

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

Physical Hearing Held at MahaRERA @03.30 pm (BKC)

SR. NOS.	SUO MOTU CASE NO. OF 2023	PROJECT NO.	NAME OF PROMOTER	PROJECT NAME
1.	294	P51700046087	AADESH BUILDERS & DEVELOPERS	SHIV SAVLI COMPLEX J WING
2.	295	P51700034085	SHREE SWASTIK HOMES	RADHAI COMPLEX

ORDER

March 29, 2023

Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA
Shri Mahesh Pathak, Member, MahaRERA

APPEARANCE

None appeared for the Promoter/s

1. The above-mentioned Promoters have registered their Projects named above under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act / RERA") bearing the respective MahaRERA Project Registration numbers also mentioned hereinabove.
2. These are suo-motu cases taken up by MahaRERA against the Promoters mentioned above pursuant to the allegation of submitting a false / fake commencement certificate (CC) as mentioned in the below table with regard the respective MahaRERA Project Registration numbers mentioned therewith:

SR NO.	SUO MOTU CASE NO. OF 2023	PROJECT NO.	CC NUMBERs	CC DATED
1	294	P51700046087	KDMC/NRV/BP/DOM/2020/21/17	28.011.2021
2	295	P51700034085	KDMC/NRV/BP/DOM/27Village/2020-21/07	04.10.2021

3. On 28.03.2023 a physical hearing was held in the captioned cases whereby the following common roznama was recorded by this Authority:

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"The Authority on being convened at 03.30pm had called out the names of the Parties in the Suo Motu cases at Sr. Nos 1 & 2 herein. None of the Parties were present nor were they represented. The Authority waited for 15 minutes. However still nobody appeared.

The Authority also notices that both the notices have been duly served upon the Promoters herein and in spite of hearing notices being served well in advance of the hearing date the Promoters have chosen not only to remain absent and unrepresented but have also not taken any steps to inform the Authority about the reasons for the same. The Authority notes with concern the reluctant behaviour of the Promoters herein.

Since the Suo Motu cases are of public importance and protection of the home buyers and promotion of the real estate sector is an important duty cast upon this Authority hence it would be necessary for this Authority to reserve the matter for necessary orders. It is imperative that an early decision is taken on the matters so as to protect the larger interest of the various stakeholders. The captioned cases are reserved for orders."

4. The following observations and provisions of the said Act are noteworthy in the present case:
 - a. As per section 4 of the said Act every Promoter who seeks registration of his real estate project is mandated to make an application to this Authority in such form, manner, within such time and accompanied by such fee as specified by the regulations made therein and also enclose the documents such as a brief details of the enterprise of the Promoter, a brief detail of the projects launched by him (in the past five years, whether already completed or being developed), **an authenticated copy of the approvals and commencement certificate from the competent authority obtained** in accordance with the laws as may be applicable for the real estate project, the sanctioned plan, layout plan and specifications of the proposed project, etc.
 - b. Hence, the Promoters while seeking their respective Project registrations have to submit with their applications the above-mentioned CC as one of the mandatory requisites for seeking project registration under the said Act.
 - c. Further, vide emails dated 10.02.2023 & 28.02.2023, the Assistant Director, Town Planning office of Kalyan Dombivali Municipal Corporation (KDMC) informed MahaRERA that the above-mentioned CCs submitted while seeking

MahaRERA Project registration of the above-mentioned Projects has not been issued by the office of KDMC. Thus, it appears that the above-mentioned CCs have been obtained by means that are suspect.

d. 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."

e. From the plain reading of section 7 it is clear that this Authority has powers u/s 7 of the said Act with regard the revocation of registration of MahaRERA Projects for the Promoter indulging in any kind of unfair practices. In the present case of not obtaining the CCs from the Competent Authority and misrepresenting to this Authority as well as the allottees / home buyers and collecting money through misrepresentation and taking the bookings in the above-mentioned MahaRERA registered Projects can be said to be unfair or deceptive practice.

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- f. Hence, in terms of the above letter addressed to MahaRERA by KDMC with regard the issuance of the above CCs, there is no ambiguity in the fact that the above-mentioned CCs are not valid and legal and have been obtained by means that are suspect. Thus, this Authority thinks it a fit case to revoke / cancel the above mentioned MahaRERA Project registrations for the above listed Projects in order to safeguard the interest of the prospective Allotees and the existing Allotees from investing / engaging any further in these Projects.
- g. Further, the Promoters shall be barred / restrained forthwith from advertising, marketing, booking, selling or offering for sale, or inviting persons to purchase in any manner any apartment or building, as the case may be, in these Projects or part of it, in any planning area, of these Projects.
- h. Further the Secretary, MahaRERA shall ensure that all the designated bank accounts of each of the above listed MahaRERA Projects are informed to the Banks and the same are frozen so as restrain any further misuse of funds collected under the above-mentioned Projects so as to protect the interest of Allotees / home buyers of these Projects.
- i. This Authority would also urge upon the Secretary (Urban Development) Government of Maharashtra to immediately put in place a system wherein all milestone approvals relevant to buyers / purchasers of real estate projects; such as Commencement Certificate (CC), Occupation Certificate (OC) are put upon a dedicated portal by the respective Planning Authority so that the veracity of the Certificates can be verified by both the buyers / purchasers of real estate projects and MahaRERA. This shall be an important consumer protection measure.

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FINAL ORDER

- A. Thus, in view of the above observations and the provisions of the said Act, this Authority revokes / cancels both the **MahaRERA Project Registrations:**

SR NO.	PROJECT NO.	PROJECT NAME
1	P51700046087	SHIV SAVLI COMPLEX J WING
2	P51700034085	RADHAI COMPLEX

- B. Further, all departments such as Secretary (Urban Development) Government of Maharashtra and all local Planning Authorities to ensure that all statutory certificates are uploaded immediately upon issuing the same on their respective website / webpage and any changes / additions / alterations / modifications must also be immediately uploaded upon issuing of the same from time to time.
- C. Further the Secretary, MahaRERA shall ensure that the designated bank accounts of the above listed MahaRERA Projects are informed too and are frozen till further orders.
- D. Further, the above-mentioned Promoters are 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, in both the above listed Projects or part of it.



(Mahesh Pathak)

Member, MahaRERA



(Ajoy Mehta)

Chairperson, MahaRERA