

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

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

REGULATORY CASE NO. 49 OF 2023

ADVANCE HOME MAKERS PRIVATE
LIMITED

... APPLICANT (PROMOTER)

ADVANCE KINGDOM

...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P52000021184

Order

March 01, 2024

(Date of virtual hearing – 13.02.2024, matter reserved for order)

**Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA
Shri Mahesh Pathak, Hon'ble Member-I, MahaRERA
Shri Ravindra Deshpande, Hon'ble Member-II, MahaRERA**
Representative present for the Applicant (Promoter)

1. The Applicant herein had registered the project namely "ADVANCE KINGDOM" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") of Real Estate Regulatory Authority ("RERA") bearing MAHARERA Registration No. P52000021184 (hereinafter referred to as the "said Project").
2. On 14.02.2023, an application was made by the Applicant (Promoter) for seeking deregistration of the said Project. In this regard the captioned case was heard by this Authority on 08.09.2023 and 15.09.2023. However, the Applicant (Promoter) choose to remain absent on 08.09.2023 and 15.09.2023 in spite of the hearing notices being sent by MahaRERA office. In view of above, the application for deregistration was rejected on the ground for it not being pursued and the said Project registration was kept in abeyance vide final order dated 04.10.2023

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(hereinafter referred to as the said "final order"). The operative part of the said final order is re-produced as under:

"6. The Applicant (Promoter) has not remained present for hearing in spite of two dates being given. In view of above the Authority is constrained to reject the application for deregistration for it not being pursued. The Applicant (Promoter) is hereby cautioned to not initiate matters if they have no intent to pursue it.

7. Thus, the said Project registration be kept in abeyance and the Promoter herein is directed not 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. However, the Applicant (Promoter) is given liberty to institute the matter by following due procedure."

3. Pursuant to the said final order the Applicant (Promoter) filed restoration application dated 12.01.2024 seeking following reliefs:
 - a. Updating email address as notice was not served on the Promoter.
 - b. Rectification in final order as there are no allottees in the Project.
 - c. Removal of abeyance and withdrawal of show cause notices.
 - d. Original relief for de-registration of the said Project.
4. On 13.02.2024, on restoration application being filed by the Applicant (Promoter) for seeking deregistration of the said Project along with other relief mentioned above. The captioned case was heard by this Authority on 13.02.2024 wherein the following roznama was recorded:

"Promoter avers that he was not able to update email address and could not receive the notice of hearing. Accordingly, the matter had been dismissed by the Authority for non-appearance of the Party. The Promoter seeks restoration of the matter. The Authority hereby restores the matter and continues with the hearing.

The Promoter states that while they had intended to go ahead with the Project but because of certain issues the Project was not viable due to increased cost of building material and therefore they have decided to abandon the Project. The Promoter avers that there are no allottees in the said Project. The Promoter seek deregistration of the said Project.

Matter is reserved for order."

5. In view thereof the restoration application dated 12.01.2024 was accepted vide the Roznama dated 13.02.2024 and the captioned case was restored and heard.

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The Applicant (Promoter) is seeking deregistration of the said Project on account of non - viability of the said project due to increased cost of building material, scarcity of few materials and no demand for sale in Neral region. Further the Applicant (Promoter) seeks for removal of the said Project from abeyance, withdrawal of the show cause notices sent by the Authority for non-compliance, rectification of the said final order as there are no allottees in the Project and updating of email id.

6. Thus, from the submissions of the Applicant (Promoter) and the declaration dated 12.04.2023 submitted by the Applicant (Promoter) it is clear that there are no Allottees in the said Project. Further, it is also observed that office of MahaRERA on 02.06.2023 & 19.06.2023 issued notices inviting objections for deregistration of the said Project wherein no such objections were received.
7. 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."

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8. 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 Promoter to complete the project. 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."

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. The legislation is not for conducting a routine exercise of providing project registration numbers which do not lead to home buyers / allottees receiving tangible assets. The Authority needs to make it clear here that a project registration number once given to a project, the project must then proceed and take a course as defined in the said Act and finally tangible premises get delivered to the home buyers / allottees. The grant of a project

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number is not a hypothetical exercise for complying with certain statistical purpose.


9. 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. As the Authority is mandated to exercise oversight once a project registration number is given till the date it is successfully completed, it is also for the Authority to take a call when it becomes apparent that the project is not likely to move further.
10. In the present case the intent to complete itself 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 complete has evaporated. The Authority has however to ensure that while there is no intent to complete 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.
11. 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 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. In the present case it is evident that there are no allottees. There is no intent to complete the said Project nor is there an intent to sell the premises and therefore no logic to continue with the said Project registration number and hence the same needs to be deregistered.

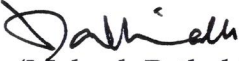
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12. Thus, the said Project registration is **deregistered** and the Applicant Promoter herein is directed never to advertise, market, book, sell or offer for sale, or invite person/s to purchase in any manner any apartment / unit in the said Project. Further the show cause notices, and penalty levied (if any) is waived as the said Project is deregistered.
13. Since the said Project stands de-registered it would mean that the project is now out of regulatory oversight of the Authority. This would imply that all orders imposed as a part and in pursuant to the mandate of regulatory oversight would become infructuous. In view of the above, all show-cause notices and order of abeyance now abates.


(Ravindra Deshpande)
Member-II, MahaRERA


(Mahesh Pathak)
Member-I, MahaRERA


(Ajoy Mehta)
Chairperson, MahaRERA

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ADVANCE HOME MAKERS
PRIVATE LIMITED

... APPLICANT (PROMOTER)

ADVANCE KINGDOM

...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P52000021184

ORDER

October 04, 2023

(Date of virtual hearing – 15.09.2023, matter reserved for order)

**Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA
Shri Mahesh Pathak, Hon'ble Member-I, MahaRERA**
None present for the Applicant (Promoter).

1. The Applicant herein had registered the project namely "ADVANCE KINGDOM" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") of Real Estate Regulatory Authority ("RERA") bearing MAHARERA Registration No. P52000021184 (hereinafter referred to as the "said Project").
2. On 14.02.2023, an application was made by the Applicant (Promoter) for seeking deregistration of the said Project. In this regard the captioned case was heard on 08.09.2023 and 15.09.2023 wherein the following roznama was passed by this Authority in the captioned matter on 15.09.2023:

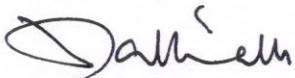
"None was present for the Promoter.

It is seen that on the last occasion i.e. on 08.09.2023, the party remained absent then also. In view of the consecutive absence, the hearing in the matter stands closed. Matter stands reserved for orders."

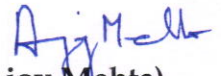
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3. The Applicant (Promoter) is seeking deregistration of the said Project on account of non - viability of the said project due to increased cost of building material, scarcity of few materials and no demand for sale in Neral region.
4. It is observed that the Applicant (Promoter) choose to remain absent on 08.09.2023 and 15.09.2023 in spite of the hearing notices being sent by MahaRERA office.
5. It is also observed that the Promoter has not updated the QPRs and that 57 units have been sold out of a total 180 units whose details of settlement have not been uploaded or confirmed by the Promoter herein. Further, pursuant to the deregistration application on 02.06.2023 & 19.06.2023 the office of MahaRERA issued notices inviting objections for deregistration of the said Project wherein no such objections were received.
6. The Applicant (Promoter) has not remained present for hearing in spite of two dates being given. In view of above the Authority is constrained to reject the application for deregistration for it not being pursued. The Applicant (Promoter) is hereby cautioned to not initiate matters if they have no intent to pursue it.
7. Thus, the said Project registration be kept in **abeyance** and the Promoter herein is directed not 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. However, the Applicant (Promoter) is given liberty to institute the matter by following due procedure.



(Mahesh Pathak)
Member-I, MahaRERA



(Ajoy Mehta)
Chairperson, MahaRERA