctioned plan and therefore there is no question of registering the project. There is in fact no project at all. The developer has been told to complete the registration within 30 days of obtaining approval but no such approvals have been obtained. Hence, the Real Estate Regulatory Authority (“**RERA**”) correctly declined to exercise its jurisdiction ‘at this stage’.

2. The Petitioners say they were persuaded to part with quite significant amounts of money by the developer. The Affidavit in Reply does not seem to deny the receipt of funds from the Petitioners.

3. Clearly the remedies of the Petitioners lie elsewhere in civil proceedings. While we dismiss this Petition, we expressly reserve to the Petitioners the liberty to adopt appropriate civil or criminal proceedings (or both) in a Court or before an authority of competent jurisdiction, including the right to apply for urgent ad-interim reliefs, if the need arises and a case is made out.

4. The Petitions are disposed of in these terms. There will be no order as to costs.

5. As to the question of limitation, since the Petitioners have been advised to prosecute their cause first before the RERA and

then before this Court, and the RERA proceedings are clearly without jurisdiction, and this Petition is disposed of without any examination of the merits but also on the basis that the remedies lie elsewhere, the time spent in these proceedings will be excluded for the purposes of limitation.

(Neela Gokhale, J)

(G. S. Patel, J)