

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

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

REGULATORY CASE NO. 103 OF 2023

SHITAL ANIL BERALEKAR

... APPLICANT (PROMOTER)

PINAKEEN SQUARE

...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P53000049374

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

Representative from V. B. Consultants were present for the Applicant (Promoter)

1. The Applicant herein had registered the project namely "PINAKEEN SQUARE" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") of Real Estate Regulatory Authority ("RERA") bearing MAHARERA Registration No. P53000049374 (hereinafter referred to as the "said Project").
2. On 05.10.2023, 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 seeks to deregister the project as it does not fall within the RERA act and regulations therein. This is a redevelopment project, and the Promoter is giving only assessment area to the tenants. There are only four tenants.
Matter is reserved for orders."*
3. The Applicant (Promoter) has stated the following for seeking deregistration of the said Project:

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- a. That the Applicant (Promoter) in its deregistration application stated that the Applicant (Promoter) was not required to register as Project area is 148.50 sq. mtrs which is less than 500 sq. mtrs as per the section 3 of the RER Act.
 - b. The Promoter has submitted a declaration stating that there are no bookings made in the Project. The said Project is a re-development project and only the earlier tenants present in the said Project.
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 04.12.2023 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.

(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:

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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;

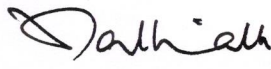
(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;


(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 148.50 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 07.02.2023.
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.


(Ravindra Deshpande)
Member-II, MahaRERA


(Mahesh Pathak)
Member-I, MahaRERA


(Ajoy Mehta)
Chairperson, MahaRERA