

REAL ESTATE REGULATORY AUTHORITY, ASSAM
JAWAHAR NAGAR, NH-37, GUWAHATI-781022
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Case No	: RERA/ASSAM/EXE/2024/20
Name of the Complainant	: Shri Nayanjyoti Barman Shri Minaram Bhuyan
Name of the Respondent	: Shri Amal Kr. Borpujari Prop., M/s A.B.Construction and Housing.
For the complainant	: Complainant in person.
For the respondent	: Mr. Mehboob Islam Neog, Advocate
Order passed by	: Mr. P.K. Borthakur, Chairperson, RERA Assam Mr. B.K.Chetri, Member, RERA, Assam
Date of Judgement	: 20.01.2026

JUDGEMENT AND ORDER

1. For the sake of convenience in discussing the matter later on in this order it is felt pertinent to mention the allegation/averment made in the petition alleging non execution. They are as follows:
 - i) The respondent has not constructed a deep tubewell as per the undertaking. Since it has been held that the entire 3 kathas is a common area, the respondent is free to do the deep boring work in the North West corner near the Lakhimi Nagar Path. As per Annexure 4 i.e., 'As Built Plan' submitted to the GMC, the respondent has shown the position of the ground water, fire tank and rainwater harvesting in the North West corner but there is no physical existence of the same and said drawing has not been submitted to RERA Assam.
 - ii) Lift suffers frequent mechanical setback. BIS certificate and other paper of lift not handed over to the society.
 - iii) Generator not installed properly. (Annexure 5)

- iv) Approved Detail parking plan not provided and parking place of complainant not earmarked.
- v) Some repairing work on the rooftop of the terrace has been done but water leakage persist through the duct hole in the north during showers.
- vi) Soil pipes and drain pipes yet to be repaired.
- vii) Sanctioned plan, fresh completion certificate, fresh occupancy certificate yet to be furnished.
- viii) Drawing of sewage, soil pipes and underground water reservoir approved by GMC not yet furnished.

Prayer are as follows:

- i) Plastic material used to cover the ducthole to be replace by G I Sheet.
- ii) Overhead water storage reservoir with the provision for manhole not provided, though the respondent has stacked some slabs (Annexure 12)
- iii) Well ventilated lift room for the caretaker not provided. Caretakers room is made of plastic sheets.
- iv) Security shade with brickwall was to be provided at the permanent entrance and not at the present entrance. Since 3 kathas of land is a common area and joint property for which the entry should be from Lakhimi Nagar Path PWD Road. The present security shed is of iron frame with G I Sheet roof.
- v) Above all the building of the landlord to be demolished by revoking the building permit and declare the building as unauthorized construction and to remove the encroachment of 1 katha 13 lecha land under the occupation of landlord.

2. Before proceeding further it is to be mention herein that the order dated 30.12.2023 of this Authority was challenged by the complainant himself before REAT Assam with Appeal No. 01/2024. On being aggrieved of certain grievances not being redressed by this Authority. The said appeal was disposed of vide judgement and order dated 24.05.2024 with certain addition of the direction in para 12 of the said judgement.
3. The complainant agitated before REAT Assam in respect of the project land as 3 katha and not 1 katha 17 lechas. It has been discussed in para 2 and para 6 of the said judgement by REAT Assam and it has been clarified that the project was undertaken in a land measuring 1 katha 17 lechas out of 3 kathas and not on the entire 3 kathas of land.
4. The landlord has executed a development agreement with the respondent builder in respect of 1 katha 17 lechas out of the 3 kathas and in respect of agreement for sale and sale deed, the area of land is mentioned as 1 katha 17 lechas and not 3 kathas and this fact has been mentioned in para 2 and 6 of the judgment of REAT Assam. Further in para 6, it is held that the respondent builder has no power to deal with the land beyond what has been allotted to him by the landlord and that the legality of the finding of the RERA on this court cannot be faulted.
5. In the execution proceedings, the execution court is confined to the directions/findings in the original proceedings/suit subject to the modification/addition/deletion, if any, by the Appellate Court. So this Authority is confined to the directions given by this Authority vide order dated 30.12.2023 in the complaint case with certain addition by REAT Assam in its judgement and order dated 24.05.2024. The

direction of this Authority vide order dated 30.12.2023 are enumerated herein as follows:

*“11. **ORDERS:** In view of the aforesaid discussions and Findings, the following directions :*

A. Respondent is directed to:-

1. *Construct a Deep Tube Well in the premises of Laxmi Nagar Apartment.*
2. *Make the lift fully functional by providing BSI marked quality machinery.*
3. *Construct a shed over the Generator Platform and install the Generator in an appropriate manner at a suitable location upon discussion with the society of the apartment building.*
4. *Provide the sanctioned parking plan and earmark the parking places as per the sanctioned plan and byelaws.*
5. *Repair the roof top of the building so that there is no water logging and seepage.*
6. *Repair the soil pipes and drain pipes so that there is no leakage of those pipes and ground floor parking place is maintained clean free from leaking pipes.*
7. *Furnish copy of the sanction plan, built up plan, Completion Certificate, Occupancy Certificate, Fire Certificate and Drawings for*
8. *Laying of electrical wires, sewerage, soil pipe, underground reservoir and lay out drawings of the project of the society.*

****The aforesaid directions are to be executed by the respondents within a period of 45 days.***

B. Guwahati Municipal Corporation is directed to:

1. *To enquire in regard to grievance of inadequate parking space and also in regard to eligibility to acquire the said parking spaces as per byelaws.*
2. *To investigate any unauthorized construction beyond the allowable FAR and compoundable limits in the entire 3 Kathas of*

land wherein the Apartment building and house of landlord is situated and to remove the unauthorized construction which is made at a later stage after the permission for construction which is made at a later stage after the permission for construction of the apartment is given including the fencing segregating the plot into two parts. ”

There was no challenge to the order of this Authority by the promoter or GMC and the same attained finality as mentioned in para 6 of the order dated 24.05.2024 of the REAT Assam. The additional grievance of the complainant – appellant was addressed by the REAT in para 12 and same enumerated below as follows:

“12. *As regards submission made that some additional defects which had been highlighted before the RERA was not addressed and left unattended to, the Appellants have drawn attention to the appeal memo, particularly to the grounds of appeal at Clause 6(E) which lists the defects. Upon hearing both the sides on this particular issue, this Tribunal records the submission made by the counsel for the Respondent Builder/Promoter, upon clear instructions received from his client, that (i) the plastic materials which was used to cover the duct holes to prevent rain water from entering the ground floor parking area has already been replaced by good quality Corrugated Iron (C.I.) sheets, (ii) the covering of the overhead water storage reservoir will be done by concrete slab, (iii) a well-ventilated living room will be provided to the Caretaker, and (iv) a Security Shed with brick walls having arrangement for electric light and fan connection will be provided at the permanent entrance to the building apartment.”*

6. The respondent has submitted a written argument on 19.09.2024 along with Annexures wherein it is stated as follows:

- i) The flats were handed over in the year 2014/15 and after 5 years of enjoying water supply and other facilities, the complainants have come up with false pleas. To comply with the order of this Authority the respondent has made numerous attempts for boring work but

the complainants are obstructing the respondent from proceeding with work on new and unfounded grounds. The respondent even undertook to provide the water connection from Guwahati Jal Board after failure to give water after boring attempts.

- ii) As per RERA Assam direction No.2, lift installation were done and were made operational but the complainants are deliberately switching it off and making false pleas.

During the inspection by Town Planner, RERA Assam the lift was found functional but someone has switched off the MCB in the machine room. The lift has been functioning for over 9 years and it is the responsibility of the complainant and society to maintain it. (photographs enclosed).

- iii) The complainant obstructed the installation of the generator and it is still lying unused in its original plastic package. This was the 2nd generator inspite of the generator initially installed and made operational at the time of handing over of the flat. The occupants of the building are not maintaining the generator (Photographs of old and new generator with documents annexed).
- iv) Sanctioned plan clearly indicates that the ground floor designated solely for parking. Photographs enclosed shows the vehicle conveniently parked on the parking layout.
- v) Photographs of building permission enclosed.
- vi) Rooftop repaired but the roof is not properly maintained by occupants resulting in accumulation of debris waste leading to damage of roof. Despite this, the respondent recast the entire floor bearing expenditure of Rs. 8 to 9 lakhs (Photographs of rooftop annexed).

- vii) Regarding the soil pipes and drain pipes by use of 8 to 9 years there will be some wear and tear and it is the responsibility of the society to maintain it. Despite this, the respondent in compliance with this Authority order has done the repairs.
 - viii) Regarding 7 and 8 directions of documents submitted and most of those documents are already a part of the memo appeal and the complaint.
 - ix) Regarding direction of the REAT Assam in respect of the duct holes, the plastic cover of the duct holes have been replaced with G I corrugated sheet (photographs enclosed)
 - x) Regarding No.2 direction of REAT Assam i.e., the overhead water storage, the complainant did not allow the respondent's person to cover the roof of the overhead tank with baseless allegation that no manhole for cleaning provided. The concrete slabs not allowed to be lifted to the rooftop by the complainant (photographs enclosed).
 - xi) Repair of caretaker room not allowed by the complainant. The caretaker room was constructed with profile plastic and glass sliding window about 9 years ago and it has been deliberately altered by the complainant and forcefully sealed the windows with wooden plank and continuously obstructed the start of the work by preventing the respondent to repair the same.
 - xii) Security shade also not allowed to be repaired. Brick and sand are still lying in the complex (photographs enclosed). Security shade constructed 9 years ago with iron frame and over the period of time deteriorated with natural wear and tear for non-maintenance by the society.
7. During the execution proceedings, the direction was issued by this Authority for inspection of the project site by Town Planner RERA

Assam and accordingly visited the site on 20.02.2025 and submitted a report.

The report are as follows:

INSPECTION REPORT

Case No.: ASSAM/RERA/2017/207

Name of the Complainant: Nayan Jyoti Barman.

Name of the Respondent: A. B. Construction.

Date of Inspection: 20.02.2025.

OBSERVATION

<u>Sl No.</u>	<u>Complaint</u>	<u>Observation</u>
1.	Borewell boring	Not done due to dispute of location of the point. Materials are already placed within the campus.
2.	Rooftop water tanks permanent concrete slab covers.	Not done. Due to dispute of not providing manhole for periodic maintenance.
3.	Caretaker Room	During inspection it was locked. Half brick wall and half is covered by Fibre Boards with windows. However windows are permanently blocked by nailing wooden planks over it.
4.	Security Room near gate	Not done, due to dispute of size of the security room.

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| 5. Placement of Generator | Report from vendor may be sought for Regarding “reversing the Diesel Refill point (mouth) of the generator towards the building”. |
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The inspection report was done in presence of complainant, Respondent and Assistant Town Planner, GMC, Smti Jebina Yasmin.

8. No. of petitions were filed by the respondent informing this Authority about the obstruction by the complainant from carrying out the works as per the direction of this Authority. The complainants have also filed petition alleging non compliance of order by the respondent and in this petitions, the issue reiterated is that the project land area is 3 kathas and not 1 katha 17 lechas. Stand of the complainant is that the project area is 3 kathas, the respondent has to do the boring work in the area beyond 1 katha 17 lechas and the entrance gate is to be constructed on the Lakhmi Nagar Path and not on the Shivam Path.
9. The issue regarding the project land has attained the finality by the judgement of the REAT Assam as 1 katha 17 lessas, which has been discussed in para 6, 8 and 9 of the said judgement. The development agreement Deed No.1182 dated 14.02.2011 entered between the landlord was in respect of 1 katha 17 lechas out of total 3 kathas land and the said 1 katha 17 lechas is on the back side, as fully described in Schedule A to the Deed.
10. At the time of development agreement, the landlord’s residence was there with only ground floor construction on other portion of the land measuring 1 katha 3 lessas. As per the development agreement, the respondent in addition to provide 3 numbers of 3 BHK flats, was

also to construct one slab over the ground floor of the house of the landlord.

11. In the instant case, the complainants entered into an agreement for sale, wherein the project land has been clearly mentioned as 1 katha 17 lechas and accordingly, the sale deed were also executed.
12. In the agreement for sale, it is clearly mentioned that the construction is undertaken on the land measuring 1 katha 17 lechas and the land has been clearly described in Schedule A to the agreement and in schedule B to the agreement of both the complainants on the northern side of their flat there is mention of residence of Bhupen Chandra Khaund/owners building. Knowing the details of the project land, the complainant has entered into an agreement for sale and subsequently got the sale deed registered, took possession of the flat started residing there and off late came with obliterate motive to gain illegally.
13. The agreement for sale was dated 05.10.2012 and sale deed of 15.05.2015 in respect of the complainant Shri Minaram Bhuyan and the agreement for sale of complainant Shri Nayan Jyoti Barman is of 10.03.2011 and sale deed dated 15.05.2025. The complaint petition was filed on 29.04.2019 i.e., after 7 years of the date of the agreement and 4 years of their sale deed. In schedule B of the sale deed the road is shown in the east as Shivam Path (16 feet wide PWD Road). Being so the claim of the complainants that the project land is 3 kathas and that the entire 3 kathas of land is common area of the flat owners and that the entrance of the building is from the Lakhmi Nagar Path is absurd and not tenable.
14. It needs to be mention herein that the execution case and the Execution Court is confined to the directions given by this Authority

vide order dated 30.12.2024 with addition/modification as per the judgement and order dated 24.05.2024 by REAT Assam in Appeal No. 01 of 2024. The details of the directions have already been discussed above.

15. Coming to the **direction No.1** i.e., construction of the deep tubewell in the premises of the Laxminagar Apartment, first and foremost it is to be made clear that the said construction is to be done within the premises of Laxminagar Apartment, which has project area measuring 1 katha 17 lechas and not beyond that, which is clearly clarified by the Hon'ble REAT Assam in para 6 of the judgement about the project land and that the respondent builder/promoter is without power to deal with any land beyond what has been legally attorned to it by the landlord. The respondent did not challenge the order dated 30.12.2023 of this Authority and undertook to comply with the direction as per the order rather it was the complainant who preferred the appeal. The respondent carried the vehicle for the purpose of boring deep tubewell and also carried the pipes to the site but the complainant did not allow the work to commence, and insisted on the boring to be done on the other part of the land under the landlord occupation claiming that in the 'as built drawing' it is shown in the North West Campus, which falls in front of the landowner portion of the land. The copy of the said 'as built drawing' is without any sign and seal of anyone and not an authenticated one. Moreover that portion of the building is beyond the project land and the respondent do not have the Authority to do the boring work in that place. Furthermore, the said 'As Built Drawing' clearly shows the existing building of the landlord towards the main road. The photographs of the drilling vehicle and another

photograph of 14 Nos. of M S Pipes lying in the site has been submitted by the respondent along with the tax invoice in respect of payment of Rs.1,44,460/- for those 14 pipes and paid and cancel bill for Rs.2,72,250/- issued by firm of Sunil Kumar Sah for 300 meter boring. Number of letters have been addressed by the respondent to this Authority informing about the obstruction by the complainant to carry out the necessary work. The complainant during the hearing insisted upon the boring to be done in the North West corner of the entire plot of land measuring 3 kathas which is beyond the project land inspite of the matter being resolved and settled by this Authority as well as the REAT that the project land is 1katha 17 lechas. Inspection report dated 20.02.2025 of the Town Planner, RERA Assam mentions that the materials already placed in the campus but not installed for dispute of site.

16. The **2nd direction** was to make the lift fully functional by providing BSI mark quality machinery. The respondent in his written argument has annexed the photographs of the lift showing the 3rd floor in the indicator with another photographs of the shutter of the lift alongwith the letter dated 24.03.2015 of the trend elevator in respect of handing over of the lift and Annual Maintenance Contract (AMC). It also included the lift specification and that warranty w.e.f.30.03.2025 to 28.02.2026 and thereafter for maintenance if AMC is signed. The license to use lift issued by the O/o the Chief Inspector of Lift & Escalators, Assam on 09.09.2019 also submitted by the respondent with his letter dated 24.02.2025 after site inspection by Town Planner, RERA Assam on 20.02.2025. The said license mentioned the make as Trend Elevators with lift capacity of 6 (six) persons and load capacity as 408 kg.

17. Copy of the letter dated 12.06.2023 and 01.09.2023 enclosed with the written argument dated 19.09.2024. As per the letter dated 12.06.2023, the respondent informed this Authority that his representative Hemen Deka went to the Lakhminagar Apartment along with the technician and other person and found that the lock and key of the room was not in order and when Mr. Hemen Deka knocked the door of Mr. Barman, Mr. Hemen Deka was refused to do the installation work of the miniature thoroughly admonished and threaten to put him behind the bar and the incident was recorded by the representative. The Secretary's residence was locked. Mr. Barman created scene and the technical team left the building for which the respondent cannot undertook the work as per the instruction of the court. The request was to made to provide security for doing the repair work. The technical team had gone there for repair and change of the AVS system including Autostop Procedure at the said apartment. The letter dated 01.09.2023 of the respondent to this Authority informed about the lift being repaired twice and the Secretary/President did not allow the respondent's men to rectify the lift to install the Auto Landing Device (ALD). It is also informed that the respondent sent the 2 technicians along with one photograph on 26.08.2023 and 27.08.2023 and along with the said letter dated 01.09.20023, 4 numbers of photographs and one pendrive containing video recording was submitted.
18. Annexure A to the agreement for sale mentioned the lift as "lift will be of approved quality of 4 person capacity". No brand name is given therein. Similarly in sale deed in Schedule C under the heading common facilities at Sl. 10 no specification of lift is given.

19. The lift license has been issued by the Chief Inspector of Lifts and Escalators, Assam on 09.09.2019 for the Laxminagar Apartment of the Make In India brand elevators with good load capacity of 408 kg with dimension for 6 passengers. The license is valid upto 08.06.2022 and it is the responsibility of the occupants of the flat owners to maintain the lift and keep the lift under AMC.
20. Legal notice dated 24.06.2024 was issued by Learned Advocate Mr. Sanjib Hazarika on behalf of the respondent to the complainant Mr. Nayanjyoti Barman informing about the compliance of the direction of the REAT Assam has been annexed as 'Annexure 14' to the execution petition by the complainant.
21. The said legal notice in para 4 mentioned about the compliance of the order dated 24.05.2024 of the REAT Assam with some additional maintenance work. The works as follows:
- a) Rooftop of the building has been recast and slope maintained.
 - b) Staircase from the ground floor to the 4th floor has been changed from tiles to marble.
 - c) Lift maintenance and Auto Balance System has been replaced and reinstalled.
 - d) No AMC has been taken for the lift.
 - e) High quality and High durability ISI PVC has been repaired.
 - f) Kriloskar engine has been installed with GST/GIC along with 40 litres of diesel and brand new battery.
 - g) Replaced the old CGI sheet with quality colour CGI sheets.
 - h) The drain cover has been fixed with Jalli/Net.
22. The legal notice also mentions that the respondent has not been allowed to complete the following works:
- (i) Two water tanks covers

- (ii) The main gate man post and if allowed will be completed within one month.
 - (iii) Security Room
 - (iv) Drilling for deep tubewell.
 - (v) Regarding of fencing that demarcated 1 katha 17 lechas of the project land the respondent cannot breach the boundary and ask the complainant to approach the Civil Court for any declaration beyond 1 katha 17 lechas project land.
23. Coming to the generator as per the direction No.3 of the order dated 30.12.2023, the direction was to construct a shed over the generator platform and install the generator in appropriate manner at a suitable location upon discussion with the society of the apartment building.
24. The respondent's counsel during the course of hearing submitted that in addition to the earlier installed generator, the respondent purchased a new transformer and took to the site for instalment but the same was not allowed by the complainant. The earlier generator was of Crompton Greaves Ltd. . Copy of the engine test certificate dated 07.12.2015 has been enclosed with the written argument by the respondent, which certifies the machine has been tested and found to be electrical and mechanically sound and complied with the requirement of BIS specification.
25. It is submitted by the Ld. Advocate for the respondent side that the respondent purchased new generator of Mahindra Co. but the said generator was not allowed to be installed and it is lying on a side of the building with plastic cover intake. The photographs enclosed of the written argument depicts generator of Mahindra & Mahindra Ltd. Lying with plastic wrapped over it.

26. Another photograph enclosed with the respondent's written argument is that of generator Koel Green by Kriloskar with cover shade over it. This is a new generator as seen from the certificate issued by Kriloskar Company of the Genset of Model Koel with certificate No.2019/782 Dated. 08.04.2019.
27. The objection of the complainant is that the generator is placed in such a place by the side of the wall making it inconvenient for refiling the diesel in the generator, to which the respondent counsel drawn the attention to the photographs which clearly shows a boy with drum in hand between the wall and generator and still a sufficient space between the drum back and the wall. The invoice cum delivery challan shows the cost as Rs.3,72,000/-
28. Another objection raised by the complainant is that the generator is not placed on a proper platform. The photograph shows that the generator is placed upon some concrete and iron plank with shed over it. The respondent counsel draws the attention to the shabby surrounding near the generator, which shows the nearby area not properly cleared and as per the photographs of the written argument broom, wire etc are placed above the generator.
29. It is the duty of the occupants of the building to keep in proper condition the generator and surroundings in proper manner. The building has been handed over way back in the year 2015 and still the respondent has undertaken the repairing works including providing a new generator. There is sufficient space between the existing stalled generator and the wall to facilitate filling diesel. The complainants are unnecessarily making false allegation and harassing the respondent.
30. As regard **direction No.4**, it is mentioned in the notice that parking space is 2301 sqft which can accommodate 16 to 17 vehicles

but the complainant Mr. Nayanjyoti Barman have unauthorizedly occupied the space of 3 cars instead of 1 including one guest car parking space and slot No. 301 belonging to one Mrs. Hazarika. As per the Building Bye Laws, car parking space requires 13.79 sqm i.e., 148.05 sqft and for 11 flat owners requires 1628.63 sqft whereas the total parking space is 2301 sqft.

31. The other ground taken is that the parking plan in the ground floor submitted by the respondent is vague and without any diversion of the parking slots and driveway and has illegally shown 3 parking slots i.e., for flat No. 101, 303, 402 belonging to the landlord on the ground that as per the development agreement, the respondent was to provide 3 car parking spaces to the landlord in the basement and not in the ground floor and as per the NOC of the building permit, there is no basement in the building. It is also mentioned that the parking spaces has been allotted to the flats of built up area of less than 80 sqm which are not eligible to acquire as per the Guwahati Building Construction (Regulation Bye-Laws) 2014 which came into the fact on 20.02.2014 i.e., long before handing over the flat to the flat buyers.
32. It is also submitted that the respondent has not earmarked 13.75 sqm of parking space in the ground floor to each of the complainant as per the bye laws. The prayer is for cancelling the parking drawing submitted by the respondent with his WS dated 19.09.2024 and allow the complainant to earmark their own parking space of 137 sqm with police intervention as shown in the builder parking drawing.
33. In the development agreement, the share of the landlord was in respect of 3 flats along with parking in the basement but the building

permission is for G + 5 and there is no basement construction. When the development agreement was executed may be due to inadvertent error or proper understanding the parking area of the landlord has been mentioned as basement and that cannot deprive the landlord from getting the parking space for his 3 flats. The building NOC has been approved after taking into consideration the requirement of the parking for the 11 flat owners and amongst those 11, the 3 Nos. of flats are of the landlord. Being so, the plea of the complainant that the landlord flat owners are not entitled for parking is not at all justified.

34. Furthermore, as per the Building Bye Laws there is a provision for guest parking area and as such the submission of the complainant is that no words in the Bye Laws called "Guest Parking" is not correct.

35. Amongst other para 10 of the said affidavit regarding the parking objection as per the parking plan submitted by the respondent with his compliance report dated 17.03.2025 and the same annexed as Annexure 3 of the affidavit by the complainant is felt pertinent to mention. It is stated that the builder failed to submit sanctioned parking plan and the earmarked parking slot of 13.7 sqm size to each of the complainants as opined by REAT Assam. As per the complainant sanctioned parking plan will have to show the driveway from the permanent entrance gate of Lakhiminagar Plot of Laxminagar Apartment building but not done so.

36. Further contention of the complainant is that as per the development agreement, the builder was to provide 3 car parking spaces to the landowner depriving other flat buyers. As per the complainant 13.75 sqm area for each of the complainants has been proposed and in the adjacent of proposed area, the builder has allotted the guest parking and parking space for flat No.203 and 102,

which according to the complainant there is no term called “guest parking” in Bye Laws and flat No.203 is a 1 BHK flat with built up area of less than 80 sqm which is not eligible for car parking as per Appendix 1 of the Guwahati Building Construction (Regulation Bye Laws) 2014. The parking space for flat No. 203 can be shifted to the space for flat No.101 which has been illegally allotted to Late Khaund, the landlord. The complainant Nayanjyoti Barman plea is that he cannot keep his car due to inadequate parking space allotted to him for which he is keeping his car in the space marked for guest parking and other complainant Minaram Bhuyan has to keep his car outside the building area.

37. The complainant has not denied the space shown in the parking plan submitted by the respondent and rather relied upon it and annexed as Annexure 3 of his affidavit. The said parking plan depicts sufficient parking space and his plea of not to allot parking space to Flat 102 (1 BHK) and prayer for shifting the parking space allotted to Flat No.203 to the space shown for flat No.101 (landlord) depriving the landlord from parking space is not at all justified but also un reasonable and not tenable.

38. These two letters dated 05.06.2024 and 18.07.2024 are enclosed with the reply dated 19.09.2024 of the complainants, wherein the settled issue of land area has been reagitated, claiming that the project area land is 3 kathas and not 1 katha 17 lechas. It is also contended in the reply that the building permit ought to have in the name of the builder and not in the name of the landlord and that the respondent has illegally agreed in the agreement to construct first floor slab and column above the existing ground floor building of the landlord and alleged that the landlord is also involved in the illegal

irregularities. Other than this contention, the complainant has not replied or denied the allegation of the respondent against the complainants of not allowing the respondent to carry out the works.

39. The complainants along with petition No. 139 dated 08.01.2025 submitted the synopsis. In para 1 of the synopsis it is stated that as per the order of the RERA Assam and upheld by REAT Assam the Lakhminagar Apartment has been constructed on plot of land measuring 3 kathas. This is not correct and it has already been discussed above.

Regarding that the parking plan should show the entry from the Lakhiminagar Path and not Shivam Path to the ground floor that it is already discussed above that the land measuring 1 katha 3 lechas facing Lakhiminagar Path is of the landlord, and the remaining land measuring 1 katha 17 lecha out of 3 kathas is behind this plot is the project land and its entrance is from the Shivam Path. The same has also been settled by the Hon'ble REAT Assam in para 6 and 8 of its judgement dated 24.05.2024. The complainant reagitating the settled position is a misuse of judicial process.

The other ground in the synopsis is as per the as built plan the respondent has shown the underground water tank and rainwater harvesting tank of the North West corner of the 3 kathas land and the complainant's demand is to hand over the physical possession of this groundwater to the society.

This North West corner falls within the land of the landlord and the same is outside the purview of the development agreement which is well known to the complainant and this demand is not tenable.

40. **Direction No.5** of the order dated 30.12.2023 is for repair of the rooftop of the building so that there is no water logging and seepage. The respondent has already repaired the rooftop and produced the photograph and rather alleged that it was for lack of maintenance by the complainant and flat owners causing of accumulation of debris, waste materials, water and leading to damage of the rooftop.
41. Accord to the respondent, the entire roof was completely recast with extensive repair which was caused by the society neglect and for such repair the respondent has to bear the cost of around Rs.8 to 9 Lakhs. The respondent draws the attention to the Annexure 12 to the written argument which was prior to the recasting and those photographs in 3 sheets shows accumulation of algae, dumping of plastic and other waste material in the rooftop with grass and peepal plant growing. The next photographs shows fresh plaster over the rooftop. As regard the recasting of the rooftop the complainant has not raised any dispute.
42. As regard the **direction No.6**, regarding repair of soil pipes and drain pipes, the reply is that these were done 8 to 9 years back and it was the duty of the society to regularly maintain the same and for not doing so, there were certain damages which requires repair. According to the respondent though it is not his duty to maintain it but has complied with the Court's order and done the necessary repair works. The photographs shows placing of iron grill over the drain and there appears no damage to the drain sides. It also shows fresh cementing work over the floor side by the drain.
43. As regard the **direction No. 7 and 8**, the reply of the respondent in the written argument is that all the documents like

Fire NOC, Transformer, Occupancy have already been provided and it is also mentioned that these documents are already a part of the complaint petition and Memo Appeal. The NOC dated 25.03.2014 of Fire Department, Electrical Wire layout between the generator, Transformer, Panel with earthing, OC dated 19.01.2021, Electrical transformer invoice Dated 01.02.2014 with challan and transformer test certificate, payment receipt by APDCL for power connection are enclosed with the written argument as Annexure 4.

44. In addition to the above, the respondent in his compliance report to the inspection report of Town Planner, RERA has submitted certain documents. One is letter dated 22.01.2025 as regard forwarding the copy of Gauhati High Court and submitting a pendrive with photographs of the activities of the complainants as self styled Secretary and President. The copy of the order dated 10.01.2025 of the Hon'ble Gauhati High Court in WPC 146/2025 reflects that the Writ Petition was preferred by Smti P. Khaund, W/o Lt. Bhupen Chandra Khaund (Landlord) seeking relief against the impugned notice dated 30.11.2024 issued by GMC to the respondent No. 5 (Promoter) to remove the unauthorized construction of temporary fencing between the landlord property and that of the builder (i.e., promoter- respondent).
45. The plea taken in the writ petition was that said fencing was done by petitioner's late husband and that no opportunity was given to the petitioner before issuing notice for demolition by GMC. The Hon'ble Gauhati High Court stayed the execution of the notice and afforded the opportunity to the petitioner to place her objection with necessary documents.

46. Be it be mention herein that in the complaint proceedings before this Authority, the landlord was not made a party. And the direction given to the GMC as per the order dated 30.12.2023 is to enquire regarding the grievances of inadequate parking spaces and the 2nd direction was to investigate in unauthorized construction beyond the allowable FAR and compoundable limits in the entire 3 kathas of land wherein the apartment building and house of the landlord is situated and to remove the unauthorized construction which is made at a later stage after the permission for construction of the apartment was given including the fencing segregating the plot into 2 parts.
47. The matter is pending before GMC and there is no ambiguity about the land under agreement i.e., 1 katha 17 lechas and remaining 1 katha 3 lechas of the landlord upon which exist the house of the landlord .The grievance, if any , of the complainant should be confined to the project land measuring 1 katha 17 lechas and not beyond it.
48. Along with the aforesaid compliance report the respondent has enclosed a copy of the letter dated 24.02.2025 addressed to the Town Planner, RERA Assam wherein he has mentioned about the situation created by the complainant at the time of inspection that the complainant will not allow to erect the tubewell and has forwarded the copy of 9 documents and they are as follows:
- A) GMC NOC
 - B) Fire Suggestion
 - C) Fire NOC
 - D) Transformer Charging Certificate
 - E) Lift paper bill

- F) Lift license
- G) Generator based certificate
- H) Parking Drawing
- I) Occupancy Certificate.

49. As per the building NOC. the construction is for G + 4 with ground floor area as 235.78 sqm i.e., (2537.9 sqft) and there are 11 flats/units in the said building, as mentioned above.
50. The parking layout showing 12 parking with one guest parking is also enclosed.
51. In addition to the written synopsis the complainant has filed an affidavit dated 02.06.2025 wherein he has reiterated the statement already mentioned in his complaint petition, execution petition and written synopsis as already discussed above.
52. The respondent Shri Amal Kumar Borpujari, as proprietor of M/s A B Construction and Housing has also filed an affidavit dated 09.05.2025 reiterating that the complainants, who are self-styled President & Secretary of the society have threatened the landlord; that they create hostile and unsafe environment; that the residents of the building are victims and harassments by the complainants; that the lift AVS system was deliberately tempered by the complainant putting the blame upon the complainant; that the apartment was occupied by the complainants about 11 years back which sufficient water supply at that time; that the promoter undertook to provide water from Guwahati Jal Board at his own cost; that the water tank roof cover kept at the site for the last 6 months; that the caretaker rooms have remained unattended for last 6 months, which can be renovated within just 2 days; that selection of the Secretary post has

been insisted to be constructed in another plot; that is generator has been replaced twice.

53. After the affidavit by the respondent; the complainant Nayanjyoti Barman vide affidavit dated: 02.06.2025 reiterated the non compliance of the order this Authority as well as of REAT by the respondent; that re - agitating the settled issue of the project land claiming it to be 3 katha; that builder failed to submit the sanctioned parking plan as because the said parking plane has to have the driveway from the Lakhiminagar Path; that the builder is to be provided 3 parking at the basement and not on the ground floor; that the 3 parking place provided to the land lord need to be removed; that the parking drawing (Annexure 3 to the affidavit) shown 13.75 sqmtr to the complainant and adjacent to it the builder has proposed a guest parking and parking space for flat no. 203 and 102; that guest parking is not there in the building byelaws; that the parking space no. 203 allotted to be shifted to the parking space allotted for flat no. 101 illegally allotted to the landlord ; that the flat no. 102 is a single flat measuring 80 sqft and not eligible for car parking; that as per the direction of 7 and 8 of this authority , the builder was to furnish the copy of sanctioned plan, build up plan, etc. but not furnished. In the written synopsis dated 08/01/2025 objected to the allotment of parking the the no 101,303,402 belonging to the landlord.

54. The issues raised by the complainant has already been discussed above, and the observation is that it is complainant who have prevented the respondent from carrying out the work more particularly the deep tube well boring , security room and Security (sentry) Post. Number of petitions has been filed by the respondent before this Authority and also written to the society informing about

the obstruction by the complainant to carry out the works. As regard the lift the same has been provided and also the necessary repair of the earlier lift has been done. The allegation of the respondent is that the lift was kept defective intentionally by the complainant by pulling down the MCB (Miniature Circuit Breaker). The letter address to this authority by the respondent are dated: 18.07.2024 25.07.2024 03.02.2024, 15.02.2024, 24.04.2024, 04.05.2024 05.06.2024 26.06.2024 25.07.2024 12.9.2024 05.12.2024 17.12.2024

55. The respondent wrote the letters to the Secretary / President of the society vide letter dated: 15.02.2024, informing that the respondent is ready to bear the expenditure incurred for providing water from Guwahati Jal Board and alternately also ready to erect deep tube well in the campus. Vide letter dated: 24.07.2024, it was informed that despite of efforts and physical presence of labour and technicians a number of times in the premises, they were denied to enter and carry out the work and request was to allow the labour to do the work and not to disturb or admonish them. The matter was brought to this authority notice vide several letters as mentioned above, and in one of the letter dated: 18.07.2024 it has been mentioned that the complainant are demanding water boring and construction of security shed in someone else property and precast slabs for covering the water tank lying at the site alongwith other material and bricks as the complainant did not allow to carry out the work and that the respondent has already incurred approx. Rs.14 lakhs for carrying out the directions.
56. The letter dated 05.06.2024 of the respondent addressed to this Authority mentioned about the rectification/replacement of tiles with marble, lift engine, rooftop, generator set cable. It is also

mentioned that after joint inspection with GMC and GMDA for potable water issue as addressed by Tribunal the matter was taken up twice with the ground water board and boring rig was sent for digging but the complainant on two occasions admonished and sent away the drilling party. It is also mentioned that the complainant thrown away the new generator out of installation area, disconnected the electronic cable of the generator and creating new problems. Further, allegation is that the landlord aged 83 years died under the threat of the complainants during the marriage of the landlord's son and on the third day of his death, the complainant sent a message to the family members of the landlord prohibiting them from using the lift. Vide latter dated 18.07.2024, the respondent brought to notice of this Authority about the complainants demand of with boring and security shed in another land and that the pre casted concrete slabs to cover water tank not being allowed to be played and lying in the campus

57. The 8 (eight) directions to the respondent at page 17 of the order dated: 30.12.2023 of this authority has been complied with except the deep tube well at sl. No. 1 for the reasons as already discussed above. Regarding generator at sl. No. 3 after initial generator, the promoter provided 2 more generator and the new one has not been allowed to be installed by the complainant. The additional direction by the REAT vide judgment and order dated: 24.05.2024 the respondent has done the additional work of replacing the plastic cover over the duct hole with CI Sheet but he could not carry out the covering of the overhead water reservoir with concrete slabs, caretakers room and security shed for the reasons discussed above, to be specific on being obstructed by the complainants. The

obstruction for carrying out these 3 directions and deep tube well boring is for the insistence of the complainant to do this work on the adjacent plot of land measuring 1Katha 3 Lessa of the land lord. The complainants claim of project land as 3K has been answered by this authority vide order dated: 30.12.2023 and settled by REAT vide order dated 24.05.2024. Inspite of the project land being mentioned as 1 Katha 17 Lassa (Out of 3Katha) in the agreement for sale and sale deed, as discussed above the complainant are insisting upon the project land as 3K and is causing harassment not only to the promoter but also the land lord as well as the other occupants of the building. The promoter has taken the materials for the necessary construction and deep tube well boring but the same lying are in the site for not being able to carry out the work on the obstruction of the complainants. The promoter had also taken the vehicle with materials required for the purpose of drilling. The photographs enclosed with the petitions and written argument establishes the fact. The complainant is also not happy with the parking inspite of sufficient parking space and insisting upon the cancellation of the parking allotment of the land lord who has three flats as landlord's share and the complainant is also asking to cancel the allotment to flat no. 1 being less than 80 sqmtr in addition to the plea of no provision for guest parking in the building byelaws. This fact already discussed above. The flats were handed over about 10 years back and still the promoter is being harass for one reason or another. The act of the complainant has not only cause harassment and unwanted expenditure on the part of the promoter but also cause the harassment to the other allottees as well as the land lord.

58. From the initial complaint petition dated: 29.04.2019 as well as the execution petition filed on 02.07.2024 it is seen that the complainant filed this complaint case in their individual capacity and not on behalf of the society. From the conduct of the complainant and as alleged by the respondent, the complainant is not only harassing the respondent but also the other occupants of the building. Had the grievances been a common to all the occupants of the buildings they could have join hands with the complainants or could have authorized the complainant to file complaint on behalf of all the occupants of the building.
59. In the above back drop, it is seen that the promoter has sincerely proceeded with the compliance of the necessary direction as well as the additional direction of the REAT and has complied with some of the directions but for the obstructions and harassment by the complainants, the promoter could not complete all the directions, as discussed above. The Complainant rather has wilfully defied this authority as well as REAT's finding and wrongfully asserting the project land to be 3K instead of 1K 17 L. Instead of more than 10 years of taking possession of the flats by the complainant, the promoter has been carrying out repair and other works and the harassment by the complainant's is not over.
60. Considering the matter in its entirety and conduct of the complainants in particular in re-agitating the well-known position of project land being 1 katha 17 lechas and same settled by this Authority as well as the Hon'ble REAT Assam, obstructing and harassing the respondent in not allowing to carry out the directions of this Authority as well as the Hon'ble REAT Assam, the execution petition stands dismissed with cost of Rs. 25,000/- (Rupees Twenty

Five Thousand only) upon each of the complainant Shri Nayan Jyoti Barman and Shri Minaram Bhuyan and the same to be deposited within a period of 3 (three) months.

With above observations and direction this execution case stands disposed off.

**Sd/-
(B.K.Chetri)
Member**

Memo No. RERA/ASSAM/EXE/2024/20

Dated.20.01.2026

Copy for information and necessary action as per order to:

1. Shri NayanJyoti Barman and Shri Minaram Bhuyan, R/o Laxmi Nagar Apartment, Lakhmi Nagar Path, Hatigaon, Guwahati – 38.
2. Shri Amal Kr. Borpujari, Prop. M/s A.B.Construction and Housing, Rajdhani Apartment, R.G.Baruah Road, Ganeshguri, Guwahati – 06.
3. Website i/c RERA Assam to upload the above mentioned order.
4. Order copy.

**Registrar
Real Estate Regulatory Authority,
Assam**