

BEFORE THE MAHARASHTRA
REAL ESTATE REGULATORY AUTHORITY, MUMBAI

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

REGULATORY CASE NO. 72 OF 2023

ARVEL REALTORS

... APPLICANT (PROMOTER)

NISARG SHRUSHTI PHASE-2

...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P99000022690

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
Representative Sanjay Vora for the Applicant (Promoter)

1. The Applicant herein had registered the project namely "NISARG SHRUSHTI PHASE-2" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") of Real Estate Regulatory Authority ("RERA") bearing MAHARERA Registration No. P99000022690 (hereinafter referred to as the "said Project").
2. An application was made by the Applicant (Promoter) for seeking deregistration of only one building from the two 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 have 2 buildings in the Project Registration number that they are holding namely Building No. 4 and Building No 5. The Promoter informs that in Building No. 5, they have completed the work and they have sold certain units. Building No. 4 is yet to start.

The Authority however notes that the Affidavit indicates the contrary. The Promoter to make necessary corrections and submit fresh affidavit. Promoter also informs that the QPRs have been updated. The party to file corrected affidavit on or before 23.10.2023 subsequent to which the matter will be reserved for order."

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3. The Applicant (Promoter) has stated the following for seeking deregistration (partly) of the one building from the said Project:
 - a. That the said Project consists of two buildings namely building No.4 & 5.
 - b. That building No.5 consists of total 51 units of which 15 are sold and building No.4 consists of total 56 (Type B1) and 68 (Type B) units of which zero units are sold as per the affidavit submitted by the Promoter Applicant.
 - c. That the Applicant Promoter has filed this deregistration application for partial deregistration of the said Project only to the extent of deregistering building No. 4. The said Project registration shall continue for the building No. 5.
 - d. The Applicant Promoter seeks this partial deregistration due to lack of sales and shortage of funds.
 - e. The Applicant Promoter has updated the QPRs (*except Form 2A & Form 5*) as directed by the Authority on 10.10.2023.
 - f. The Applicant Promoter submits that the building No. 4 in the said Project has zero allottees.
4. Further, it is also observed that office of MahaRERA on 19.06.2023 & 12.07.2023 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 in the building No. 4 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 refence:

“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,

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including a Login Id and password to the applicant for accessing the website of the 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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