

Vikas
15/11/23

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

Virtual Hearing held through video conference as per
MahaRERA Circular No.: 27/2020

REGULATORY CASE NO. 73 OF 2023

SHREE SANKET DEVELOPERS ... APPLICANT (PROMOTER)

VIKAS NAGAR PHASE I ...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P51600021855

ORDER

November 07, 2023

(Date of virtual hearing - 10.10.2023, matter reserved for order)

**Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA
Shri Mahesh Pathak, Hon'ble Member-I, MahaRERA
CA Pranesh Lodha for the Applicant (Promoter)**

1. The Applicant herein had registered the project namely "VIKAS NAGAR PHASE I" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") of Real Estate Regulatory Authority ("RERA") bearing MAHARERA Registration No. P51600021855 (hereinafter referred to as the "said Project").
2. An application was made by the Applicant (Promoter) for seeking deregistration of only two building out of 11 building registered under the said Project. In this regard the captioned case was heard by this Authority on 10.10.2023 wherein the following roznama was passed:
"The Promoter informs that they intend to deregister only 2 blocks namely block A & block I in the project consisting of total 11 blocks. The Promoter informs that the QPRs have been updated. The Promoter informs that they have not been able to continue with the project due to certain internal disputes. Matter reserved for order."
3. The Applicant (Promoter) has stated the following for seeking deregistration (partly) of the two building out of 11 from the said Project:

- a. That the said Project consists of 11 buildings namely Block A, Block B, Block B1, Block C, Block D, Block E, Block F, Block G, Block H, Block I and Block J.
 - b. That the Applicant Promoter has filed this deregistration application for partial deregistration of the said Project only to the extent of deregistering 2 buildings i.e. Block A & Block I. The said Project registration shall continue for the remaining 9 buildings.
 - c. The Applicant Promoter seeks this partial deregistration due to dispute between landowners at the time of joint development agreement. Hence, a portion of land is not available for development. The Applicant Promoter further states that the sanction is received for entire plot.
 - d. The Applicant Promoter has updated the QPRs (*except Form 5*) as directed by the Authority on 10.10.2023.
 - e. It is observed that the Applicant Promoter had submitted an affidavit at the time of deregistration application stating that the Block A & Block I in the said Project has zero allottees.
4. Further, it is also observed that office of MahaRERA on 02.06.2023 & 19.06.2023 issued notices inviting objections for deregistration of the said Project wherein no such objections were received.
 5. Thus, from the facts and the submissions of the Applicant (Promoter) it is clear that there are no bookings made Block A & Block I of the said Project.
 6. Thus, the issue of *whether the said Project registration can be deregistered partially?*
 7. Before the Authority decides on the order on partial deregistration, the section that provides for grant of registration needs to be examined. Section 5 of the said Act is hereinbelow reproduced for ease of reference:

"Section 5 - grant of registration:

(1) On receipt of the application under sub-section (1) of section 4, the Authority shall within a period of thirty days. (a) grant registration subject to the provisions of this Act and the rules and regulations made thereunder, and provide a registration number, including a Login Id and password to the applicant for accessing the website of the

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Authority and to create his web page and to fill therein the details of the proposed project; or (b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of this Act or the rules or regulations made thereunder: Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

(2) If the Authority fails to grant the registration or reject the application, as the case may be, as provided under sub-section (1), the project shall be deemed to have been registered, and the Authority shall within a period of seven days of the expiry of the said period of thirty days specified under sub-section (1), provide a registration number and a Login Id and password to the promoter for accessing the website of the Authority and to create his web page and to fill therein the details of the proposed project.

(3) The registration granted under this section shall be valid for a period declared by the promoter under sub-clause (C) of clause (1) of sub-section (2) of section 4 for completion of the project or phase thereof, as the case may be."

8. On perusal of section 5 it is clear that a project registration is granted pursuant to the Promoter / Developer seeking a grant of registration. A grant for registration when sought under section 5 is an acknowledgment of the intent of the Promoter / Developer to start and complete a project wherein premises as described under the said Act would be handed over to the Allottees. Thus, the critical ingredient of section 5 is the intent of the property to complete as a project. A registration number has been provided so as to ensure that from the point the project starts namely on receipt of commencement certificate to the point when the project concludes namely on receipt of occupation / completion certification the project remains compliant. This is the intent of RERA and this intent is clearly brought about in the preamble of the said Act which is reproduced hereinbelow:

"An Act to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto."

On perusal of the preamble, it is evident that the intent is to ensure the sale of plot, apartment, etc. in an efficient and transparent manner and to protect the interest of the consumers. The intent thus mandates the Authority to ensure that

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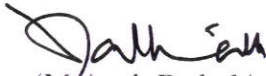
the project remains compliant and the home buyers / allottees receive their premises. Hence the legislation is to ensure delivery of the premises to the home buyers / allottees. This is a beneficial legislation where a tangible asset needs to move from the Promoter / Developer to the home buyer / allottee in a manner as laid out under the said Act. The legislation is not for providing project registration numbers which do not lead to home buyers / allottees receiving tangible assets. The Authority needs to make it clear here that a project registration number once given to a project, the project must then proceed and take a course as defined in the said Act and finally tangible premises get delivered to the home buyers / allottees. The grant of a project registration number is not a hypothetical exercise for complying with certain statistical purpose.

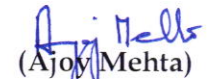
9. It can thus be concluded that in the event the Authority finds that a project registration number which has been granted to a project is not likely to be completed the Authority is bound to take cognizance of the same and take search actions as may be necessary to bring the project to a conclusion. As the Authority is mandated to exercise oversight once a project registration number is given till the date it is successfully completed it is also for the Authority to take a call when it becomes apparent that the project is not likely to move further.
10. The above holds good in a circumstance where the Promoter is seeking deregistration of the project registration in toto and not partially. The Authority is now facing a situation to deregister two building from the said Project registration and to keep the said Project registration valid for the remaining nine buildings. The present case is that of partial deregistration pursuant to disputes between the Promoter and the landowner. Thus, deregistration of part of a project registration cannot be made possible as there is no such thing to partially deregister a part and keep the remaining part valid and subsisting. Hence the issue at para No. 6 is answered in **negative**.

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11. Thus, in order to protect the interest of the allottees of the said Project the Authority shall at this stage refrain from passing any order with regard to deregistration of the said Project in toto or partially. The Promoter is however given liberty to approach the Authority upon the completion of the said Project and obtaining occupation / completion certificate from the competent authority or at a stage where a verifiable demarcation can be made between the building sought to be completed including provisions of amenities if any.


(Mahesh Pathak)
Member-I, MahaRERA


(Ajoy Mehta)
Chairperson, MahaRERA