

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

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

REGULATORY CASE NO. 62 OF 2023

NISHUVI CORPORATION

... APPLICANT (PROMOTER)

NISHUVI REHAB PHASE

...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P51900003953

INTERIM ORDER

October 04, 2023

(Date of virtual hearing – 08.09.2023, matter reserved for order)

**Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA
Shri Mahesh Pathak, Hon'ble Member-I, MahaRERA**
Representative Nimish Kapashi for the Applicant (Promoter).

1. The Applicant herein had registered the project namely "NISHUVI REHAB PHASE" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") of Real Estate Regulatory Authority ("RERA") bearing MAHARERA Registration No. P51900003953 (hereinafter referred to as the "said Project").
2. On 17.04.2023, an application was made by the Applicant (Promoter) for seeking deregistration of the said Project. In this regard the captioned case was heard on 08.09.2023 wherein the following roznama was passed by this Authority in the captioned matter:

*"The Promoter seeks deregistration as there are litigations and other issues which is making it unviable for him to continue with the said Project. Promoter states that there are no allottees in the project. The Promoter to file affidavit to this extent and also update QPRs on or before 18.09.2023.
Matter reserved for order."*
3. The Applicant (Promoter) has stated the following for seeking deregistration of the said Project:

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- a. That the Applicant (Promoter) is unable to continue the said Project due to various pending litigations regarding the same and due to other factors such as change in Development Control Regulations, delay in obtaining approvals and outbreak and aftermath of Covid-19 pandemic.
 - b. Further it is also submitted that the Applicant (Promoter) has not created any third-party rights in the said Project.
 - c. The Promoter has not updated the QPRs as directed by the Authority on 08.09.2023.
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. Further, it is also observed that the office of MahaRERA on 02.06.2023 & 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 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, 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.

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(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."

6. 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 Promoter to complete the project as registered. 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."

7. 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 the project remains compliant and the home buyers / allottees receive their premises as promised. Hence the legislation is to ensure delivery of the premises to the home buyers / allottees. This is a beneficial legislation where a tangible asset needs to move from the Promoter / Developer to the home buyer / allottee in a manner as laid out under the said Act. The legislation is not for just providing project registration numbers which do not lead to home buyers / allottees receiving tangible assets. The Authority needs to make it clear here that when a project registration number is once given to a project, the project must

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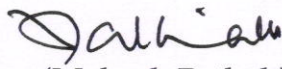
then proceed and take a course as defined in the said Act and finally a tangible premises should get delivered to the home buyers / allottees as was promised. The grant of a project registration number is not a hypothetical exercise for complying with some statistical documentation.

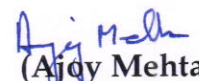
8. It can thus be concluded that in the event the Authority finds that a project registration number which has been granted to a project is not likely to be completed the Authority is bound to take cognizance of the same and take such actions as may be necessary to bring the project to a conclusion. The Authority is mandated to exercise oversight once a project registration number is given till the date it is successfully completed thus it is also for the Authority to take a call when it becomes apparent that the project is not likely to move further.
9. In the present case the intent to complete the project itself is not there anymore. There could be various reasons for the same. The Authority has no reason nor a mandate to delve into why the intent to complete has evaporated. The Authority has however to ensure that while there is no intent to complete the same is not driven by an intent to short change home buyers / allottees. Where allottees have been taken care of and their interest are not jeopardised anymore the Authority sees no reason to deny a deregistration when sought for.
10. The Authority sees no logic on maintaining a project registration number where either there are no allottees or where there are allottees but whose legal obligations have been fulfilled by the Promoter. The Authority is very clear that the exercise of grant of project registration number, the oversight over a project having a registration number and maintenance of records of such projects is not a theoretical exercise. This exercise is clearly for the specific purpose of delivery of the premises. In the present case it is evident that there are no allottees. There is also no intent to complete the said Project and hence there is no logic to continue with the said Project registration number and hence the same needs to be deregistered.

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11. But however, the Authority is constraint to put the said Project registration in **abeyance** as the QPRs directed by the Authority are yet not submitted by the Applicant (Promoter) herein as in the absence of which the Authority has no measure to verify the current status of the said Project.
12. In view of the above the Authority cannot at this juncture consider the deregistration request of the Promoter herein. Thus, the said Project registration be kept in **abeyance** and the Promoter herein is directed not to advertise, market, book, sell or offer for sale, or invite person/s to purchase in any manner any apartment / unit in the said Project.
13. Further the captioned case is **adjourned**. The captioned case shall be heard only upon the filing of the QPRs by the Applicant (Promoter). The Applicant (Promoter) is given liberty to approach the Authority subsequent to filing the QPRs.


(Mahesh Pathak)
Member-I, MahaRERA


(Ajay Mehta)
Chairperson, MahaRERA