

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

PHYSICAL HEARING AT MAHARERA CHURCHGATE OFFICE

REGULATORY CASE NO. 05 OF 2023

BROOKLYN PARK PHASE II

...PROJECT NAME

EKTA PARKSVILLE HOMES PVT. LTD.

... PROMOTER

MAHARERA PROJECT REGISTRATION NO. P99000000110

ORDER

(In an extension application)

March 21, 2023

(Date of hearing – 16.02.2023 matter reserved for order)

Coram: Shri Ajoy Mehta, Chairperson, MahaRERA

Ashok Mohanani for the Promoter present

1. EKTA PARKSVILLE HOMES 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 "BROOKLYN PARK PHASE II" under section 5 of the said Act bearing MAHARERA **Registration No. P99000000110** (hereinafter referred to as the "**said Project**").
2. The Promoter has filed an extension application No. EXT99000012698 on 12.10.2022 (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 16.02.2023 wherein the following roznama was recorded:

"For Case No. 5:

Project Proponent Present.

The facts of this case are similar to the Regulatory Case No. 4. In this case the Developer has completed the building and is awaiting OC. He seeks extension till 31.12.2023, even though he has applied till 30.09.2023. The Authority hereby directs the Promoter to submit the following documents –

a. Architect Certificate with respect to the stage of completion of the said Project as on date.

- b. Form 2A (Engineers Certificate on Quality Assurance) and Form 5 (Annual Audit Report of Statutory CA) to be submitted in format as prescribed by the Authority.*
- c. Application for obtaining OC filed before the concerned Planning Authority bearing Inward number/filing number of the Planning Authority.*

All the aforementioned documents to be submitted to the Authority in hardcopies within 7 days from the date of receipt of this roznama.

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 31.10.2019. Thereafter, the first extension under Section 6 of the said Act was sought by the Promoter whereby the registration was extended up to 30.10.2020. 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 respectively along with the Promoter seeking first extension under Section 7(3) whereby the date of completion was extended up to 30.09.2022. However, the Promoter could not obtain occupation certificate (OC) for the said Project hence has applied for extension vide the said extension application herein under section 7(3) of the said Act for the period from 01.10.2022 to 30.09.2023.
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. Pursuant to the directions for submissions vide the roznama dated 16.02.2023, the documents have been submitted by the Promoter which have been perused and taken on record. 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. That the said Project comprises of 3 wings namely G, H & I.
 - b. That all 3 wings are completed construction and wings G & I have already received OC.
 - c. That the Promoter has applied for OC for wing H on 26.12.2022 from the Vasai Virar City Municipal Corporation (VVCMC) which is awaited as on date.
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 fact that the construction work is complete, OC for wings G & I are already in place and only OC for wing H is awaited. The Authority notes that the Promoter has completed the construction of the said Project and only wing H is pending for OC from VVCMC. In view thereof, 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 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 01.10.2022 to 30.09.2023. In view thereof, this Authority allows the said extension application with certain directions hereinbelow.

FINAL ORDER

The said extension application is **allowed** and the extension for the said Project is granted from 01.10.2022 to 30.09.2023 with the following conditions:

- A. The Promoter shall obtain OC by 30.09.2023. Needless to say, the Allottees of the said Project shall co-operate with the Promoter.
- 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 and the land owner 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 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