

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

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

REGULATORY CASE NO. 50 OF 2023

HOMELAND CONSTRUCTIONS PVT. LTD ... APPLICANT (PROMOTER)

SKY HEIGHTS PHASE 2 ...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P52100014654

ORDER

April 22, 2024

(Date of virtual hearing -08.04.2024, 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
Advocate Vikram Amolik present for the Applicant (Promoter).

1. The Applicant herein had registered the project namely "SKY HEIGHTS PHASE 2" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") of Real Estate Regulatory Authority ("RERA") bearing MAHARERA Registration No. P52100014654 (hereinafter referred to as the "said Project").
2. On 06.04.2023, 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 wherein the matter was transferred to Shri Sanjay Deshmukh (Chief Consultant), MahaRERA. The roznama dated 08.09.2023 is reproduced hereunder for reference:

"Promoter states that no sales have taken place. He seeks deregistration as market conditions have changed and seeks to relook at whole project. However, it is seen from the records that 71 out of 101 units have been sold. Promoter, however, denies the same. The Promoter to be called by the Consultant MahaRERA, Shri Sanjay Deshmukh by issuing a separate notice with date for the same. Matter to be taken up by the Authority subsequent to the report of Shri Sanjay Deshmukh on the same."

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3. Subsequent to the Roznama dated 08.09.2023 the captioned case was heard before Shri Sanjay Deshmukh (Chief Consultant), MahaRERA on several occasions after which Report dated 06.03.2024 was submitted before the Authority. Following are the observation of the report dated 06.03.2024:

"1. Authority vide email dated 11.08.2023 asked the Promoter to submit an affidavit with respect to the number of sold units in Phase 2. Promoter has submitted an affidavit on 21.08.2023 wherein promoter states that they have not sold or allotted any flat in the above said project at Point No. 3 of the Affidavit.

2. The Promoter while applying for De-registration has declared on Affidavit, that the Promoter has not sold any units in the said Project.

3. Upon perusal of the said project webpage, it appears that there are zero bookings/units sold in the said project.

4. The Promoter, vide Email dated 20.02.2024 (annexed as 'Annexure - A') stated that the transactions on the Inspector General of Registration of Maharashtra (IGR) website are pertaining to resale of units in the Phase 1 which has no bearing on the Phase 2. The Promoter to support his case has annexed Index II of the said resale transactions (annexed as 'Annexure - A1').

5. Promoter has submitted Satellite Images of Phase 2 which are available on Google Earth website wherein it appears that no construction has taken place. Promoter has also shown a copy of proposed layout wherein proposed Phase 2 can be seen beside Phase 1. Upon perusal of the Satellite Images on Google Earth website, wherein data attribution as on 23.10.2023, it appears that no construction activity has taken place at the site. (photograph is annexed as Annexure B).

6. On-site investigation may be carried out to assess the status of construction if authority considers it to be necessary.

7. There are no objections received for the de-registration notice published on MahaRERA website.

In view of the above, Authority may decide the matter accordingly."

4. Subsequent to the Report dated 06.03.2024 the captioned case was heard before the Authority on 08.04.2024 wherein the following Roznama was recorded:

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"Promoter states that the bookings being shown do not relate to his project but another project bearing a similar name. The Promoter has also appeared before Shri Sanjay Deshmukh, Chief Consultant, MahaRERA and submitted his say. Report of Shri Sanjay Deshmukh is also on record. The Promoter states that he seeks to deregister as due to change in plan he would like to revise the Project in order to make it more commercially and financially viable.

Matter is reserved for order."

5. The Applicant (Promoter) has stated the following for seeking deregistration of the said Project:
 - a. That the Project consist of two (2) buildings.
 - b. That the bookings being shown do not relate to his project but another project bearing a similar name.
 - c. That the Promoter seeks to deregister as due to change in plan he would like to revise the Project in order to make it more commercially and financially viable.
6. Thus, from the submissions of the Applicant (Promoter) and Report dated 06.03.2024 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 refence:

"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.

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(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."

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."

9. 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

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

10. 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.
11. 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 shortchange 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.
12. 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

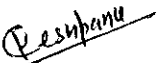
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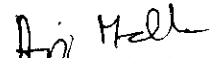
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theoretical exercise. This exercise is clearly for the specific purpose of delivery of the premises. In the present case it is evident that there are no allottees. There are predicaments rendering Applicant Promoter unable to complete the said Project. Thus, when there is no intent to complete the said Project and hence no logic to continue with the said Project registration number and hence the same needs to be deregistered.

13. Thus, the said Project is **deregistered** and 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.


(Ravindra Deshpande)
Member-II, MahaRERA


(Mahesh Pathak)
Member-I, MahaRERA


(Ajoy Mehta)
Chairperson, MahaRERA