BEFORE THE MAHARASHTRA
REAL ESTATE REGULATORY AUTHORITY, MUMBAI

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

REGULATORY CASE NO. 67 OF 2023

GANDHI BUILDERS PVT. LTD ... APPLICANT (PROMOTER)

GANDHI INDUSTRIAL PARK ...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P99000005517

ORDER

November 09, 2023
(Date of virtual hearing – 25.10.2023, matter reserved for order)

Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA
Shri Mahesh Pathak, Hon'ble Member-I, MahaRERA
Representative Parvesh Ranka was present New Landowner.
Advocate Saloni Kanekar was present for the Promoter.

1. The Applicant herein had registered the project namely "GANDHI INDUSTRIAL PARK" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("**said Act**") of Real Estate Regulatory Authority ("**RERA**") bearing MAHARERA **Registration No. P99000005517** (hereinafter referred to as the "**said Project**").

2. An application was made by the Applicant (Promoter) for seeking deregistration of the said Project In this regard the captioned case was heard on 10.10.2023 and 25.10.2023 wherein the following roznama was passed by this Authority in the captioned matter on 25.10.2023:

"The new landowner is present namely G K foundation. He states that the land was purchased from the erstwhile Promoter. They intend to use this for their personal requirement of an industrial unit. They have an established unit and are looking at this land parcel for further expansion. He also therefore seeks deregistration. Matter stands reserved for order."

3. The Applicant (Promoter) has stated the following for seeking deregistration of the said Project:

   a. That the Applicant (Promoter) seeks de-registration of the Project.

   b. The New Landowner namely G K foundation was present on 25.10.2023. The new Landowner states that the land was purchased from the erstwhile Promoter.

   c. That the new landowner intends to use the Project land for their personal requirement of an industrial unit. Therefore, seeks deregistration.

   d. The Applicant (Promoter) submits in the affidavit filed at the time of seeking de-registration stating that there are no/zero allottees int the said Project.

4. Thus, from the submissions of the Applicant (Promoter) it is clear that there are no Allottees in the said Project. Further the Applicant mentions that they have already sold the said Project to a third party. Further, it is also observed that office of MahaRERA on 02.06.2023 issued notices inviting objections for deregistration of the said Project wherein no such objections were received.

5. It is observed by the Authority that the Promoter who has approached for deregistration has already sold the land on which the said Project was to be constructed. The New Landowner has now appeared before the Authority. The New Landowner has submitted that they have not created any 3rd party rights in the said land, and they concur with the Applicant Promoter in deregistration of the said Project.

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 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."

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 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."

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. 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.

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 and it is evident from the fact that the said Project land is now transferred to a new owner and the new owner concurs with the Erstwhile Promoter in deregistering the said Project. 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. Further, the land underneath the said Project is already sold to a new owner and the same is duly taken on record. And further, the new owner has not

created any third-party rights, nor does he object/differ from the plea of the erstwhile Promoter to deregister.

11. Thus, 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. The land of the said Project is already sold to a New Landowner. There is no intent of the New Landowner 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.

12. Thus, the said Project registration 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.

(Mahesh Pathak)
Member-I, MahaRERA

(Ajoy Mehta)
Chairperson, MahaRERA