

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

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

REGULATORY CASE NO. 25 OF 2023

PROMOTER NAME MONARCH SOLITAIRE LLP

PROJECT NAME MONARCH SOLITAIRE

MAHARERA PROJECT REGISTRATION NO. P51700012008

ORDER

(In an extension application)

May 23, 2023

(Date of hearing – 16.05.2023 matter reserved for order)

Coram: Shri Ajoy Mehta, Chairperson, MahaRERA

CA Nitin Bajaj for the Partner of the Promoter LLP – Mr. Dhiraj Ailani (*Partner*)

1. MONARCH SOLITAIRE LLP 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 “MONARCH SOLITAIRE” under Section 5 of the said Act bearing MAHARERA **Registration No. P51700012008** (hereinafter referred to as the “**said Project**”). The Promoter LLP comprises of Partners namely Gopal Amar Thakur, Has Mukh Amar Lal Thakur and Dhiraj Kumar Ailani. The Partners shall be individually referred to as “**Partner Promoter**”.
2. The Partner Promoter (*Mr. Dhiraj Ailani*) has filed an extension application No. EXT51700013318 on 28.12.2022 (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 16.05.2023 wherein the following roznama was recorded:

“The Project was registered in 2017 August. The Project has 16 buildings. It is brought to the notice of the Authority by representative of Shri Ailani that he is only a 33% Partner in the Project and there is another Party which is 67% Partner. They were

certain misgivings and financial issues subsequent to which an MOU was executed between the Parties in which the present Proponent appearing before us agreed to complete 11 of the buildings and the other 5 were to be completed by the other Partner. It is brought to the notice of the Authority that the Promoter/ Partner who was to complete those 5 buildings is facing certain criminal charges also. All 16 buildings have one project number.

The Promoter who is present before the Authority brings to the notice of the Authority that out of 11 building that he was supposed to complete 5 have been completed and Occupation Certificates are also available for the same. 4 buildings are under construction and are likely to be completed by December 2023. The remaining 2 building shall be completed by 30.12.2026.

The Promoter seeks extension till 30.12.2026 for the 11 buildings in his share. The Promoter also seeks the intervention of RERA for resolving the issue of 5 buildings which are in the share of the other Partner.

The Promoter to file Written Submission on or before 22.05.2023. Subsequent to which, the matter will be reserved for order."

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 30.12.2021. MahaRERA granted three (3) extensions on the ground of Covid-19 pandemic which were granted to all the projects registered with MahaRERA qualifying under Notifications / Orders Nos. 13, 14 & 21 dated 02.04.2020, 18.05.2020 & 06.08.2021 respectively whereby the date of completion was extended up to 30.12.2022. The Partner Promoter (Mr. Dhiraj Ailani) has applied for extension vide the said extension application herein under section 7(3) of the said Act for the period from 31.12.2022 to 30.12.2023. However, during the hearing dated 16.05.2023 the Partner Promoter (Mr. Dhiraj Ailani) submitted that out of 11 building in his share he has completed 5 and Occupation Certificates (OC) are also available for the same. Further 4 buildings are under construction and are likely to be completed by December 2023 and the remaining 2 building shall be completed by 30.12.2026. Hence extension is sought till 30.12.2026.
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 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 16 buildings namely wings A to P.
 - b. That there is a MOU dated 22.03.2018 executed between the Partners whereby 11 building (*wings A to E, I to L, O & P*) out of 16 were to be constructed and completed by the Partner Promoter (*Mr. Dhiraj Ailani*) and the remaining 5 (*wings F to H, M & N*) to be completed by the other two Partner Promoters jointly.
 - c. That the Partner Promoters namely Gopal Amar Thakur and Hasmukh Amarlal Thakur are facing criminal proceedings.
 - d. That till date 50% work has been completed.
 - e. The delay is also on account of Covid-19 pandemic.
 - f. That the Partner Promoter (*Mr. Dhiraj Ailani*) is seeking extension up to 31.12.2026 for completing his share of building and is also seeking the Authority's indulgence in the matter of construction of 5 building pertaining to the share of the other two Partner Promoters.
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 obtaining majority consents of the Allottees needs to be examined in light of the observations mentioned in para No.5 hereinabove. 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) is the first extension and the same 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 31.12.2022 to 31.12.2026. 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 31.12.2022 to 31.12.2026 with the following conditions:

- A. The Promoter shall complete the balance construction work and obtain OC by 31.12.2026. 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 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