

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

Virtual Hearing held through video conference as per

MahaRERA Circular No.: 27/2020

Complaint No. CC006000000196705

1. YUVRAJ KISAN CHAUDHARI ...COMPLAINANTS
2. MILIND DALVI
3. SUDEEP YERUNKAR
4. NITIN SAVE

Vs

1. NEELKANTH PALM REALTY ...RESPONDENTS
2. MR TEJAS SHAH

MahaRERA Project Registration No. P51700001361

O R D E R

(05.01.2026)

(Date of Hearing: 30.12.2024)

Coram: Shri. Ravindra Deshpande, Member-II, MahaRERA

All Complainants present in person

Adv. Anant Ratnaparkhi for Respondents

1. The Complainants have filed the present complaint on 15.04.2021 seeking decision on whether the puzzle parking is a common area or not.
2. In brief, the facts of the complaint can be narrated as under:-
3. The Respondent's project namely "Krishna - B wing" registered under MahaRERA Project Registration No. P51700001361 (hereinafter referred to as the "said project") comprises of 28 floors along with common basement (Upper ground and Lower ground) and stilt.
4. In the tower of 163 flats, 40 flat owners were allotted puzzle parking by the Respondent. It was understood from the Respondent that these parkings are part of common maintenance.
5. Puzzle parking is built in common basement along with other ground and stack parkings.

6. All 40 flat owners who were allotted with the puzzle parking have paid proportionate contribution towards common areas/basement and other amenities like other members.
7. As per Section 2(n) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "**said Act**"), definition of common area means - "The common basement, terrace, parks, play areas, open parking areas, common storage spaces".
8. Sale Agreement state parking space as below - One car parking space in Puzzle parking unit in slot D each consisting of 10 parking slot at common basement, common upper-ground as well as the proportionate price of the common areas and the facilities appurtenant of the flat.
9. The Respondent has filed reply to the complaint of the Complainant on 24.07.2024. The brief contents of the reply of the Respondent are as follows:-
10. The complaint was initially purported to be filed in a completely defective form, as a simpliciter PDF file by 17 individuals, claiming to be allottees in the said project. Thereafter, on 06.02.2024, this Authority directed the Complainant to file a complaint in accordance with the said Act, RERA Rules and Regulations. However, now, surprisingly, only 6 of the original seventeen 17 Complainants have purportedly complied with this directive, that too only in part. The unexplained reduction in the number of Complainants from 17 to 6 demonstrates the mala fide intent of the Complainants.
11. The complaint is purported to be filed by multiple individuals, who purport to be allottees in the said project. However, the complaint is filed by only one Mr. Yuvraj Chaudhari, and no authorization, power of attorney, authority letter, or any other document in that regard has been produced empowering Mr. Chaudhari to act for the remaining allottees.
12. The Complainant fails to annex any documents whatsoever, barring one letter and what appears to be extracts from an Agreement for Sale. Accordingly, in the absence of any material documents and particulars, it is impossible for the complaint to be entertained.

13. The complaint, in effect, seeks to invoke what appears to be an "advisory jurisdiction" of this Authority and this Authority has already declared puzzle parking to be a common area and the advisory jurisdiction invoked by the Complainant can be disposed of in view of the same.
14. As to the merits of the issue agitated in the complaint, it is submitted that the entire Agreement for Sale, the Possession Letter, and Car Parking Letter shed light on the matter. A bare perusal of the Agreement for Sale, the Possession Letter and Car Parking Letter reveals that the Respondent has, in clear terms, informed allottees that inter alia puzzle parking spaces are considered as covered parking spaces. Additionally, Mr. Yuvraj Chaudhari's own Agreement for Sale, the Possession Letter and Car Parking letter clearly provides that he will be allotted one car parking space in Slot D of the puzzle parking unit. The puzzle car parking has been provided as specifically agreed to in the Agreement for Sale, the Possession Letter, and Car Parking Letter, and no grievance can be made in that regard.
15. Additionally, the puzzle car parking has been provided in accordance with the approvals granted by the planning authority, viz. the Thane Municipal Corporation ("TMC"), which has already issued the Occupation Certificate for the said project on 21.12.2019.
16. Thereafter, all flats in Neelkanth Palms Krishna B Wing have been sold and allotted to allottees, and the allottees have formed the Neelkanth Palm Krishna-B Co-operative Housing Society Limited ("**Society**") on 06.08.2020. Subsequently upon formation of Society, all the common areas/amenities including inter alia puzzle car parking has been handed over to the Society and since then the same is being managed and maintained by the Society.
17. As to the question of common maintenance of the puzzle car parking units, it is submitted that, as has already been held by this Authority, puzzle car parking system is a common area.

18. The Complainant No. 1 has filed one Affidavit on 21.10.2024. The brief contentions of the Complainant No. 1 from the Affidavit are as follows:-
19. The Complainants raised the grievance to get clarified whether puzzle car park is included in the common area of the said project or not.
20. The Complainants are not expecting any action/reply from the Respondent on this Affidavit as the Respondent has already clarified the details as it was expected by the Complainant in its response and the Respondent has already clarified that as to the question of common maintenance of the puzzle car parking units, as already held by this Authority, Puzzle car parking system is a common area.
21. The Society has asked 40 flat owners of the puzzle car park to bear its maintenance expenses. All the maintenance expenses for the puzzle parking system is borne by only 40 members at present. As part of MahaRERA Conciliation hearing, the learned Conciliator had instructed the Respondent to issue a letter to Society giving reference of existing Supreme Court verdict and MahaRERA Verdict (CC006000000079494) which states that as per Section 2(n) of the said Act, the said parking must be considered as part of common maintenance. However, the letter issued by advocate was not accepted by Society for aligning puzzle parking expense as part of common maintenance since it was not order from MahaRERA.
22. All 40 puzzle parking owners were allotted one car parking space in Puzzle Parking Unit (A/B/C/D) each consisting of 10 parking lot at common basement, common upper-ground. To operate puzzle parking one has to press the number of the pallet where his/her vehicle is parking and vehicle comes at ground level. All 40 puzzle parking owners has paid proportionate price of the common areas and the facilities appurtenant of the flat and seek clarity from MahaRERA, if puzzle parking is part of common area and needs to be part of common maintenance so that the Complainants can submit the same to the Society for further proceedings.
23. The matter was listed on 30.12.2024. On that day, all the Complainants appeared in person and the Respondent was represented by its advocate. It was submitted by the

Complainants that the Complainants have filed rejoinder which may be treated as written arguments. Adv. for the Respondent was directed to upload written arguments on or before 15.01.2025 and the matter was reserved for order.

24. Considering the facts and submissions of both the parties, following points arise for my determination. My findings thereon are recorded as under for the reasons stated below:

REASONS

No.	Points	Findings
1	Whether the Complainant is entitled to the reliefs claimed?	Negative
2	What Order?	As per final order.

Reasons as to point Nos. 1 to 2

25. The present complaint has been filed by the Complainants to seek clarification as to whether puzzle car park is included in the common area of the project or not and admittedly, the Complainants have no dispute on the reply filed by the Respondent in the present complaint and in this behalf it has been stated by the Complainant No. 1 in his Affidavit that the Respondent has already clarified as expected by the Complainant that the Puzzle car parking space is a common area.
26. As the present complaint has been filed by 4 Complainants seeking reliefs more particularly stated hereinabove so that once order of this Authority is passed on the issue raised, the same can be informed to the Society. However, Society has not been made party to the present complaint. Admittedly, the present complaint has not been filed by the Complainant in pursuance of the dispute between the Complainants and the Respondent with regards to parking but is for seeking decision on the question as to whether the Puzzle parking is common area or not and in this behalf, the Complainants have mainly relied upon the definition of common area as defined in Section 2(n) of the said Act. Hence, it has become imperative that the relevant section of the said Act is perused.

“(n) "common areas" mean –

- (i) the entire land for the real estate project or where the project is developed in phases and registration under this Act is sought for a phase, the entire land for that phase;*
- (ii) the staircases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits of buildings;*
- (iii) the common basements, terraces, parks, play areas, open parking areas and common storage spaces;***
- (iv) the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel;*
- (v) installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;*
- (vi) the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;*
- (vii) all community and commercial facilities as provided in the real estate project;*
- (viii) all other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use;"*

27. As per the said definition, the common basements, terraces, parks, play areas, open parking areas and common storage spaces are covered under common area. However, what does not count as common area or what all amenities will be covered under common area are not covered under the said definition. It is the contention of the Complainants that in their respective Agreements with regards to parking following sentence has been mentioned "*...This arrangement also includes right to use One car Parking Space in Puzzle Parking Unit in Slot D consisting of 10 parking slot at common basement, common under-ground as well as the proportionate price of the common areas and the facilities appurtenant of the said flat...*".

28. Admittedly, the respective Agreement for Sale have been executed by and between the Allottee and Promoter and not with the Society, hence, the Society cannot be made liable to adhere to the terms of such Agreements to which Society is not privy.

29. It would not be out of context to mention here that any aggrieved person has a right to file a complaint with the Authority or the adjudicating officer, as the case may be, under

Section 31 of the said Act 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. In the present case, admittedly, the dispute of the Complainants is not with the Respondent who is the Promoter of the said project or allottee or real estate agent, hence, at the very outset, this complaint is not maintainable under the said Act.

30. Moreover, no provisions of the said Act provide this Authority with jurisdiction to decide a particular amenity as common or not. In the absence of the jurisdiction, this Authority restrains itself from passing any order in this behalf. If the Complainants want such a decision, then the Complainants may approach the appropriate forum. Consequently, I answer point No. 2 in the negative. I proceed to pass the following order.

ORDER

1. The complaint is rejected.
2. No order as to costs.

(Ravindra Deshpande)
Member-II, MahaRERA

Date : 05.01.2026