

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

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

REGULATORY CASE NO. 40 OF 2023

PROMOTER NAME XRBIA WARAI DEVELOPERS
PRIVATE LIMITED

PROJECT NAME XRBIA WARAI/NERAL-PH 1

MAHARERA PROJECT REGISTRATION NO. P52000002828

ORDER

(In an extension application)

September 13, 2023

(Date of hearing – 10.08.2023 matter reserved for order)

Coram: Shri Ajoy Mehta, Chairperson, MahaRERA
Advocate Kalpesh Shah for the Promoter

1. XRBIA WARAI DEVELOPERS PRIVATE LIMITED is the Promoter/Developer within the meaning of Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016 ("**said Act**") of Real Estate Regulatory Authority ("**RERA**") and had registered the project "XRBIA WARAI/NERAL-PH 1" under section 5 of the said Act bearing MAHARERA **Registration No. P52000002828** (hereinafter referred to as the "**said Project**").
2. The Promoter has filed an extension application No. EXT52000013760 on 01.02.2023 (hereinafter referred to as "**said extension application**") seeking for extension of the said Project under section 7(3) of the said Act which was heard by this Authority on 10.08.2023 wherein the following roznama was recorded:
QUOTE

The Promoter states that out of 20 buildings, 12 are 95% complete and they have applied for Occupation Certificate, 8 are 88% complete and they are confident of completing it soon. The Promoter states that the delay took place because of Covid, this being the remote area and difficulties associated with completing a project in remote areas. The heavy rain

in Konkan has also delayed execution. It is observed that the Promoter has not complied with the various filings under the law. The Promoter is directed to ensure that all filings are completed on or before the 24.08.2023. The matter will be taken up for orders only subsequent to confirming that filings have been completed. Matter is reserved for order.

UNQUOTE

3. Before moving ahead, the Authority notes the registration details already on record. The Promoter while seeking registration of the said Project had submitted the date of completion as 31.12.2020. MahaRERA granted three (3) extensions on the ground of Covid-19 pandemic which were granted to all the projects registered with MahaRERA and qualifying under Notifications / Orders Nos. 13, 14 & 21 dated 02.04.2020, 18.05.2020 & 06.08.2021 respectively along with extension granted under Section 6 of the said Act whereby the date of completion was extended up to 29.12.2022. The Promoter states that the said Project was delayed due to covid-19, shortage of labour and material and delay in disbursement of loan. Hence the Promoter has applied for extension vide the said extension application herein under section 7(3) of the said Act for the period from 30.12.2022 to 31.12.2024.
4. Thus, the issue before this Authority is with regard to grant of extension under Section 7(3) of the said Act. In this regard it is pertinent to note that the Promoter this time has not been able to obtain 2/3rd majority consents of the Allottees of the said Project. In this context the relevant extract of Section 7(3) is reproduced hereinbelow for ease of reference:

“7 (3) The Authority may, instead of revoking the registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the promoter.”

On the plain reading of Section 7(3) of the said Act, it is clear that instead of revoking the registration this Authority can impose certain terms and conditions as it thinks fit to let the registration remain in force.

5. The following observations are noteworthy before examining the issue of grant of extension under Section 7(3) of the said Act of registration of the said Project:
 - a. That the said Project is a residential project.
 - b. That out of 20 buildings, 12 are 95% complete and the Promoters have applied for Occupation Certificate and 8 are 88% complete and they are confident of completing it soon.
 - c. Further on 10.08.2023 the Promoter was directed to submit filings and compliances on or before the 24.08.2023 and the same has been complied with.
6. In view of the above, the issue of the extension under Section 7(3) of the said Act as sought by the Promoter without 2/3rd consents of the Allottees needs to be examined in light of the above-mentioned fact. The Authority would like to bring on record the statements of objects and reasons of the said Act which are reproduced hereinbelow for ease of reference:

“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.”

On perusal of the above it is clear that the whole aim of the said Act has been to promote the real estate sector in an efficient and transparent manner and protect the interest of the consumers (*including home buyers / Allottees*). Thus, by not extending the registration of the said Project the same will be stalled. The Promoter shall not be able to take actions for efficient completion as may be required in view of the lack of registration. Such an action will only be detrimental to the interest of the consumers (*including home buyers / Allottees*). Thus, the balance of convenience lies in allowing the extension with such condition so as to ensure completion. Further the Authority also notes that this extension under Section 7(3) is the first extension and the same needs to be granted so that the completion of the said Project is not interrupted. Thus, the

Authority grants the extension to the registration of the said Project from 30.12.2022 to 31.12.2024. Needless to say, this extension will be without prejudice to the rights of the Allottees under the said Act. In view thereof, this Authority allows the said extension application keeping the rights of the Allottees intact with certain directions hereinbelow.

FINAL ORDER

The said extension application is **allowed** and the extension for the said Project is granted from 30.12.2022 to 31.12.2024 with the following conditions:

- A. The Promoter shall complete the balance construction work and obtain OC by 31.12.2024. Needless to say, the Allottees of the said Project shall co-operate with the Promoter. That the rights of the Allottees under the said Act shall however remain intact.
- B. The Promoter is directed to submit within 15 days of this order date the PERT CPM / BAR charts about the milestones to be achieved with respect to the completion of the said Project. The same shall also be shared with the Allottees.
- C. The Promoter herein is also directed to submit monthly progress reports of achievements of such milestones and/ or delay if any, to MahaRERA, the Association of Allottees, if any formed and the Allottees of the said Project.
- D. That upon receipt of the OC the Promoter shall inform this Authority about the same and update all progress on the said Project registration webpage from time to time.

(Ajoy Mehta)
Chairperson, MahaRERA