

BEFORE THE MAHARASHTRA
REAL ESTATE REGULATORY AUTHORITY, MUMBAI

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

REGULATORY CASE NO. 68 OF 2023

LOTUS EMPIRE

... APPLICANT (PROMOTER)

MIDTOWN SQUARE - PHASE II

...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P51700019425

Order

October 31, 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 Vijay Sahita for the Applicant (Promoter)

1. The Applicant herein had registered the project namely "MIDTOWN SQUARE - PHASE II" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") of Real Estate Regulatory Authority ("RERA") bearing MAHARERA Registration No. P51700019425 (hereinafter referred to as the "said Project").

2. On 11.05.2023, an application was made by the Applicant (Promoter) for seeking deregistration of 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 this is MIDC land on lease. There are two phases. For Phase I, they have done work but for Phase II, they are yet to commence. The Authority notes that there is common Commencement Certificate ("CC") for phase I & Phase II. The Promoter states that Phase II will be only for the purpose of leasing the godowns and do not intend to make any sales. Promoter to ensure that an affidavit is filed on what they intend on doing on the phase II land the CC that is available to them. The party to also ensure that the QPRs for the completed phase are also filed before the Authority.

These two compliances to be done on or before 23.10.2023 subsequent to which, matter will be reserved for order."

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3. The Applicant (Promoter) has stated the following for seeking deregistration of the said Project:
- a. That the said Project is being developed on the MIDC land.
 - b. That there are two phases of the development with Phase I (having other project registration number) being completed and Phase II, namely the said Project which is yet to commence construction.
 - c. That the Applicant Promoter has stated that the applicant is undertaking development of commercial units/godowns which will not be sold to 3rd parties but will only be leased.
 - d. Further it is also submitted that the Applicant (Promoter) has not created any third-party rights in the said Project nor has made any bookings or received any earnest money. Moreover, the Applicant Promoter is not willing to undertake such an exercise.
 - e. The Promoter also clarifies that there is no physical development carried out on the land of the said Project.
 - f. That there is a common commencement certificate for Phase I and Phase II i.e. said Project.
 - g. The Promoter has updated the QPRs (except Form 2A) as directed by the Authority on 10.10.2023.
 - h. It is observed that the Applicant promoter has submitted an affidavit 19.10.2023 in accordance with the Roznama dated 10.10.2023 wherein the Applicant Promoter has mentioned the above-stated facts and has also undertaken to settle disputes/complaints, if any, upon the deregistration of the said Project.
4. Thus, from the submissions of the Applicant (Promoter) it is clear that there are no Allottees in the said Project as the same was never constructed nor developed. It is also observed that the Applicant (Promoter) has stated that the said Project will be constructed only for the purpose of leasing the units (*godowns*) and that the Applicant Promoter does not intend to make any sales in the said Project.

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Further, the office of MahaRERA on 19.06.2023 issued notices inviting objections for deregistration of the said Project wherein no such objections were received.

5. Before the Authority decides on the order on deregistration, the section that provides for necessity of registration of a real estate project needs to be examined. Section 3 of the said Act is hereinbelow reproduced for ease of reference:

Section 3:

"(1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required –

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Explanation. – For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a standalone real estate project, and the promoter shall obtain registration under this Act for each

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