

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

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

REGULATORY CASE NO. 165 OF 2024

PROMOTER NAME LOKHANDWALA KATARIA CONSTRUCTION
PRIVATE LIMITED

PROJECT NAME	MINERVA
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MAHARERA PROJECT REGISTRATION NO. P51900008204

ORDER

(In an extension application)

March 13, 2024

(Date of hearing – 28.02.2024 matter reserved for order)

Coram: Shri Ajoy Mehta, Chairperson, MahaRERA

Advocate Vibhav K Krishna for the Promoter

1. LOKHANDWALA KATARIA CONSTRUCTION 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 “MINERVA” under section 5 of the said Act bearing MAHARERA **Registration No. P51900008204** (hereinafter referred to as the “**said Project**”).
2. The Promoter has filed an extension application No. EXT51900018187 on 12.12.2023 (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 28.02.2024 wherein the following roznama was recorded:

“The Promoter informs that the delays took place due to a certain litigation involving the slum dweller groups and SRA relating to rehab portion. They have made every effort to overcome litigations and continue the construction. The Promoter informs the Authority about the building having received part OC up to 51 floors. However, the Authority notes that the SRA has shown it as 39 floors. The Promoter informs the Authority that there is a difference in view of the manner in which the floors are being counted. Similarly, the Authority also notes that the RERA registration does not tally with the certificates of

*SRA. The Promoter to file a written submission clarifying exactly what the RERA document states and how it matches with the ground reality. The Authority makes it clear they will accept only SRA certifications.
The Promoter seeks extension till 31.12.2024.
Matter is reserved for order."*

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 31.12.2022. 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 whereby the date of completion was extended up to 30.12.2023. The Promoter states that the extension for the said Project is sought as there was delay due permissions by Competent Authority and due to pending litigations between slum dwellers groups and Slum Rehabilitation Authority (SRA) regarding rehab portion and as the rehab portion is linked to sale building in SRA project hence the permissions pending affected in sale building. 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 31.12.2023 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. The said Project is divided into three parts namely 'Minerva 1A 1-39', 'Minerva 1B 40-65' and 'Minerva 1C 66-79'.
 - b. A part occupancy certificate (OC) has been received from SRA on 06.01.2023 for the said Project.
 - c. It is also observed that the commencement certificate of the said Project is received up to 77 floors.
6. The brief submissions of the Promoter are as follows:
 - a. That the present application has been filed by the Promoter for seeking extension of registration of the project till 31.12.2024.
 - b. The Promoter informs that the delays took place due to a certain litigation involving the slum dweller groups and SRA relating to rehab portion. They have made every effort to overcome litigations and continue the construction.
 - c. That the details uploaded on MahaRERA Website for the project are to be harmoniously construed viz. the plans and approvals sanctioned by SRA, the intimation of approval (IOA) issued by SRA, the part OC with the permissions and approvals granted by Municipal Corporation Greater Mumbai (MCGM), High Rise Committee (HRC), Ministry of Civil Aviation and the sales plan for the said Project.
 - d. That the said Project is ground + 91 floors as per the sales plan (*ground plus 79 floors as per IOA issued by SRA*) at the time when RERA was notified i.e. 01.05.2017.
 - e. The CFO MCGM and the HRC had granted approval for the said Project for two basements + ground floor + 16 parking podium + stilt + service floor + 79 habitable floors with total height of 304.4 from ground level up to terrace. The 1st habitable floor begins at 74 metres which is equivalent to 26 floors.
 - f. The 1st habitable floor corresponds with the 14th floor level as per the sanction plan. The sanctioned 79 floors correspond to 91 numbered floors on the sales plan. This fact has been disclosed to all the allottees.

- g. That the Promoter seeks extension to carry out and complete construction of the said Project as follows:
- i. Completion of construction of slum rehab portion of 10 buildings A to J.
 - ii. RCC construction of the free sale building of ground plus 91 floors is completed and painting work has commenced.
 - iii. On 06.01.2023, part OC was granted by the SRA for ground plus 39 floors which corresponds to ground plus 51 floors of the sales plan.
- h. That there was delay due to mitigating circumstances, as there were disputes between the slum dwellers and the SRA Authority.
7. 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 come to a halt. 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 31.12.2023 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 31.12.2023 to 31.12.2024 with the following conditions:

- A. The Promoter shall complete the construction work and obtain OC for the said Project. 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 of the said Project.
- 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 part / full 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