

**BEFORE THE MAHARASHTRA
REAL ESTATE REGULATORY AUTHORITY, MUMBAI**
Physical Hearing Held at MahaRERA @03.30 pm (Churchgate)

SUO-MOTU CASE NO. 207 OF 2021

MahaRERA Registered Project Name: Janavi Plaza/ Janavi Tower/ Vasai

Promoter Name: Janavi Builder/ Developer, Palghar

MahaRERA Project Registration No.: P99000012849

AND

MahaRERA Project Registration No.: P99000022673

Coram: Shri Ajoy Mehta, Chairperson, MahaRERA

Appearance: On behalf of the Promoter - Mr. Tejas Shah

Order

November 24, 2021

1. The Promoter has registered the project "JANAVI PLAZA/ JANAVI TOWER/ VASAI" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") of Real Estate Regulatory Authority ("RERA") bearing MahaRERA Project Registration No. P99000012849 (hereinafter referred to as the "said erstwhile Project") and also bearing MahaRERA Project Registration No. P99000022673 (hereinafter referred to as the "said subsequent Project").
2. This is a suo-motu case is taken up by MahaRERA against the Promoter, Janavi Builder/ Developer, Palghar pursuant to an issue of seeking two MahaRERA Project Registration numbers for the same Project.
3. On 27.10.2021 a physical hearing was held in the captioned case whereby the following submissions were made on behalf of the Promoter:

Ajoy Mehta

"The Promoter, Janavi Builder in the captioned two Project Registration Nos. P99000012849 and P99000022673 was directed to remain present for hearing today at MahaRERA Churchgate office at 3.30 pm.

Heard Mr. Tejas Shah representing Janavi Builder. He admits that the first Project Registration No. P99000012849 was taken against wherein there were 14 bookings against commercial premises and 3 for residential premises made. He also submitted that all these 17 premises are now complete and handed over possession. Further, part occupation certificate for these 17 premises have also been obtained by him.

During the construction Janavi Builder appears to have got more TDR/FSI which he intended to use to expand the said Project. Mr. Tejas Shah further submits that inadvertently instead of correcting the first Project Registration No. P99000012849, he applied for second Project Registration No. P99000022673 and the same was issued to him by MahaRERA for the same Project.

Thus, there are now two Project Registration Nos. P99000012849 and P99000022673 against the same Project. The first Project Registration No. P99000012849 has expired on 31.010.2017. The second Project Registration No. P99000022673 is valid till 30.05.2022 (with extensions as available due to covid).

Mr. Tejas Shah from Janavi Builder confirms that he will transfer all the bookings of the first Project Registration No. P99000012849 to the second Project Registration No. P99000022673 which has been taken subsequently. He thus, seeks that the first Project Registration No. P99000012849 be revoked.

Janavi Builder is hereby directed to file an affidavit clearly stating that they have no objection to revocation of the first Project Registration No. P99000012849 and that they would unconditionally transfer all the bookings made against the first Project Registration No. P99000012849 to the second Project Registration No. P99000022673. The said affidavit is to be filed on or before 11.11.2021 with MahaRERA subsequent to which the matter is reserved for order."

4. The following observations and provisions of the said Act are noteworthy in the present case:
 - a. The Promoter has admitted that he has obtained two Project Registration Nos. P99000012849 and P99000022673 against the same Project. This inadvertence has been committed on account of the Promoter receiving more TDR/FSI during the construction of the said erstwhile Project and thus, in order to expand the said erstwhile Project, the Promoter sought a new registration for the said subsequent Project.



- b. The Promoter vide an affidavit cum declaration dated 08.11.2021 has submitted that under the said erstwhile Project there were two buildings namely Janavi Tower & Janavi Plaza and a total of 57 premises (*commercial premises and residential flats*) were sold by the Promoter under the said erstwhile Project.
- c. The registration for this said erstwhile Project has lapsed since 31.12.2017 as per the MahaRERA Project Registration webpage.
- d. Further, the Promoter vide an affidavit cum declaration dated 08.11.2021 confirms to have merged all the 57 premises under the said subsequent Project i.e. Project Registration No. P99000022673.
- e. The Promoter has also clearly submitted that there shall be no discrimination against any Allottees including the 57 from the said erstwhile Project while handing over possession under the said subsequent Project.
- f. In view thereof, it is pertinent to examine section 7 of the said Act that empowers this Authority to revoke / cancel registration granted under section 5 of the said Act:

"7. (1) The Authority may, on receipt of a complaint or suo motu in this behalf or on the recommendation of the competent authority, revoke the registration granted under section 5, after being satisfied that –

(a) the promoter makes default in doing anything required by or under this Act or the rules or the regulations made thereunder;

(b) the promoter violates any of the terms or conditions of the approval given by the competent authority;

(c) the promoter is involved in any kind of unfair practice or irregularities.

Explanation. – For the purposes of this clause, the term "unfair practice means" a practice which, for the purpose of promoting the sale or development of any real estate project adopts any unfair method or unfair or deceptive practice including any of the following practices, namely: –

(A) the practice of making any statement, whether in writing or by visible representation which, –

(i) falsely represents that the services are of a particular standard or grade;

(ii) represents that the promoter has approval or affiliation which such promoter does not have;

(iii) makes a false or misleading representation concerning the services;

(B) the promoter permits the publication of any advertisement or prospectus whether in any newspaper or otherwise of services that are not intended to be offered;

(d) the promoter indulges in any fraudulent practices."

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- g. From the plain reading of section 7 it is clear that this Authority has powers u/s 7 of the said Act with regard to the revocation of registration when the Promoter makes default in doing anything required by or under this Act or the rules or the regulations made thereunder like in the present case where the Promoter sought another registration for using the additional TDR/FSI received by them for the expansion purposes in the same Project.
- h. Hence, in view of the above observations and the affidavit cum declaration of the Promoter, there is no ambiguity in the fact that the said erstwhile Project and the said subsequent Project are one and the same.
- i. Further, it is also observed that there cannot be two Project registration Nos., for the same Project as the same shall create confusion and chaos between the Allottees and many institutions / authorities connected in a Project. Thus, it is necessary that in the present case one project registration be revoked and in this context since the said erstwhile Project i.e. Project Registration No. P99000012849 has lapsed, the same be revoked and cancelled.
- j. Further, the Promoter shall be barred / restrained to forthwith advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any apartment or building, as the case may be, under the said erstwhile Project.
- k. The Project Registration No. P99000022673 shall remain valid and subsisting for the said subsequent Project which also includes all the 57 Allottees / premises of the said erstwhile Project.

FINAL ORDER

Thus, in view of the above observations and the provisions of the said Act, this Authority revokes / cancels the **MahaRERA Project Registration No. P99000012849**. The MahaRERA Project Registration No. P99000022673 shall remain valid and subsisting for the said subsequent Project which has now also included all the 57 Allottees / premises of the said erstwhile Project. The Promoter is hence, restrained not to advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner apartment or building, as the case may be, under the said erstwhile

Project i.e. Project Registration No. P99000012849. Needless to say, that the Promoter is free to advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner apartment or building, as the case may be, under the said subsequent Project i.e. Project Registration No. P99000022673.


(Ajoy Mehta)

Chairperson, MahaRERA