

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

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

REGULATORY CASE NO. 109 OF 2023

AJAY SHANTILAL RAKA

... APPLICANT (PROMOTER)

JAYSHANKAR APPARTMENT

...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P51600049761

Order

February 13, 2024

(Date of virtual hearing – 15.01.2024, 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**
Applicant (Promoter) present in person a/w CA Issarani

1. The Applicant herein had registered the project namely "JAYSHANKAR APPARTMENT" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") of Real Estate Regulatory Authority ("RERA") bearing MAHARERA Registration No. P51600049761 (hereinafter referred to as the "said Project").
2. On 25.08.2023, an application was made by the Applicant (Promoter) for seeking deregistration of the said Project as per circular 25A/2023. In this regard the captioned case was heard on 15.01.2024 wherein the following roznama was recorded by the Authority in the captioned matter:

"The Promoter states that RERA and rules and regulations do not apply to them. There are no allottees in the Project. Further, a penalty of Rs. 50,000/- was imposed for non-compliance. The Promoter avers that immediately on realising that the Project was not falling under the criteria for registration they applied for deregistration.

The Promoter seeks deregistration and also waiver of penalty of Rs. 50,000/- that was imposed.

Matter is reserved for orders."

P. Deshpande

D. Mehta
Page 1 of 3

M. Pathak

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

- a. That the Applicant (Promoter) in its deregistration application stated that the Applicant (Promoter) was not required to register as Project area is 469.42 sq. mtrs which is less than 500 sq. mtrs as per the section 3 of the RER Act.
- b. That there are no allottees in the said Project.
- c. Further, a penalty of Rs. 50,000/- was imposed for non-compliance. The Promoter seeks deregistration and also waiver of penalty of Rs. 50,000/- that was imposed.

4. Thus, from the submissions of the Applicant (Promoter) it is clear that there are no Allottees in the said Project. It is observed that the Project consists of only One (1) building. Further, it is also observed that office of MahaRERA on 20.09.2023 issued notices inviting objections for deregistration of the said Project wherein no such objections were received.

5. Before the Authority decides on the order on deregistration, the section that provides conditions prior to the registration of the Project with the Authority needs to be examined. Section 3 of the said Act is hereinbelow reproduced for ease of reference:

"3. Prior registration of real estate project with Real Estate Regulatory Authority. —

(1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

Peshankar

Dalwani
Page 2 of 3

Aj Mehta

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required—

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:


Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

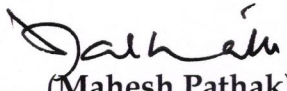
(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

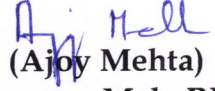
(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Explanation.— For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately."

6. On perusal of section 3 it is clear that a Project is not required to be registered where the area of land proposed to be developed does not exceed five hundred (500) square meters. In the captioned case the project area is 469.42 sq. mtrs which is less than 500 sq. mtrs. Hence the said Project is not mandated to be registered with MahaRERA. However, the Applicant (Promoter) had registered the said Project with the MahaRERA on 24.02.2023.
7. Thus, it can be concluded that notwithstanding the exemption outlined in the aforementioned Act, it is evident that the Applicant (Promoter) voluntarily opted to register the said Project with the Authority. Nevertheless, in accordance with the provision stipulating that registration is not compulsory for the Applicant (Promoter), the Applicant (Promoter) retains the prerogative to deregister the said Project at its discretion. In the present instance, the Applicant (Promoter) has applied for deregistration. Consequently, the Authority hereby allows the de-registration application and **de-registers** the said Project. The penalty levied is waived as the registration of the said Project is not mandatory under RERA.


(Ravindra Deshpande)
Member-II, MahaRERA


(Mahesh Pathak)
Member-I, MahaRERA


(Ajoy Mehta)
Chairperson, MahaRERA