

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

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

REGULATORY CASE NO. 278 OF 2024

PROMOTER NAME STALWART IMPEX PVT. LTD.

PROJECT NAME USHA KIRAN RESIDENCY F1 F2

MAHARERA PROJECT REGISTRATION NO. P51700004142

ORDER

(In an extension application)

August 09, 2024

(Date of hearing -05.08.2024 matter reserved for order)

Coram: Shri Ajoy Mehta, Chairperson, MahaRERA

CA Mayur Jain present for the Promoter.

1. STALWART IMPEX PVT. LTD. 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 "USHA KIRAN RESIDENCY F1 F2" under section 5 of the said Act bearing MAHARERA **Registration No. P51700004142** (hereinafter referred to as the "**said Project**").
2. The Promoter has filed an extension application No. EXT51700024349 on 16.07.2024 (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 05.08.2024 wherein the following roznama was recorded:

"Party informs us that the Project is located in Badlapur. The Project consist of 12 floors however, the local Planning Authority had powers to grants fire NOC only upto to 9th floor. Subsequently they have got Fire NOC upto 12 floors. Now they have been informed that there is an environment clearance that still remains. The environment clearance is pending. The Promoter has applied for environment clearance and are expecting it soon.

Allottees are in possession of their flats. We have informed that there are no disputes. Party seeks extensions till 31.07.2026. Matter reserved for orders."

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 31.12.2018. MahaRERA granted extension under section 6 whereby the date of completion was extended up to 31.12.2019. The Promoter states that the Project is delayed due to delay in applying for environment NOC. We had applied for environment clearance on 16.01.2023, however the application is still pending. That, at present the said Project is 100% complete. 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 01.01.2020 to 31.07.2026.

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 comprises of two (2) buildings.
 - b. That the Project was 100% complete in March ,2019. That an application for fire NOC on October,2018was made and there was delay in obtaining fire

NOC from council as they were provisions for equipment upto 7th floor. Thereafter, after obtaining all requisite NOC, we had made an application for completion certificate on 28.01.2022. however, the Badlapur Municipal council has informed the build-up area of said project along with earlier completed Projects exceeds 20,000 sq metres, and that the Promoter will have to obtained environment clearance. The procedure of obtaining environment clearance is very lengthy procedure and it requires a lot of documentation and there was delay in applying for environment NOC. That the Promoter has applied for environment clearance on 16.01.2023, and the same is pending. That the Promoter seeks registration is to be extended for a period of 2 year.

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 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) 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 01.01.2020 to 31.07.2026. 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 01.01.2020 to 31.07.2026 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