

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

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

REGULATORY CASE NO. 320 OF 2025

ROHAN VILAS AMBEKAR

... APPLICANT (PROMOTER)

VIVAAN TRADE CENTER

...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P52700008178

ORDER

February 12, 2025

(Date of virtual hearing -22.01.2025, matter reserved for order)

**Coram: Manoj Saunik, Chairperson, MahaRERA
Mahesh Pathak, Member-I, MahaRERA
Ravindra Deshpande, Member-II, MahaRERA**
Applicant (promoter) present in person

1. The applicant herein had registered the project namely "VIVAAN TRADE CENTER" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("Act") of Real Estate Regulatory Authority ("RERA") bearing MAHARERA Registration No. P52700008178 (hereinafter referred to as the "Project").
2. On 12.05.2023, an application was made by the applicant for seeking part deregistration of the project. In this regard the case was heard by this Authority on 22.01.2025 wherein the following roznama was passed:

"The promoter seeks part deregistration of the said project on the grounds of pending litigation and building plan is not approved for further construction by the collector office. The promoter submits that there are seven allottees in the project. However, the MahaRERA website shows that there is one booking.

In view of the above the promoter is directed to submit an affidavit on record stating that the consent of the seven allottees are obtained along with the evidence, if any, within 7 days, subsequent to which the matter shall be reserved for orders. The promoter is directed to update all the pending quarterly progress report."

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3. The applicant has stated the following reasons for seeking partial deregistration of the project:

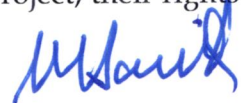
- i. That there is lack of interest due to unforeseen difficulties and shortage of funds for continuing with the construction of the other part of the project.
- ii. That there is a civil case bearing no 149/2013 which is pending before the Civil Judge Sr. Division in the project.
- iii. That building plan for further construction is not getting sanctioned by the Collector's office.
- iv. Taking the above points into consideration it is being concluded to de-register the part project as it is of no fruitful use of having registration for this part of the project.

4. The following observations are noteworthy:

- a. That the project was granted registration on 18.05.2020. Further the project registration has lapsed on 31.01.2021.
- b. That the project consists of only one building (basement + ground + 3 upper floors) as per the layout plans.
- c. That the applicant has filed partial deregistration for upper three (3) floors of the building as the project is partially completed for basement plus ground level as submitted by the applicant.
- d. Further, it is observed that as per MahaRERA webpage there is one (1) booking in the project. However, the promoter in the notarized declaration cum undertaking has submitted that there are seven (7) allottees in the project and the consents of all the seven (7) allottees are obtained for part deregistration.
- e. It is observed that the applicant vide email dated 27.01.2025 has submitted consents of the seven (7) allottees along with the copy of registered agreements for sale of eight (8) allottees.
- f. It is important to note that while consents from seven (7) allottees have been obtained by the applicant for the de-registration of the project, their rights

Resubmit


Page 2 of 8



remain unsettled. These allottees hold existing allotments in the portion of the project that is not being de-registered (i.e basement + ground). Their consent specifically pertains to the partial de-registration of the upper three (3) floors, which does not impact their respective shop allocations.

- g. Further, the applicant vide email dated 27.01.2025 has sought 30 days' time to update the QPRs as directed by the Authority in roznama dated 22.01.2025.
 - h. It is also observed that office of MahaRERA on 02.06.2023 and 19.06.2023 issued notices inviting objections for deregistration of the project wherein no such objections were received.
5. Thus, the issue of *whether the project registration can be deregistered partially for upper three (3) floors?*
6. Before the Authority decides on the issue on partial 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.

(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."

Deshpande





7. 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 property to complete as a 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."

8. On perusal of the preamble, it is evident that the intent is to ensure the sale of plot, apartment, shop 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 an apartment/unit/shop 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 providing project registration numbers which do not lead to home buyers / allottees receiving their apartment/unit/shop. 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 premises (apartment/unit/shop) get delivered to the home buyers / allottees. The grant

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Page 4 of 8



of a project registration 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 search 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. Further as per order 42/2023 dated 10.02.2023, the Authority lays down the pre-requisites for de-registration of a project. The para-A (iv) of the order 42/2023 becomes relevant here and the same is re-produced as under:

"A. Firstly,

Pre-requisites for de-registration of a real estate project

- i) Only those real estate projects which have zero allottees i.e. the real estate projects where there are no bookings shall be considered for de-registration.
- ii) Provided that, where part of a registered real estate project is sought to be de-registered then there should be zero allottees in that part of the real estate project.
- iii) Provided further that in real estate projects where there are bookings, application for de-registration shall be entertained subject to the rights of such allottees being settled by the promoter and documents in that regard being submitted for verification along with the application for de-registration.
- iv) Provided also that when de-registration of part portion of a real estate affects the rights of rest of the allottees in the balance part of such real estate project then 2/3rd consent of such allottees need to be submitted along with the application for de-registration."

11. The pre-requisite at para-A (iv) refers to that if a developer wants to deregister a part of a real estate project, and if this part deregistration could impact the rights of the people who have bought units in the remaining part of the project, then the developer must obtain consent from two-thirds of these buyers before proceeding with the de-registration.
12. In the present case, it is observed from MahaRERA website that there are total 43 units in the project (10 stores + 10 shops + 23 flats). The applicant has obtained

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Page 5 of 8

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consent of seven (7) allottees who have purchased shops in the project. It is pertinent to note here that as per para-A (iv) of order 42/2023 the pre-requisite condition for de-registration is that consents of two-thirds of allottees is required. The applicant has uploaded 100% consent stating that there total seven (7) units sold in the project and consents of the seven (7) allottees are obtained by the applicant. However, the applicant has provided copy of eight (8) agreements for sale of the allottees. Further, the applicant has failed to update the sold/unsold inventory on the MahaRERA webpage which as on date of this order shows that there is one (1) booking in the project. Thus, the Authority at this juncture is unable to ascertain the exact count for the bookings made in the project by the applicant. However, with the agreements for sale provided by the applicants for eight (8) allottees are taken on record and the details of the same are furnished as below:

Sr. No.	Name of Allottees	Shop No.
1.	JAYWANT ASHOK KUMBHAR	1
2.	DADASO PANDURANG MORE	3
3.	AJIT NANASO GULDAGAD	5
4.	AMOL NANASO GULDAGAD	8
5.	OMKAR ASHOK JADHAV	9
6.	PRADIP PANDURANG SALUNKHE	4
7.	SANDEEP SOPAN NIKAM	2
8.	KALYANI SANDIP JADHAV	6

13. Thus, considering that out of the ten (10) shops the applicant has sold eight (8) shops to the allottees of which consents of the seven (7) allottees are obtained by the applicant then in that case the applicant satisfies the pre-requisite mandate for deregistration of the project. Taking on record the consents of the seven (7) allottees the Authority therefore allows the partial de-registration of the project and the issue at **para no. 5** is answered in **affirmative**.
14. However, the applicant is seeking partial deregistration of the project registration and not in toto. The Authority is now facing a situation to deregister a part (i.e 3 upper floors) of a building in project registration and to keep the project registration valid for the remaining part (basement + ground level). The

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Page 6 of 8

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present case is that of partial deregistration on ground of shortage of funds, pending litigation and pending approval from collector.

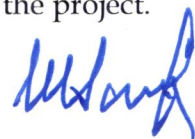
15. The Authority hereby allowing the application, further directs the applicant to carry out a correction process in the project details with respect to upper 3 floors on the MahaRERA website in the project. Further, the Director, Registration, MahaRERA to facilitate the correction process of building within a period of 60 days from the date of the said correction application made by the applicant in the project.
16. Further, to safeguard the interests of the allottees in the de-registered portion of the project, the applicant is hereby instructed to submit an affidavit of indemnity /indemnity bond within 30 days from the date of this order. This submission will serve as a commitment to compensate for any claims or rights that may arise for the allottees from any legal proceedings or forums established for such adjudications.
17. Further, the applicant vide email dated 27.01.2025 has sought time to update the QPR's, the same are pending as on date of this order. The applicant shall the update QPR's within 30 days from the date of this order.

FINAL ORDER


18. Therefore, after considering the aforementioned observations and provisions of the Act, the materials placed on record, the facts of the case and submissions made by the Parties, the Authority allows the partial de-registration of upper 3 floors with the below directions:
 - A. The applicant is directed to carry out a correction process in the project details with respect to upper 3 floors on the MahaRERA website in the project. Further, the Director, Registration, MahaRERA to facilitate the correction process of building within a period of 60 days from the date of the said correction application made by the applicant in the project.

Resubmit



Page 7 of 8



- B. The applicant is directed to file **affidavit of indemnity/Indemnity Bond** as more specifically mentioned in para no. 16 herein above, with the Secretary, MahaRERA **within 30 days from the date of this order.**
- C. The applicant is **directed to update QPR's within 30 days from the date of this order.**
- D. Secretary, MahaRERA to verify the documents and upon satisfactory fulfilment of the conditions as mentioned herein above at para no B & C, process the correction application made by the applicant.
- E. The applicant 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 project part deregistered.
- F. **In the event of Non-Compliance** of any of the directives/ conditions mentioned hereinabove, within 30 days from the date of this order, this order shall stand revoked.


Ravindra Deshpande
Member-II, MahaRERA


Mahesh Pathak
Member-I, MahaRERA


Manoj Saunik
Chairperson, MahaRERA