

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.13 OF 2024**

MahaRERA on its own Motion Complainant

Versus

Aarambh Construction Respondent

'Shubh Aarambh"
Unregistered Project.

Coram: Shri.F.D.Jadhav, Dy.Secretary-Cum-Head

Appearance :- Mr. Ajinkya Sonawane, A.R. for the promoter.

ORDER

2nd April, 2024

(Through Video Conferencing)

1. Maharashtra Real Estate Regulatory Authority has issued show-cause notice, dated 17.11.2023 to the respondent-promoter for publishing an advertisement in daily newspaper "Lokmat", dated 23.10.2023 in respect of his real estate project "Shubh Aarambh" situated at Chhatrapati Sambhaji Nagar without registering the same with MahaRERA, and thereby violating the provision of Section 3 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016").
2. In response to the said show cause notice, dated 17.11.2023, the respondent-promoter has filed his reply dated 30.01.2024 and contended that the project land area is 540 sq. mtrs. having 6 units and therefore, the project is exempted from registration under Section 3(2)(a) of the Act of 2016.

3. Mr. Ajinkya Sonawane appeared on behalf of respondent-promoter. He has reiterated the contentions raised out by the respondent in his reply. He has submitted that total units in the project are six only and therefore, the project is exempted from registration as per Section 3(2)(a) of the Act, 2016. In support of his submissions, the respondent-promoter has furnished on record the revised sanctioned layout plan by Aurangabad Municipal Corporation of the said real estate project, situated at Plot No.29, 30, 37 & 38, CTS / Survey No. 169 at village Satara, Aurangabad. The said building plan shows that the building is having parking floor + 3 floors and on each floor there are two units.

4. Section 3 of the Act 2016 deals with prior registration of real estate project with Real Estate Regulatory Authority. Section 3(2)(a) deals with exemptions from sub-section 1 of Section 3. It reads as under :-

"Section 3 - (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."

5. In this regard, the reference of Circular No. 25/2019 dated 11th Oct.2019 and Circular No.25A/2023, dated 09.06.2023 issued by MahaRERA Authority is necessary. Para I of the Circular No.25/2019 deals with Real Estate Projects that are excluded from MahaRERA Registration. Clause 2 of para I of the said circular specifically states that real estate projects where number of apartments proposed to be

developed is less than or equal to eight apartments are excluded from MahaRERA Registration.

6. MahaRERA Appellate Tribunal in its majority judgment, as mentioned in Circular No. 25A/2023, held as under :-

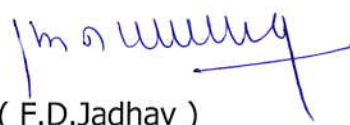
"Keeping in view the settled law on interpretation of a statute and language of clause (a) of Section 3(2) of the Act of 2016, we are of the firm view that on the happening of any of the two contingencies i) the area of land proposed to be developed does not exceed 500 sq. mtrs. or ii) the number of apartments proposed to be developed does not exceed eight inclusive of all phases, project needs no registration under sub-section (1) of Section 3 of RER Act. The unambiguous language of clause (a) of Section 3(2) of the Act of 2016 makes it clear that "or" is to be read disjunctively and not conjunctively as conjunctive reading would make legislature intent redundant and would amount to changing the texture of the fabric which is not permissible in law."

7. Circular No. 25A/2023 mentions the clarification given by MahaRERA Appellate Tribunal (supra) which are as under :-

"1) Real Estate Projects where the area of land proposed to be developed is less or equal to five hundred square meters shall not require MahaRERA Project Registration irrespective whether the numbers of apartments/units proposed to be developed is less than or more than eight apartments/units as the case may be inclusive of all phases.

2) Real Estate Projects where number of apartments/units proposed to be developed is less or equal to eight apartments/units inclusive of all phases shall not require MahaRERA Project Registration irrespective whether the area of the land proposed to be developed is less than or more than five hundred square meters."

8. Considering Section 3(2)(a) of the Act, 2016 as well as ratio laid down by MahaRERA Appellate Tribunal and the Circulars issued by MahaRERA Authority mentioned above it is abundantly clear that if the total units are less than eight, then such project needs no registration. In this matter this respondent has submitted sanctioned layout plan by the Planning Authority which clearly indicates that there are only 6 units in the project. This evidence manifestly proves that this project needs no MahaRERA Registration. In other words it can be said this promoter has sufficiently proved that there is/was no necessity to register his project with MahaRERA as the total number of units in the said project are less than or equal to eight apartments.
9. Considering the factual aspect of this matter as well as law discussed hereinabove, there is no hesitation to hold that there was no necessity to register this project with MahaRERA as this project falls within the scope of Section 3(2)(a) of the Act 2016 and clause 2 of para I of Circular No.25/2019 issued by MahaRERA. As such this is not a fit case to impose penalty in the matter under Section 59 of the Act, 2016. This matter is disposed of accordingly.


(F.D.Jadhav)
Dy.Secretary-Cum-Head,
MahaRERA, Pune