

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

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

REGULATORY CASE NO. 336 OF 2025

RAHUL TARAPRAKASH VARTAK

... APPLICANT (PROMOTER)

KANERI FOOTHILLS

...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P52700013823

ORDER

11.04.2025

(Date of virtual hearing – 21.03.2025, matter reserved for order)

Coram: Shri Ravindra Deshpande, Member II, MahaRERA

Advocate Snehal Walunj for the Applicant (Promoter).

1. The Applicant herein had registered the project namely “KANERI FOOTHILLS” under section 5 of the Real Estate (Regulation and Development) Act, 2016 (“**said Act**”) of Real Estate Regulatory Authority (“**RERA**”) bearing MAHARERA **Registration No. P52700013823** (hereinafter referred to as the “**said Project**”).
2. On 30.08.2023, an application was made by the Applicant (Promoter) for seeking deregistration of the said Project. In this regard the captioned case was heard on 07.03.2025 wherein the following roznama was recorded:

“Advocate Amruta Salunke is present for the applicant. Allottees are absent.

The applicant has only given contact numbers of two allottees accordingly notice was sent to them, but they are absent. Applicant has not provided contact numbers and emails of other allottees, the applicant is directed to furnish the emails and contact numbers of the remaining allottees on or before 12.03.2025 and the time is granted to the applicant for the same purpose.

The advocate for the applicant submitted that, project is a plotting project and as per Circular No. 25 of 2019 & 37 of 2022, the project is NA project. Plots are already divided and separate 7/12 extract have been created already. It is submitted that promotor has

sold 5 flats and taken consent of all the allottees, plots are separated and procedure for kami-jast patrak and falni 12 has already done. Hence, the promotor applicant has applied for de-registration.

List this matter for hearing 21.03.2025.

The applicant is also directed to upload authority letter and resolution on MahaRERA website prior to next date."

3. The present case was again heard on 21.03.2025 before this Authority, wherein, the following Roznama was recorded:

"Today Adv. Snehal Walnuj is present for the applicant and none is present for the Allottees Mr. Taraprakash Vartak, Mrs. Anubha Vartak, Mrs. Vaishali Gharpuray and Mrs. Lata Vijay Kelkar.

The Adv. for the applicant submitted that the Applicant has uploaded the consent of the 5 Allottees and today the Applicant has uploaded the resolution, authorizing Mr. Rahul Tarapratak Vartak to act on behalf of the Applicant and to file the present application.

Considering the submissions of the Adv. for the applicant, the matter is reserved for the order."

4. The Applicant (Promoter) has stated the following for seeking deregistration of the said Project:
 - a. That as per circular No. 25/2019, dated 11.11.2019 and Circular No. 37/2022 dated 13.12.2022, RERA is not applicable for NA Plotting Project.
 - b. That the construction of the said project is completed and that there are 5 plot bookings in the said project.
 - c. That there is no litigation pending before any Court/Forum/Tribunal or any other authorized body.
5. Thus, from the submissions of the Applicant (Promoter) it is clear that there are five (5) Allottees in the said Project and the Applicant (Promoter) has submitted consent of 5 allottees to de-register the project. Further, it is also observed that

office of MahaRERA on 30.07.2024 issued notices inviting objections for deregistration of the said project wherein no such objections were received. In view thereof, the Authority shall now examine the application for deregistration filed by the Applicant Promoter.

6. 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.”

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 in the manner envisaged under the said registration. 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 the said Act 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, 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.
9. In the present case, it is the contention of the Applicant (Promoter) that the said project is a plotted development project and by virtue of Circular No. 25/2019 and Order No.37/2022 (the same has been incorrectly referred as Circular in the application of the Applicant (Promoter)) issued by the MahaRERA, the said Act is not applicable for NA Plotting project. In this behalf, this Authority has perused the both the Circular and Order issued by MahaRERA and on perusal, it is observed that vide the Circular No. 25/2019, inter-alia, the Real Estate Projects where Promoter has received the Completion Certificate/Occupancy Certificate/**NA (in case of plotted development) from Competent Authority, any time before Agreement for Sale/Sale Deed Registration**, such Real Estate Projects were exempted from MahaRERA Registration. Further, this Authority has perused the Order No. 37 of 2022 whereby MahaRERA has clarified as to what constitutes commencement of Plotted Development Projects and what denotes completion of the Plotted Development Projects. As per Point No. 2 of

the said Order No. 37 of 2022, receipt of the intimation of the Taisildar given as an acknowledgement of having received the intimation of the date of commencement of non-agricultural use after completion and execution of all conditions as may have been imposed by the Competent Authority (Tahsildar) in compliance of Rule 11-A of the Rules alongwith Form IV signed by the project Architect shall denote Occupation Certificate/Completion Certificate for plotted development projects. In this behalf, this Authority has perused the NA permission dated 23.05.2016 issued by the Sub Divisional Officer, Wai in favour of the Applicant (Promoter) which is uploaded by the Applicant (Promoter) on the project webpage, vide which, inter alia, the Applicant (Promoter) was granted temporary NA permission for the said project on the terms and conditions mentioned therein. The Applicant (Promoter) has failed to upload on the project webpage or to submit before this Authority a Final NA Permission issued by the concerned Authority. As a result, this Authority cannot consider the NA permission uploaded by the Applicant (Promoter) as Final NA permission which will denote the said project as complete. Not only this, it would not be out of context to mention here that recently MahaRERA has issued an Order bearing No. 62 of 2024 which order superseded MahaRERA Circular No. 25/2019 dated 11.10.2019, Circular Nos. 25A/2023 dated 09.06.2023 and MahaRERA Order No. 37 of 2022 dated 13.12.2022 and clarification with regards to Clauses (a) and (b) of sub-section (2) of section 3 of the said Act in the matter of real estate projects that are excluded from registration with MahaRERA was provided. With regards to Section 3(2)(b) of the said Act, where promoter has received completion certificate for a real estate prior to commencement of the said Act, considering the provisions in Unified Development Control and Promotion Regulations (UDCPR), following clarification regarding what constitutes commencement certificate and what denotes completion certificate for plotted real estate projects was provided. As per which, (i) the final approval accorded to the land sub-division layout in Form D-3 of UDCPR or the approval of similar nature with non-agriculture permission (wherever necessary) was to be considered as commencement certificate for plotted real estate projects. ii) the

certificate issued by the concerned competent authority informing the promoter and/or the licensed engineer/structural engineer/supervisor of the plotted real estate project; or the copy of the acknowledgement submitted to the concerned competent authority on self-certification of promoter; that the conditions imposed in the final approval accorded to the land sub-division layout in Form D-3 of UDCPR (or in the approval of similar nature) are complied or in cases wherever non-agricultural permission is necessary the receipt of the intimation of the Tahsildhar given as an acknowledgement of having received the intimation of the date of commencement of the non-agricultural use after completion and execution of all the conditions as may have been imposed by the concerned competent authority along with Form 4 duly filled in and signed by the project architect in compliance of Regulation 3 of the Regulations was clarified to denote completion certificate for plotted real estate projects.

10. In the present case, the Applicant (Promoter) has neither uploaded on the said Project's webpage or before this Authority a final approval accorded to the land sub-division layout in Form D-3 of UDCPR or the approval of similar nature with non-agriculture permission nor the Applicant (Promoter) has uploaded on Project Webpage or submitted before this Authority the certificate issued by the concerned competent authority informing the promoter and/or the licensed engineer/structural engineer/supervisor of the plotted real estate project; or the copy of the acknowledgement submitted to the concerned competent authority on self-certification of promoter; that the conditions imposed in the final approval accorded to the land sub-division layout in Form D-3 of UDCPR (or in the approval of similar nature) are complied or in cases wherever non-agricultural permission is necessary the receipt of the intimation of the Tahsildhar given as an acknowledgement of having received the intimation of the date of commencement of the non-agricultural use after completion and execution of all the conditions as may have been imposed by the concerned competent authority along with Form 4 duly filled in and signed by the project architect in compliance of Regulation 3 of the Regulations which denotes completion certificate for plotted real estate projects. At this juncture, the

Promoter has only uploaded temporary NA permission dated 23.05.2016. The Applicant (Promoter) has failed to upload a Final Non-Agricultural permission issued by the concerned authority with respect to the said project in favour of the Applicant (Promoter) and hence, on the very basis of provision of Section 3(2)(b), the said project was not complete on the date when the said Act came into force in the absence of a Final Non-agricultural Permission issued for the said project and in favour of the Applicant (Promoter). As a result, in my opinion, this Authority is precluded from passing order de-registering the said project. **Consequently, this Authority rejects the application of the Applicant (Promoter) to de-register the said project.**

(Ravindra Deshpande)
Member II, MahaRERA

Date :- 11.04.2025