

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

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

1. REGULATORY CASE NO. 228 OF 2024

MODELLA TEXTILE INDUSTRIES LIMITED ... APPLICANT (PROMOTER)

GODREJ ALIVE A ...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P51700010303

A/W

2. REGULATORY CASE NO. 229 OF 2024

MODELLA TEXTILE INDUSTRIES LIMITED ... APPLICANT (PROMOTER)

GODREJ ALIVE B ...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P51700005281

A/W

3. REGULATORY CASE NO. 230 OF 2024

MODELLA TEXTILE INDUSTRIES LIMITED ... APPLICANT (PROMOTER)

GODREJ ALIVE C ...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P51700009993

A/W

4. REGULATORY CASE NO. 231 OF 2024

MODELLA TEXTILE INDUSTRIES LIMITED ... APPLICANT (PROMOTER)

GODREJ ALIVE E ...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P51700009992

GODREJ PROPERTIES LTD ...OBJECTOR FOR SR. NO. 1 to 4

Order

August 06, 2024

(Date of virtual hearing -25.06.2024, matter reserved for order)

Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA

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Shri Mahesh Pathak, Hon'ble Member-I, MahaRERA
Shri Ravindra Deshpande, Hon'ble Member-II, MahaRERA
Advocate Harshad Bhadbhade present for the Applicant (Promoter).
Advocate Nimay Dave, Yash Momaya, Daneel Pancras i/b Jain Law Partners
LLP for Godrej (Objector).

1. The Applicant (Promoter) herein had registered the following projects under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("**said Act**") of Real Estate Regulatory Authority ("**RERA**") bearing the following MAHARERA Registration Numbers (hereinafter referred to as the "**said Project No. 1 to 4**" respectively and collectively as "**Projects**"):

SR. NO.	PROJECT NO.	PROJECT NAME
1.	P51700010303	GODREJ ALIVE A
2.	P51700005281	GODREJ ALIVE B
3.	P51700009993	GODREJ ALIVE C
4.	P51700009992	GODREJ ALIVE E

2. On 05.02.2024, applications was made by the Applicant (Promoter) for seeking deregistration of the said Project Nos 1 to 4. In this regard the captioned case was heard on 25.06.2024 wherein the following roznama was recorded by this Authority in the all the captioned matters:

"Promoter avers that there are 4 applications and 4 registration numbers on which deregistration has been sought. There were a total of 107 allottees distributed over these 4 project numbers. The Promoter claims that on 06.08.2023 all allottees were refunded and their claims settled. The landowner was also accordingly refunded and settled. As a consequence of NCLT proceedings, the project is now handed over to the new shareholder and no allottees remain in this project. Based on this the Promoter seeks deregistration of the 4 registration numbers mentioned.

The Promoter further avers that while he does not claim to be aware of whether appeal has been filed in NCLAT or not, however the corporate debtor has been now settled. Godrej was only a development manager and the termination of his role as a development manager has been adequately dealt with by NCLT in its order.

Further, the NCLT has also settled Godrej who was a development manager in terms of his being a corporate debtor. The NCLT has further recorded that all 107 allottees stand settled.

Godrej, who has filed objections to the deregistration sought, avers that in the first place while Godrej maybe the development manager, they are also Promoters and recorded as

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such on the RERA website. Further, Godrej is also an allottee qua around 100 flats for which their rights as allottees would have to be dealt with. Godrej points to the circular of RERA bearing No. 42 of 2023 dated 10.02.2023 which requires that allottees must be settled before deregistration can be sought. In this case Godrej as an allottee has not been settled in terms of their claims. The money that was given was accepted under protest and there were further claims that have been raised but not yet settled. Hence the contention of Godrej is that their claims have not yet been fully settled. They are also in the appeal before the NCLAT on various issues and this being one of them. The Godrej further mentions that the deregistration application is not a true reflection of the facts as it omits to mention that Godrej is Promoter and it also does not mention that the payments while made were accepted only under protest. Further, it also fails to mention that there are other cases and litigations pending. Some of the cases relate to cheque bounce incidents. Further there are also cases before civil court. The contention of the Godrej is that promoter, as declared in the registration, falls within the purview of RERA and cannot be dealt with by NCLT. There is no document to show that the development manager agreement has been terminated.

The Promoter's contention is that NCLT had held Godrej to only be a development manager and vide its order has terminated the existing share holding pattern of the entity and has been replaced by a new set of shareholders to continue with the business of the entity. The Promoter further avers that his claims as an allottee have been settled on the payment of around Rs. 10 Crores which is also recorded in the NCLT order. However other financial claims which Godrej seeks do not fall within the jurisdiction of RERA. These are financial claims and need to be dealt with accordingly. The status of allottee stands terminated as per the order of NCLT and settlement pursuant to that. The development manager cannot seek a specific performance directive from RERA.

Godrej avers that interest claims which accrued to him as an allottee are still pending and resolution plan is also under challenge before NCLAT and hence this matter is not finally settled.

The Promoter however rebuts stating that they have not been able to obtain a stay order from NCLAT and there is nothing pending which is payable to either Godrej or any other allottees.

Parties are at liberty to file written submissions if any by 08.07.2024 subsequent to which the matters shall be reserved for orders."

5. The Applicant (Promoter) has stated the following submissions for seeking deregistration of the said Projects:

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- a. That Applicant (Promoter) states that they seek de-registrations of the said Projects Nos 1 to 4 as there is change in management as per the National Company Law Tribunal (NCLT) order dated 06.10.2023.
- b. That all the claims related to the related to the said Projects at Sr. Nos 1 to 4 are settled and that there are no claims pending of allottees in the said Projects. Therefore, the contention made by the Respondent that their claims as flat purchasers of 100 flats in the said Projects is false and baseless.
- c. That the Objector is also paid Rs. 10,31,47,725/- and the same is also admitted by them in their reply at para no. 23 and Exhibit B. Therefore, it is apparent that their claim as alleged assignee of some allottees is fully settled as per the NCLT order and they have accepted the said amount paid.
- d. That the Objector is paid at par with other allottees although they were assignees and not the original allottees.
- e. That the objector has failed to provide any evidence that claims of allottees are pending in such large number and their statement is deliberate and misleading.
- f. That the claim of Objector in the appeal is also for recovery of managerial fees which NCLT rejected in the NCLT order.
- g. That the Objector cannot claim to be a flat purchaser and co-promoter/development manager at the same time.
- h. That the Objector did not come forward to discharge its obligations as co-promoter and remember his role as co-promoter to only gain money from the Applicant (Promoter).
- i. That any monetary claims related to a real estate Project as per law shall be approached to the NCLT and that it does not fall under the jurisdiction of RERA.
- j. That as per the NCLT order as there is change in the management of the Company, the new management has all the rights to terminate the previous development manager and the Objector has no right to insist upon continuing with the earlier arrangement of management.
- k. That the Objector has not argued to distinguish non applicability of the orders.

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1. That, therefore, the Applicant (Promoter) prays that the de-registration application be allowed.

6. The Applicant (Promoter) submitted notarized declaration-cum-undertaking dated 05.02.2024 stating that all Allottees in the said Project Nos 1 to 4 are settled vide the NCLT order dated 06.10.2023. Further, it is also observed that office of MahaRERA on 19.03.2024 issued notices inviting objections for deregistration of the said Projects wherein 7 objections were received namely as below:

1. Godrej Properties Ltd (Development Management as per RERA webpage)
2. Mr. Nikhil Grover,
3. Mr. Uday Grover,
4. Mr. Vinod Grover,
5. Mr. Rohit Grover,
6. Mr. Ravinder Grover,
7. Ms Kusum Grover.

Further Sr. No. 1 objects stating that he is also the Promoter and allottee of 98 residential units in all the said Project Nos 1 to 4. Also, an appeal is also filed before National Company Law Appellate Tribunal (NCLAT) and same is pending.

Sr. No. 2 to 7 are family members/successors of the one allottee who died and whose claim is not settled. Both the Parties had filed appeal before NCLAT which are withdrawn.

8. In view of the above objections, it is observed by the Authority that the notice of hearing was sent to all the 7 objectors on 31.05.2024 & 25.06.2024 in the all the said Project Nos 1 to 4. Further, Objector at Sr. No. 1 has appeared before the Authority. However, objectors at Sr. No. 2 to 7 have failed to appear before the Authority on both the occasions despite notice of hearings being sent.

9. Further, Parties were given liberty to file submission in view of the same Objector at Sr. No. 1 had made the following submissions:

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- a. That the de-registration application is false and misleading and should be dismissed. That the Applicant (Promoter) submits in the declaration Cum undertaking that as per the order passed by the NCLT no case is pending. However, the objector has filed an appeal in NCLAT challenging the NCLT order and the same is pending. Further, the objector has also taken out proceedings under section 138 of the negotiable Instruments Act, 1881 before Metropolitan Magistrate Court, which is also pending. Moreover, there are various other pending litigations which are not disclosed by the Applicant (Promoter) and are also pending. That the Applicant (Promoter) has committed perjury.
- b. That development management agreement dated 13.09.2017 was executed between the Applicant (Promoter) and the Objector.
- c. That the Objector in accordance with the agreement performed its obligations. However, the Applicant (Promoter) failed to perform its obligations in timely manner.
- d. That the Applicant (Promoter) has not complied the pre-requisites of deregistration namely that there should be zero allottees, declaration of pending litigation etc.
- e. That the NCLT directed for payment of the principal amounts as claims towards the objector being a home buyer. Accordingly, payment of Rs. 10,31,42,725 being the principal amounts was accepted without prejudice to the rights and contentions of the objector.
- f. Therefore, the Objector prays that the present application be rejected and direct to clear the payments of the objector.

10. From the above submission of the Both the Applicant (Promoter) and the objectors the following observations are noteworthy:

- a. That the Project consists of only one (1) building in each Project Nos. 1 to 4.
- b. That complaints are pending before this Authority in the said Project Nos. 1 to 4.

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c. That on the MahaRERA webpage under the head "*Promoter(Land Owner/ Investor) Details*" and the sub-head "*Promoter name*" the Objector is disclosed as "*Godrej Properties Ltd (As Development Manager)*".

11. From the submissions of the Applicant (Promoter) and the Objector the only issue that need to be adjudicated upon is *Whether the deregistration application should be allowed, and the Projects Nos. 1 to 4 be deregistered?*
12. The Deregistration has been opposed by Objector No. 1 (Godrej Properties Ltd) on three counts. The first being that they are also Promoters and are registered as such. The second being that they are Development Managers and their claims as per the development management agreement are yet to be settled. The third being that the amount at which they have been sought to be settled has been disputed by them and they have filed appeals before the NCLAT.
13. On the first count it must be made clear that Authority while adjudicating upon a deregistration matter is fundamentally seized with the issue of terminating the oversight role of the Authority over the Projects. Further while terminating this role the Authority's primary concern is to ensure that the interest of the allottee is protected and also at the same time ensure that an environment is created to enable the Promoter to put the land resource to an efficient alternate use. The Authority has no mandate to examine or adjudicate upon the interse relationship of multiple Promoters in the Projects. The contractual relationship between the Promoters and how they would be settled quo each other on deregistration is beyond the jurisdiction of this Authority and shall be governed by the contract which binds these two parties. Hence, the Authority will abstain from considering this aspect while determining deregistration.
14. On the second objection of the Objector No. 1 (Godrej Properties Ltd) is that they are also a development manager in the said Project Nos. 1 to 4. It must be noted that once again that a development manager and its rights, duties and obligations are beyond the mandate of this Authority. The Authority has no jurisdiction to examine the contracts binding the development manager and the

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Applicant (Promoter) and the issue regarding their settlement. The Authority would hence not allow the disputes between the development manager and the Applicant (Promoter) to lean on this issue of deregistration. This would have to be dealt with as per their contractual agreements and orders of the NCLT and other applicable fora.

15. On the third issue that as allottees the objectors have not been settled as per their claims and that they are in appeal need to be dealt with by the Authority. The Authority will deal with this in subsequent paras of this order.
16. To adjudicate on the issue of 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."

17. 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 by the Authority of the intent of the Promoter / Developer to start and complete a project wherein premises for which registration is sought would be handed over

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to the Allottees. In short with registration begins the process of regulatory oversight which then lasts till the premises are handed over to the allottee together with OC. Thus, the critical ingredient of section 5 is the intent of the Promoter to complete the project as registered. 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 RERA 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."

18. 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 as promised. 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. The legislation is not for just providing project registration numbers which do not lead to home buyers / allottees receiving tangible assets. The Authority needs to make it clear here that when a project registration number is once given to a project, the project must then proceed and take a course as defined in the said Act and finally a tangible premises should get delivered to the home buyers / allottees as was promised. The grant of a project registration number is not a hypothetical exercise for complying with some statistical documentation.

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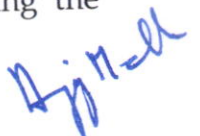


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19. It can thus be concluded that in the event the Authority finds that a project registration number which has been granted to a project is not likely to be completed the Authority is bound to take cognizance of the same and take such actions as may be necessary to bring the project to a conclusion. The Authority is mandated to exercise oversight once a project registration number is given till the date it is successfully completed. Thus, it is also for the Authority to take a call when it becomes apparent that the project is not likely to move further.
20. In the present case the intent to complete the projects in the present form is not there anymore. There could be various reasons for the same. The Authority has no reason nor a mandate to delve into why the intent to progress as planned earlier has evaporated. The Authority has however to ensure that while there is no intent to progress further the same is not driven by an intent to short change home buyers / allottees. Where allottees have been taken care of and their interest are not jeopardised anymore the Authority sees no reason to deny a deregistration when sought for.
21. The Authority sees no logic on maintaining a project registration number where either there are no allottees or where there are allottees but whose legal obligations have been fulfilled by the Promoter. The Authority is very clear that the exercise of grant of project registration number, the oversight over a project having a registration number and maintenance of records of such projects is not a theoretical exercise. This exercise is clearly for the specific purpose of delivery of the premises. There is no intent to complete the said Project in the present form and hence there is no logic to continue with the said Project registration number.
22. While it is thus clear that this is a fit case for deregistration it is also the responsibility of the Authority that allottees interests are either settled or remain well protected. In this particular case the Authority notes that Corporate Insolvency Resolution Process (CIRP) proceedings have taken place before the NCLT and the same have concluded with certain orders and a resolution plan. This resolution plan has dealt with the claims of the allottees, in this case the objector. In spite of above the Objector has raised grievances regarding the

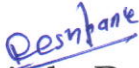
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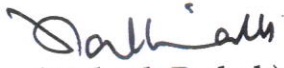

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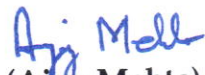


settlement. The Authority would thus have to balance the deregistration with a suitable safety net to ensure that the allottees can seek recourse to the Promoter entity in the event certain claims become payable to them in the future. The Authority would while allowing deregistration direct the Applicant (Promoter) namely Modella Textile Industries Limited to give an undertaking to discharge any liabilities towards the objector as an allottee that may arise out of any order of a court of law.

23. Thus, the said Project Nos 1 to 4 would stand **deregistered subsequent to the Applicant (Promoter) submitting an undertaking to fulfil any liability that may arise towards the objector on the basis of outcome of any court of law.** The Promoter herein is directed never to advertise, market, book, sell or offer for sale, or invite person/s to purchase in any manner any apartment / unit in the said Project Nos 1 to 4.


(Ravindra Deshpande)
Member-II, MahaRERA


(Mahesh Pathak)
Member-I, MahaRERA


(Ajoy Mehta)
Chairperson, MahaRERA