

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,
MUMBAI

VIDEO CONFERENCING HEARING HELD BY CORAM:
Shri Ajoy Mehta, Hon'ble Chairperson, MahaRERA &
Shri Mahesh Pathak, Hon'ble Member-1, MahaRERA &
Shri Ravindra Deshpande, Hon'ble Member-2, MahaRERA

SUO MOTU CASE NO 302 of 2024

RAJLAXMI DEVELOPER

...PROMOTER/RESPONDENT

RAJLAXMI DEVELOPER

...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P51700028631

Order

August 01, 2024

Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA
Shri Mahesh Pathak, Hon'ble Member-1, MahaRERA &
Shri Ravindra Deshpande, Hon'ble Member-2, MahaRERA

APPEARANCE

None appeared for the Promoter

1. The Promoter has registered the Project named "RAJLAXMI DEVELOPER" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act/RERA") bearing the MahaRERA Project Registration number P51700028631 (hereinafter referred to as the "said Project").
2. This Suo-motu case is taken up by MahaRERA against the Promoter pursuant to the allegation of submitting a false / fake commencement certificate (CC) dated 06.01.2021 bearing No. जा.क्र. कडोमपा/नरवि/बाप/डोबि/ग्राम/२०२०- २१/१२ with regard the MahaRERA Project Registration number P51700028631.
3. On 26.07.2024 a hearing was held in the captioned case whereby the following roznama was recorded by the Authority:
"None present for the Promoter"

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The said case has been taken up suo motu by this Authority in view of the information received regarding the CC purported to be issued by KDMC for this Project being false. The Authority is seized with the matters of this CC and is contemplating further action on the same. Prior to taking action, the Authority considered it appropriate to hear the Promoter.

However, inspite of the notice, the Promoter has remained absent. Matter is reserved for order."

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 Promoter while seeking their Project registration 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 email dated 12.01.2024, Town Planning office of Kalyan Dombivali Municipal Corporation (KDMC) informed MahaRERA that the CC submitted while seeking MahaRERA Project registration of the said Project has not been issued by the office of KDMC. Thus, it appears that the CC have been obtained by means that are suspect. Further, it is also brought to the notice of this Authority that there are zero complaints filed in the said Project.

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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 said Project can be said to be unfair or deceptive practice.

f. Hence, in terms of the above email dated 12.01.2024 addressed to MahaRERA by KDMC with regard the issuance of the above CC, there is no ambiguity in the fact that the above-mentioned CC is 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 registration in order

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to safeguard the interest of the prospective Allotees and the existing Allotees from investing / engaging any further in these Projects.

- g. Further, the Promoter 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 the said Project or part of it, in any planning area, of the said Project.
- h. Further the Secretary, MahaRERA shall ensure that the designated bank account of the said Project is frozen so as to restrain any further misuse of funds collected under the said Project so as to protect the interest of Allotees / home buyers of the Project.
- 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.

FINAL ORDER

- A. Thus, in view of the above observations and the provisions of the said Act, this Authority revokes / cancels the **MahaRERA Project Registration number P51700028631**.
- 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.

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- C. Further the Secretary, MahaRERA shall ensure that the designated bank accounts of the said Project are frozen till further orders.
- D. Further, the Promoter is 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 the said Project or part of it.

Ravindra
Ravindra Deshpande
Member-2, MahaRERA

Mahesh
Mahesh Pathak
Member-1, MahaRERA

Ajay Mehta
Ajay Mehta
Chairperson, MahaRERA