

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

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

REGULATORY CASE NO. 284 OF 2024

PROMOTER NAME REALGEM BUILDTECH PRIVATE LIMITED

PROJECT NAME RUSTOMJEE CROWN -PHASE II

MAHARERA PROJECT REGISTRATION NO. P51900006367

ORDER

(In an extension application)

August 09, 2024

(Date of hearing -05.08.2024 matter reserved for order)

Coram: Shri Ajoy Mehta, Chairperson, MahaRERA

Advocate Vinal Jain present for the Promoter.

1. REALGEM BUILDTECH 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 "RUSTOMJEE CROWN -PHASE II" under section 5 of the said Act bearing MAHARERA **Registration No. P51900006367** (hereinafter referred to as the "**said Project**").
2. The Promoter has filed an extension application No. EXT51900024309 on 10.07.2024 (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 that this Project consists of 3 basements and 65 floors. The further CC was to be given subsequent to the handing over of PPL. The PPL work is now complete and handed over to the BMC. The BMC has now released FSI against the handing over PPL. There are certain environment guidelines which the developer has been directed to be complied with. Party seeks extension till 29.12.2025.
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 31.12.2022. 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 along with section 6 whereby the date of completion was extended up to 29.12.2024. That the Project comprises of Tower C consisting of Ground + 3 Basement + 65 floors. The further CC for the said Project has been issued on 06.06.2024 for upto top of 65th (pt.) floor. The issuance of further CC was dependent on handing over of Public Parking Lot (PPL) to the MCGM. The work of PPL was delayed on account of pandemic and various other issues. The supply chains and logistics were adversely affected, as a result of which there was shortage of construction material, mass labour shortage, import shipment delays which impacted the projected timelines for construction. However, despite that, the Promoter completed the PPL and the OC has been issued on 08.08.2023. As per notification dated 14.10.2022, the CFO, MCGM imposed additional requirements for IOT based devices in respect of the electrical installations in the said Project. These additional requirements together with technical feasibility and implementation of the same will significantly delay the process of applying for full occupation certificate. These conditions were not part of the IOD dated 21.09.2009 and have been imposed recently hence couldn't have been foreseen. Furthermore, the Environmental Guidelines for prevention and control of pollution dated 15.09.2023 has been made mandatory before applying for OC, thereby imposing additional requirements to be complied by the Promoter. The Promoter has recently obtained further CC for the balance sanctioned floors and will complete the construction work in the said Project. The process of obtaining OC may also take a considerable time. 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 30.12.2024 to 29.12.2025.

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 one (1) building.
 - b. That the Project comprises of Tower C consisting of Ground + 3 Basement + 65 floors. The further CC for the said Project has been issued on 06.06.2024 for upto top of 65th (pt.) floor. The issuance of further CC was dependent on handing over of Public Parking Lot (PPL) to the MCGM. The work of PPL was delayed on account of pandemic and various other issues. The supply chains and logistics were adversely affected, as a result of which there was shortage of construction material, mass labour shortage, import shipment delays which impacted the projected timelines for construction.
 - c. However, despite that, the Promoter completed the PPL and the OC has been issued on 08.08.2023. As per notification dated 14.10.2022, the CFO, MCGM imposed additional requirements for IOT based devices in respect of the electrical installations in the said Project. These additional requirements together with technical feasibility and implementation of the same will significantly delay the process of applying for full occupation certificate.

- d. These conditions were not part of the IOD dated 21.09.2009 and have been imposed recently hence couldn't have been foreseen. Furthermore, the Environmental Guidelines for prevention and control of pollution dated 15.09.2023 has been made mandatory before applying for OC, thereby imposing additional requirements to be complied by the Promoter.
 - e. The Promoter has recently obtained further CC for the balance sanctioned floors and will complete the construction work in the said Project. The process of obtaining OC may also take a considerable time.
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 30.12.2024 to 29.12.2025. 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 30.12.2024 to 29.12.2025 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