

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

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

**REGULATORY CASE NO. 149 OF 2024**

MIG (BANDRA) REALTORS & BUILDERS ... APPLICANT (PROMOTER)  
PRIVATE LIMITED

TEN BKC ...PROJECT NAME

**MAHARERA PROJECT REGISTRATION NO. P51800004889**

**Order**

February 28, 2024

(Date of virtual hearing – 13.02.2024, 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  
Advocate Pankaj Rajmachikar for the Applicant (Promoter)**

1. The Applicant herein had registered the project namely "TEN BKC" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") of Real Estate Regulatory Authority ("RERA") bearing MAHARERA Registration No. P51800004889 (hereinafter referred to as the "said Project").
2. On 22.12.2023 & 15.01.2024, an application was made by the Applicant (Promoter) for de-freezing of access to the MahaRERA portal and account of the said Project. In this regard the captioned case was heard on 13.02.2024 wherein the following roznama was recorded by the Authority in the captioned matter:  
*"Promoter avers that there were two orders dated 26.04.2021 and 30.04.2021 wherein certain penalties were imposed. The Project then went into a CIRP Process. Subsequent to the CIRP proceeding, the Company has passed over to a new management who then went in appeal before the Tribunal against the order of RERA imposing penalty. During the pendency of this, the portal relating to the Project has been frozen and the Promoter is now finding it difficult to update the portal and continue with the Project. The Promoter avers that they would be ready give an undertaking that in the event the Penalty is confirmed, they would deposit the same. However, in the meantime, the*

*Peshnani*

*Dalvi*

*Ajoy Mehta*

*Promoter seeks defreezing of their portal and account so that this being a live project can proceed further.  
Matter is reserved for order."*

3. The Applicant (Promoter) has stated the following for de-freezing of access to the MahaRERA portal and account of the said Project:
- a. That access to MahaRERA portal for said Project was freeze on 20.12.2023 on account of non-payment of penalty imposed vide order dated 26.04.2021 and 30.04.2021.
  - b. That on receipt of Notice dated 05.04.2023 Applicant (Promoter) had immediately on 20.04.2023 responded to the said Notice and requested not to take any penal action and withdraw the Notice issued towards payment of penalty and grant us a personal hearing.
  - c. That thereafter, no further show cause notice or hearing was conducted in and without any notice, the access to MahaRERA portal for said Project was stopped on 17.10.2023.
  - d. That immediately vide email dated 20.10.2023 requested the Authority for an early hearing in the matter and also to lift the freezing of our access to the MahaRERA portal and permit us to access the portal for said Project.
  - e. We state that on 30.11.2023 Applicant (Promoter) were again able to access the MahaRERA portal for the said Project.
  - f. That on 20.12.2023 once again the access to MahaRERA portal for said Project has been stopped.
  - g. That appeals are filed in the Appellate Tribunal challenging the penalty imposed in order dated 26.04.2021 and 30.04.202 and the same are pending.
  - h. That in the event Applicant (Promoter) fails in reversing the levy of the penalty, then they undertake to make payment of the same.
  - i. That on account of the freezing of our access to the MahaRERA portal Applicant (Promoter) are unable to update the Project details, which is prejudicial to the already existing 400 home buyers and to the public at large.

*Aesh/banp*

*Ajith*



- j. That the Applicant (Promoter) prays that the Authority may not take any penal action and withdraw the letter dated 05.01.2023 issued towards payment of penalty. Further prays to lift the freezing of access to the MahaRERA portal for said Project and permit us to access the MahaRERA portal since the project is ongoing.

4. Following is the date and event in the captioned case:

DATE	EVENT
26.04.2021	Order was passed in CC006000000193176 by Hon'ble Member-1. Relevant portion is as follows: a. "The Complainants are allowed to withdraw from the project, Respondent no.1 ( <b>Radius</b> ) is directed to refund the entire amount paid by the Complainants along with interest as prescribed under the provisions of RERA and the relevant Rules made there under i.e SBI's Marginal Cost Lending Rate 2%: b. The Respondent No. 1 is also directed to settle all the issues with the Respondent No. 2 (Deewan Housing Finance Corporation) separately regarding the repayments of the money paid by the Respondent No.2 on behalf of the Complainants. c. Respondent No. 1 is also directed to pay an amount of Rs. 10,00,000/- towards the penalty to MahaRERA as per the provisions of section 61 of the RERA for violation of section 13 pf the RERA; d. The Respondent No. 1 is directed to update the project details information on MahaRERA website as required under Section 11(1) (a) to (f) fo the RERA and the relevant Rules and Regulations made thereunder."
30.04.2021	Hon'ble Member-1 MahaRERA issued order in 14 complaints filed in the captioned Project bearing No. CC006000000192739, CC006000000192741, CC006000000192742, CC006000000192758, CC006000000192759, CC006000000192760, CC006000000192762, CC006000000192926, CC006000000192927, CC006000000192928, CC006000000192946, CC006000000193009, CC006000000193041 and CC006000000193069 thereby disposing the matters. Relevant portion of the said final order is as follows:: a) "The Complainants are allowed to withdraw from the project, Respondent no. 1 is directed to refund the entire amount paid by the Complainants along with interest as prescribed under the provisions of RERA and the relevant Rules made there under i.e SBI's Marginal Cost Lending Rate 2%: b) The Respondent No. 1 is also directed to settle all the issues with the Respondent No. 2 separately regarding the repayments of the money paid by the Respondent No.2 separately regarding the repayments of the money paid by the Respondent No. 2on behalf of the Complainants. c) Respondent No. 1 is also directed to pay an amount of Rs. 10,00,000/- towards the penalty to MahaRERA as per the provisions of section 61 of the RERA for violation of section 13 pf the RERA. The Respondent No. 1 us directed to update the project details information on MahaRERA website as required under Section 11(1) (a) to (f) of the RERA and the relevant Rules and Regulations made thereunder:"
30.04.2021	The National Company Law Tribunal (NCLT), Mumbai passed an order in an insolvency petition bearing No. CP No. 1390/IBC/NCLT/MB/MAH/2020 in the matter of Beacon Trusteeship Limited and Radius Estate and Developers Private Limited. The NCLT admitted the petition and appointed Insolvency Professional and also imposed moratorium.
09.01.2023	NCLT, Mumbai passed an order in the Interlocutory Application bearing no. 573 of 2022 in CP (IB) No. of 1390 of 2022 and relevant directions are as follows:

*Peshwone*

	a. The Resolution Plan submitted by Adani Goodhomes Private Limited was approved. b. The moratorium under Section 14 of the code ceases from the date of the order.
03.04.2023 & 05.04.2023	A penalty notice was issued by legal advisor, MahaRERA to Radius Estates and Developers Private Limited for payment of penalty imposed vide order dt. 30.04.2021.
20.04.2023	Promoter filed reply to notice dated 03.04.2023
20.12.2023	Access to the said Project was freezed in view of non-compliance of order dated 26.04.2021 of RERA by the Promoter.
-	An appeal bearing No. AT0060000000204855 was filed by Radius Estates and Developers Pvt. Ltd. against the order dated 26.04.2021 before the Hon'ble Maharashtra Real Estate Regulatory Appellate Tribunal ( <b>MahaREAT</b> ). The appeal is pending as on date.

5. The issue that needs to be decided is *whether the Promoter's access to the RERA portal which stands frozen needs to be allowed pending an appeal before the Hon'ble MahaREAT?*
6. In the present case a penalty had been imposed vide an order dated 30.04.2021 passed by the Member 1, MahaRERA on account of the violations of the provisions of RERA. This penalty was not paid by the Promoter. However, the Promoter approached the Hon'ble MahaREAT challenging the order of the Member 1, MahaRERA under an appeal which is pending till date. Since the penalty was not paid of MahaRERA went ahead and denied access of the Promoter to the RERA portal and also freezed the bank account of the Promoter with respect to the said Project.
7. In this regard, Section 11(1) & 11(2) of RERA which deals with the creation of the webpage of the project, the purpose of the same and the content therein is necessary to be examined. The Section 11(1) and 11(2) are reproduced hereinbelow for ready reference:

**Section 11(1) & (11(2):**

*"(1) The promoter shall, upon receiving his Login Id and password under clause (a) of sub-section (1) or under sub-section (2) of section 5, as the case may be, create his web page on the website of the Authority and enter all details of the proposed project as provided under sub-section (2) of section 4, in all the fields as provided, for public viewing, including –*

*(a) details of the registration granted by the Authority;*

*Pes Nanna*

*Aj Mell*



(b) quarterly up-to-date the list of number and types of apartments or plots, as the case may be, booked;  
(c) quarterly up-to-date the list of number of garages booked;  
(d) quarterly up-to-date the list of approvals taken and the approvals which are pending subsequent to commencement certificate;  
(e) quarterly up-to-date status of the project; and  
(f) such other information and documents as may be specified by the regulations made by the Authority.

(2) The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto."

On perusal of the above it is very clear that the whole purpose of providing a webpage and ensuring its updation is to ensure that the allottees receive up to date information of the progress of the project. The website also provides relevant and important information to the allottee to make informed decisions regarding the project. The act of freezing the access to the webpage of MahaRERA for the said Project would essentially mean that the Promoter would not be able to update the progress on the same hence creating a situation wherein the allottees would not be able to understand the progress on the said Project. Further it is also seen that the designated account of the Promoter has been frozen which effectively would cripple the said Project financially as neither would the allottee be able to deposit money into it nor would the Promoter be able to withdraw money to execute the said Project.

8. The Authority has frozen the access to the webpage of MahaRERA for the said Project and has also frozen the designated bank account of the Promoter. In this regard Section 7(3) which provides for the Authority to take certain actions instead of revoking the registration becomes relevant. The Section 7(3) is reproduced hereinbelow for ready reference:

**Section 7(3):**

"The Authority may, instead of revoking the registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the promoter."

*Resubmit*

*Sachin*

*Aj Meel*

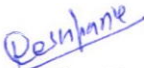
9. The action of freezing the designated bank account and the access to the webpage of MahaRERA for the said Project has been done to safeguard the allottees to whom the refunds were to be paid. In the meantime, the said Project had gone into the NCLT proceedings which have now been concluded and a resolution plan has been approved. In view of the above the moratorium that was imposed has now been lifted and the Promoter intends to commence the work of the said Project. The commencement of the work would mean that the said Project would move towards completion and allottees who were earlier not able to get possession would be able to get possession of their premises (flats).
10. In order to enable the said Project to proceed towards completion it would be important that the Promoter is able to receive monies into the designated bank account and further spend the monies for the purpose of completing the said Project. The Promoter would also be required in view of the progress of the said Project to bring all relevant information in public domain so as to enable the allottees to be informed about the progress of the said Project as envisaged under section 1 & 2 of the said Act.
11. In order to meet the twin objective of firstly completing the said Project and secondly informing the allottees about the progress of the said Project, it would be critical to enable the access to the webpage of MahaRERA for the said Project and also to enable operation of the designated bank account of the said Project. Without this in spite of the resolution plan the said Project would not be able to progress and see completion.
12. The Authority therefore consider it expedient to allow the access to the webpage of MahaRERA for the said Project and defreeze the designated bank account of the said Project. However, to ensure that the penalties as imposed earlier are paid in case of reversal of the appeal the Authority hereby directs the Promoter to file an affidavit indemnifying the Authority that all penalties

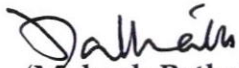
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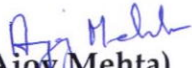
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imposed and other dues payable in the event of failure of their attempt to seek a favourable order from the Hon'ble MahaREAT will be deposited with the Authority. The Promoter to file this before the Secretary, MahaRERA within **14 days** of this order. After receiving the same the Secretary, MahaRERA to take necessary steps to allow the access to the webpage of MahaRERA for the said Project and permit operation of the designated bank account of the said Project.

  
(Ravindra Deshpande)  
Member-II, MahaRERA

  
(Mahesh Pathak)  
Member-I, MahaRERA

  
(Ajoy Mehta)  
Chairperson, MahaRERA