

**BEFORE THE MAHARASHTRA
REAL ESTATE REGULATORY AUTHORITY, MUMBAI**
Virtual Hearing held through video conference as per
MahaRERA Circular No.: 27/2020

REGULATORY CASE NO. 292 OF 2024

NAMRATA DEVELOPERS PRIVATE LIMITED

... APPLICANT

HAPPYCITY VARALE

...PROJECT NAME

MAHARERA PROJECT REGISTRATION NO. P52100018045

ORDER

January 20th, 2025

(Date of virtual hearing – 29.10.2024, matter reserved for order)

Coram: Shri Manoj Saunik, Chairperson, MahaRERA
Shri Mahesh Pathak, Hon'ble Member-I, MahaRERA
Shri Ravindra Deshpande, Hon'ble Member-II, MahaRERA
Mr. Raj Shah present for the applicant

1. The applicant herein is the promoter under Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016 (**"the Act"**) and had registered the project namely **"HAPPY CITY VARALE"** under section 5 of the Act of the Real Estate Regulatory Authority (**"RERA"**) bearing **MAHARERA Registration No. P52100018045** (**"the Project"**).
2. On 11.05.2023, an application was made by the applicant for seeking part deregistration of the Project. In this regard the captioned case was heard on 29.10.2024 wherein the following roznama was recorded:
"The Promoter states that all the allottees are settled in the building which is now complete. The Promoter is directed to file all the quarterly progress reports and all other documents mentioning that there is no booking in the wing A which needs to be deregistered. Matter reserved for orders subsequent to the promoter placing all the documents on record latest by 26.11.2024."
3. The applicant has stated the following for seeking partial deregistration of the Project:
 - a. That the Project consists of 03 buildings namely Building A, C and E.
 - b. That the applicant has filed this deregistration application for partial deregistration of the Project only to the extent of deregistering one building i.e. Building A. The Project registration shall continue for the remaining two buildings i.e. Building C and E.
 - c. The applicant states the reason for partial deregistration is the Covid-19 pandemic and further states that the project is completed except for the part of the Project which is to be deregistered i.e. Building A. The applicant intends to complete the same in the future as and when feasible for the applicant after considering all aspects for construction.
 - d. The applicant has updated the Quarterly Performance Reports for the Project as directed by the Authority on 29.10.2024.
4. From the submissions and the notarized declaration-cum-undertaking dated 15.05.2023 of the applicant, it is stated that the Project has 25 bookings and that the rights of each

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of the allottees have been settled. However, vide disclosure of inventory letter dated 08.11.2024, the promoter has declared that there are zero sold units in the part of the real estate project i.e. building A for which deregistration is sought. Further, it is also observed that office of MahaRERA on 02.06.2023 & 19.06.2023 issued notices inviting objections for deregistration of the Project and no objections were received. In view thereof, the Authority shall now examine the application for part deregistration filed by the applicant.

5. It is observed that the applicant has submitted the copies of Index II and cancellation deed of only 13 allottees out of 25 allottees in Building E. On further scrutiny it has been observed that there are 219 allottees in Building C and there are 50 allottees in Building E i.e. total 269 bookings in the Project out of which 48 allottees have given consent from Building E. The applicant has failed to submit consents of allottees of Building C for part deregistration of the Project for the first hearing dated 19.09.2024. However, post the hearing the promoter has submitted the consent of 156 allottees for the building C in the Project.
6. Further, it is also observed that applicant has also uploaded part occupation certificate dated 10.08.2022 and Form 4 i.e. architect Certificate dated 20.09.2022.
7. Thus, the issue is of whether the said application for part deregistration of the Project specifically for Building A shall be allowed or not?
8. Before the Authority decides on the order on partial deregistration, the section that provides for grant of registration needs to be examined. Section 5 of the 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."

9. On perusal of section 5 it is clear that a project registration is granted pursuant to the promoter seeking a grant of registration. A grant for registration when sought under section 5 is an acknowledgment of the intent of the promoter to start and complete a project wherein the apartments, plots or building as the case maybe as described under

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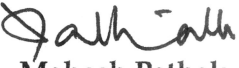
M. H. Malik


the Act would be handed over to the allottees. Thus, the critical ingredient of section 5 is the intent of the completion of the Project 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 certification the Project remains compliant. This is the intent of RERA and this intent is clearly brought about in the preamble of the 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."

10. 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 allottees receive their premises. Hence the legislation is to ensure delivery of the premises to the allottees. This is a beneficial legislation where a tangible asset needs to move from the promoter to the allottee in a manner as laid out under the Act. The legislation is not for providing project registration numbers which do not lead to allottees receiving tangible assets as envisaged under the Project registration. 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 Act and finally an apartment, plot or building gets delivered to the allottees as was promised.
11. 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.
12. In the present case, the applicant has come before the Authority seeking the deregistration of part of the Project owing to his current inability to complete the same. The application is to deregister one building being Building A from the Project registration and to keep the Project registration valid for the remaining two buildings, Building C and E. The applicant has added all three buildings, A, C and E in the Project details when registering the Project on the MahaRERA website, consequently, partial deregistration is not feasible. The Authority therefore hereby directs the applicant to carry out a correction process in the Project details with respect to Building A on the MahaRERA website in the Project. Further, the Director, Registration, MahaRERA to facilitate the correction process of Building A within a period of 60 days from the date of the said correction application made by the applicant in the Project.


Ravindra Deshpande
Member-II, MahaRERA


Mahesh Pathak
Member-I, MahaRERA


Manoj Saunik
Chairperson, MahaRERA