

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

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

REGULATORY CASE NO. 337 OF 2025

VYANKATESH VASUDEO MANDKE ... APPLICANT (PROMOTER)

MANDKE BUSINESS CENTRE ...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P52100004451

ORDER

09.05.2025

(Date of virtual hearing – 07.03.2025, matter reserved for order)

Coram: Shri Ravindra Deshpande, Member II, MahaRERA

Advocate Amruta Salunkhe for the Applicant (Promoter).

1. The Applicant herein had registered the project namely "MANDKE BUSINESS CENTRE" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("**said Act**") of Real Estate Regulatory Authority ("**RERA**") bearing MAHARERA **Registration No. P52100004451** (hereinafter referred to as the "**said Project**").
2. On 24.08.2023, an application was made by the Applicant (Promoter) for seeking deregistration of the said Project. In this regard the captioned case was heard on 07.03.2025 wherein the following roznama was recorded:

"Advocate Amruta Salunkhe is present for the applicant. None of the Allottees are present.

Advocate Salunkhe submitted that the project is completed and that the applicant promotor has received OC before the RERA Act came into force, the OC is part OC. It is submitted that one unit that is Unit No. 203 has not received OC and

the promotor applicant is not going to sell the said unit. It is submitted that the promotor will not receive the full OC, therefore, the promotor wants to de-register the project in question. The promotor has uploaded a declaration cum undertaking. The promotor is directed to upload declaration cum undertaking stating which unit number is not going to be sold, and is further directed to upload the same on or before 21.03.2025.

Thereafter, this matter will be reserved for order."

3. In pursuance of the direction of this Authority, the Applicant (Promoter) through Advocate sent Declaration Cum Undertaking 13.03.2025 on 13.03.2025. Vide the said Declaration, the Applicant (Promoter) declared that out of total 37 units in the said project. 36 units have been completed and have received Occupation Certificate in parts on 12.01.2015, 17.03.2016 and on 25.10.2018 and that Unit No. 203 remains incomplete, lacks Completion Certificate and is not intended for sale in any manner whatsoever and hence, Application for de-registration was filed.
4. The Applicant (Promoter) has stated the following for seeking deregistration of the said Project:
 - a. That the Applicant (Promoter) has received the completion certificate of the project in parts before the commencement of the said Act. But in initial stage of RERA as there was no clarity about applicability of the RERA registration to the projects, the Applicant (Promoter) registered the said project under the said Act.
 - b. That till date, the Applicant (Promoter) has sold 19 units for which the Applicant (Promoter) have received the Completion Certificate.
 - c. That the Applicant (Promoter) wanted to apply for de-registration of the project as henceforth registration of the said project is not required as the Applicant (Promoter) is not going to sell remaining units.

5. Thus, from the submissions of the Applicant (Promoter) it is clear that there are nineteen (19) Allottees in the said project and the Applicant (Promoter) has submitted consent of all 19 allottees to de-register the said project. Further, it is also observed that office of MahaRERA on 20.09.2023 issued notice inviting objections for deregistration of the said project wherein no such objections were received. In view thereof, the Authority shall now examine the application for deregistration filed by the Applicant Promoter.
6. Before the Authority decides on the order on deregistration, the section that provides for grant of registration needs to be examined. Section 5 of the said Act is hereinbelow reproduced for ease of reference:

“Section 5 – grant of registration:

(1) On receipt of the application under sub-section (1) of section 4, the Authority shall within a period of thirty days. (a) grant registration subject to the provisions of this Act and the rules and regulations made thereunder, and provide a registration number, including a Login Id and password to the applicant for accessing the website of the Authority and to create his web page and to fill therein the details of the proposed project; or (b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of this Act or the rules or regulations made thereunder: Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

(2) If the Authority fails to grant the registration or reject the application, as the case may be, as provided under sub-section (1), the project shall be deemed to have been registered, and the Authority shall within a period of seven days of the expiry of the said period of thirty days specified under sub-section (1), provide a registration number and a Login Id and password to the promoter for accessing the website of the Authority and to create his web page and to fill therein the details of the proposed project.

(3) The registration granted under this section shall be valid for a period declared by the promoter under sub-clause (C) of clause (1) of sub-section (2) of section 4 for completion of the project or phase thereof, as the case may be.”

7. On perusal of section 5 it is clear that a project registration is granted pursuant to the Promoter / Developer seeking a grant of registration. A grant for registration when sought under section 5 is an acknowledgment of the intent of the Promoter / Developer to start and complete a project wherein premises as described under the said Act would be handed over to the Allottees. Thus, the critical ingredient of section 5 is the intent of the property to complete as a project in the manner envisaged under the said registration. A registration number has been provided so as to ensure that from the point the project starts namely on receipt of commencement certificate to the point when the project concludes namely on receipt of occupation / completion certification the project remains compliant. This is the intent of the said Act and this intent is clearly brought about in the preamble of the said Act which is reproduced hereinbelow:

“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.”

8. On perusal of the preamble, it is evident that the intent is to ensure the sale of plot, apartment, etc. in an efficient and transparent manner and to protect the interest of the consumers. The intent thus mandates the Authority to ensure that the project remains compliant and the home buyers / allottees receive their premises. Hence the legislation is to ensure delivery of the premises to the home buyers / allottees. This is a beneficial legislation where a tangible asset needs to move from the Promoter / Developer to the home buyer / allottee in a manner as laid out under the said Act.

9. In the present case, it is the contention of the Applicant (Promoter) that the said project is completed and has received OC (which are all issued in parts) before the said Act came into force and that one unit i.e. Unit No. 203 has not received OC and the same is not going to be sold by the Applicant (Promoter) and that the Applicant (Promoter) is not going to receive the full OC and therefore, the Applicant (Promoter) wants to de-register the said project. In this behalf, this Authority has perused the project webpage and on perusal of the same, it is observed that there are in total 37 inventories in the said project and 9 sanctioned floors (Including Basement+ Stilt+ Podium+ Service+ Habitable excluding terrace). Out of which, the Applicant (Promoter) has sold 19 inventories to allottees. Furthermore, as per Disclosure of sold/booked inventory uploaded on 13.08.2024 for the period as on 30.06.2024, 16 units are shown to be "Not for Sale" and bookings for 2 Units are shown to be cancelled. However, during the hearing, the Applicant (Promoter) has failed to submit as to what he is going to do with the units which are not for sale and of which booking is cancelled. Moreover, at the time of applying for de-registration the reason for de-registration was given by the Applicant (Promoter) as the Applicant (Promoter) has received the completion certificate of the said project in parts before the commencement of the said Act, but in the initial stage of RERA as there was no clarity about the applicability of RERA registration to the projects, the Applicant (Promoter) registered the said project under the said Act and that till date of the Application, the Applicant (Promoter) had sold 19 units for which he had received the Completion Certificate and that he wanted to apply for de-registration of the said project as registration of the said project was not required as he was not going to sell the remaining units, whereas, during the hearing, it was submitted by the Advocate for the Applicant (Promoter) that the said project is completed and that the Applicant (promotor) has received OC before the RERA Act

came into force, the OC is part OC and that one unit that is Unit No. 203 has not received OC and the promotor applicant is not going to sell the said unit and that the promotor will not receive the full OC, therefore, the promotor wants to de-register the project in question. On perusing Part OCs granted by the Concerned Authority, it is observed that part OCs have been granted to 34 inventories from the said project for ground floor, first floor and second floor out of 37 inventories, which means 3 out of 37 inventories have not received OCs. Admittedly, the Applicant (Promoter) has not received OC for Unit No. 203 and the Applicant (Promoter) has failed to bring before this Authority OC issued by the Concerned Authority to the remaining Unit Nos. 1 and 6. Hence, it cannot be said that the said project had received completion certificate before the said Act came into force. Not only this, the Applicant (promoter) has not brought before this Authority, any correspondence addressed by the Concerned Authority whereby it has been stated that the said Unit No. 203 cannot be issued OC and that the said project won't get Full OC. As a result, this Authority cannot consider the 3-part OCs granted to the said project as completion certificate issued prior to the said Act came into force. On account of the discrepancy in the reason for de-registration mentioned in the Application and during the hearing, this Authority is reluctant in passing order de-registering the said project. **Consequently, this Authority rejects the application of the Applicant (Promoter) to de-register the said project.**

(Ravindra Deshpande)
Member II, MahaRERA

Date :- 09.05.2025