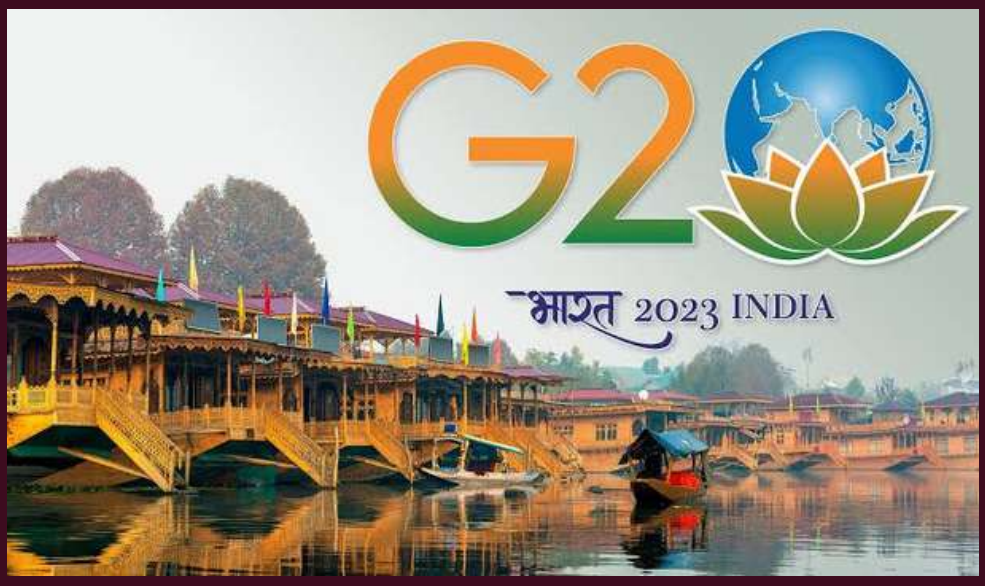
Volume VII • Part III May- June 2023

RERA TIMES

Real Estate (Regulation & Development) Act, 2016



FCA SANJAY GHIYA
CCCA, DISA

FCA ASHISH GHIYA
CS, L.L.B.

Ghiya Hospital

Care from very first breath

A Centre for Management of High Risk Pregnancy

Dr. Supriya Ghiya
MBBS, M.S. (OBS & Gynae)

Sector - 12, Malviya Nagar, Jaipur-302017 • Phone : 0141-2547279
E-mail : hospital_ghiya@yahoo.co.in • Website : www.ghiyahospital.com

"For Private Circulation"

RERA TIMES

REAL ESTATE

(REGULATION AND DEVELOPMENT) ACT, 2016

(A Journal on Real Estate Bye Laws)

EDITORIAL TEAM:

CA ASHISH GHIYA (L.L.B, C.S)

CA SHUBHAM GUPTA

CA RAUNAK KHANDELWAL

Assisted By: Surbhi Gupta, Vandhan Papriwal, Sanjali Ghiya

Email Id: ghiyaandco@yahoo.co.in

Address: E-68, Ghiya Hospital Complex,

Sector12,Malviya Nagar,

Jaipur, Raj- 302017

FROM THE EDITOR'S DESK…

Dear Readers,

India's journey towards a modern economy has resulted in increased global integration and a significant rise in exports, now comprising a fifth of its output. Exports have surged by 14% in totality. The country's favorable demographic transition, along with improved income distribution and employment levels, positions India for continued per capita GDP expansion over the next 25 years, building upon its remarkable growth over the past 75 years. Talking about figures, GDP growth rate of economy is 7.2%. The Indian economy expanded 6.1% year-on-year in Q1 2023, higher than an upwardly revised 4.5% in Q4 2022 and well above market forecasts of 5%.

The cumulative profit of public sector banks in India surged to Rs 1 lakh crore by the end of the financial year in March 2023. In 2022-23, the banks achieved profits of Rs 1,04,649 crore, showcasing a remarkable growth. Twelve public sector banks reported a notable year-on-year increase of 57% in total profits. Analysts attribute this growth to higher interest income, better management of non-performing assets, and various government-led reforms and initiatives. These positive developments indicate a growing graph for public sector banks.

An interesting news for Real Estate investors is that The Securities and Exchange Board of India (SEBI) is considering regulating online platforms offering fractional real estate ownership with a minimum investment between INR 100,000 ($1,346) and INR 250,000 ($3,365). The regulator has dubbed the lack of standard selling practices and independent valuations on these

platforms as a risk to investors and suggested they should be subject to the Micro, Small and Medium REIT regulatory framework.

In recent times it has been observed that just before the elections the existing government provide freebies schemes so as to attract the voters. While the idea of freebies provided by the government may seem appealing, it is not a sustainable or prudent approach. Such measures often create a culture of dependency and undermine individual responsibility. It is clear that relying on freebies as a solution is detrimental to the overall progress and well-being of a nation.

The concept of a Uniform Civil Code (UCC) in India has gained significant attention and importance over the years. As a diverse nation with multiple religions and their distinct personal laws, the absence of a UCC has resulted in inequalities and inconsistencies. Even Supreme Court on various occasions has mentioned for enactment of UCC, reflecting the need to eliminate disparities and ensure equal rights for all individuals, thereby promoting a fair and progressive society. Our constitution has also mentioned to get UCC implemented. By implementing a UCC, we can foster social harmony, economic growth, and gender justice, allowing all citizens to be governed by the same set of laws.

With Regards
CA Sanjay Ghiya
Contact No. 9351555671
E-mail: ghiyaandco@yahoo.co.in
Place: - Jaipur
Date: 08/07/2023

TABLE OF CONTENTS

PART-I

REPORTING OF CASE LAWS

MAHARASHTRA REAL ESTATE APPELETE TRIBUNAL

APPELLANT: Smt. Anita H, Bora
RESPONDENT: M/s. Jawala Real Estate P. Ltd. &Anr
CORAM: SHRIRAM R. JAGTAP, MEMBER (J) & S. S. SANDHU, MEMBER (A)
ORDER DATE: 08.06.2023
Appellant Representative: Mr. Nilesh Borate, Advocate
Respondent Representative: Mr. Yogendra Singh, Advocate

Gist of Case: Initially, accounts of allottees should be reconciled and balance amount should be determined so as to expedite the resolution of the dispute.

The case involves a dispute between an Allottee (the appellant) and a Promoter (the respondent) regarding possession of a flat in a real estate project. The Allottee had booked the flat and entered into an agreement with the Promoter in 2013. The agreement specified the total consideration for the flat and the payment schedule.

However, there were several issues that arose between the parties. The Promoter issued notices of cancellation due to defaults in payment by the Allottee, but later revoked the cancellation after receiving further payments. Eventually, the Promoter cancelled the booking again in 2016, claiming that the Allottee had not made the required payments. At that time, the Allottee had already paid a significant amount, totalling around Rs. 2.86 crore.

Both the Allottee and the Promoter filed complaints with the MahaRERA (Maharashtra Real Estate Regulatory Authority). The Promoter sought directions from the Authority for the Allottee to make the balance payment or cancel the agreement. The Allottee, on the other hand, alleged that the Promoter had failed to provide possession of the flat by the agreed date and requested possession along with interest for the delay.

During the proceedings, the parties disagreed on various aspects, including the total consideration amount, the amounts already paid, and the outstanding balance. The Promoter claimed a higher total consideration than the Allottee and disputed the amount paid by the Allottee. The Authority acknowledged the discrepancies and directed both parties to reconcile their accounts within a month to determine the actual amounts paid and outstanding dues.

The Authority's order, dated 18.11.2021, did not address the issue of interest for delayed possession, leading the Allottee to file an appeal. In the appeal, the Allottee sought possession of the flat subject to payment of the balance amount. The appellant argued that the possession should be expedited to resolve the dispute over interest for delayed possession and avoid further legal and financial implications.

The appellate tribunal acknowledged the lack of unanimity between the parties regarding the total consideration and the amounts paid. It noted that the parties had not reconciled their accounts, which led to the delay in possession. However, considering the need to expedite possession, the tribunal decided to make a prima facie determination of the balance amount based on the available information. It held that the agreed total consideration was Rs. 5.59 crore, rejecting the Promoter's claim of Rs. 5.91 crore. The tribunal also recognized that an additional amount of Rs. 32.70 lakhs was payable separately for infrastructure charges.

In conclusion, the dispute revolves around the possession of a flat, with discrepancies regarding the total consideration and the amounts paid. The MahaRERA directed the parties to reconcile their accounts, but the issue remained unresolved. **The appellate tribunal made a prima facie determination of the balance amount, emphasizing the need for possession to expedite the resolution of the dispute.**

ASSAM REAL ESTATE APPELETE TRIBUNAL

APPELLANT: D.S. Realtors
RESPONDENT: Real Estate Regulatory Authority, Assam
CORAM: HON'BLE MR. JUSTICE (Retd.) MANOJIT BHUYAN, CHAIRPERSON, SHRI ONKARMAL KEDIA, HON'BLE MEMBER (ADMINISTRATIVE)
ORDER DATE: 29.05.2023

Appellant Representative: Mr. Gautam Rahul and Mr. D.M. Nath
Respondent Representative: None

Gist of Case: If an order made by the Authority or Adjudicating Officer is challenged before the Tribunal, then 30% of the penalty, or higher amount, as determined by the Tribunal must first be deposited by the promoter.

At this stage we are not inclined to entertain or admit the appeal for consideration on merits until and unless the appellant complies with the proviso to sub-section (5) of Section 43 of the Real Estate (Regulation and Development) Act, 2016(in short, the Act). The said provision of law requires a promoter to deposit at least 30% of the penalty or such higher percentage, as may be determined by the Appellate Tribunal, prior to entertaining the appeal. It is seen from the impugned order dated03.03.2023 passed by the Real Estate Regulatory Authority, Assam in Case No. RERA/ASSAM /Reg/Notice/2022/40, that an amount of Rs.20,00,000/- has been imposed as penalty upon the Appellant/Promoter in exercise of powers under Section 59 of the Act.

In this appeal filed by the promoter, it is not accompanied by the requisite pre-deposit of money with the Appellate Tribunal, in strict terms of the proviso to sub-section (5) of Section 43 of the Act, which is reproduced hereunder for ready reference:

> *"43(5) Any person aggrieved by any direction or decision or order made by the Authority or by an adjudicating officer under this Act may prefer an appeal before the Appellate Tribunal having jurisdiction over the matter:*
>
> *Provided that where a promoter files an appeal with the Appellate Tribunal, it shall not be entertained, without the promoter first having deposited with the Appellate Tribunal at least thirty percent of the penalty, or such higher percentage as may be determined by the Appellate Tribunal, or the total amount to be paid to the allottee including interest and compensation imposed on him, if any, or with both, as the case may be, before the said appeal is heard."*

Having regard to the quantum of penalty so imposed and in view of the clear prescription of law in the proviso to sub-section (5) of Section 43 of the Act, we make a direction to the Appellant to make an initial deposit of Rs.6,00,000/- in the form of Demand Draft, drawn on a nationalized bank, in favor of the Assam Real Estate Appellate Tribunal, being thirty percent of the penalty.

We have passed this order for pre-deposit bearing in mind the law envisaged in the proviso to sub-section (5) of Section 43 of the Act as well as the law laid down by the Hon'ble Supreme Court of India vide judgment dated 11.11.2021 in Newtech Promoters and Developers Pvt. Ltd. v. State of UP and others, reported in 2021 SCC Online SC 1044. In the reported case, the Hon'ble Supreme Court was examining a challenge made to the proviso to sub-section (5) of Section 43 of the Act, relating to making of pre-deposit before entertaining an appeal by the Tribunal. The Hon'ble Supreme Court held that the pre-deposit, in no circumstances, can be said to be onerous or in violation of Articles 14 or 19(1)(g) of the Constitution of India.

In view of the above, it is made clear that if the appellant is desirous to pursue with the appeal, it must first deposit an amount of Rs.6,00,000/- (Rupees Six Lakh) in the form and manner indicated above within an outer limit period of2 weeks from today.

APPELLANT: M/s ABG Infratech Pvt. Ltd.
RESPONDENT: Smti. Mamta Nareda and another
CORAM: HON'BLE MR. JUSTICE (Retd.) MANOJIT BHUYAN, CHAIRPERSON, SHRI ONKARMAL KEDIA, HON'BLE MEMBER (ADMINISTRATIVE)
ORDER DATE: 29.05.2023
Appellant Representative :.Mr. Bidhayak Acharyya, Advocate
Respondent Representative: Mr. Sanjay Agarwal, Advocate ; Mr. Ramakanta Sharma, Advocate

Gist of Case: Any decision passed by the authority is baseless if it was not pleaded by the complainant. Moreover, if society is not a part of proceedings than decisions regarding society will also be set aside.

This appeal is against an order passed by the Real Estate Regulatory Authority (RERA) in Assam in response to a complaint filed by the respondents, who purchased

a residential flat from the appellant. The respondents complained that the appellant had not executed various essential works in the building, which made it unsafe for habitation.

The complaint before RERA listed nine primary grievances, including issues with the quality of the lift, missing tiles in the basement and garden area, insufficient fencing on the terrace, inadequate parking space, non-compliance with RERA regulations, un provided generator despite charging for it, no GST rebate, mismatch in the balcony grill, and lack of registration for the flat.

RERA passed a final order directing the appellant to comply with 29 different directions, including refunding Rs. 6 lakhs for parking, refunding money for water pump and lift repairs, handing over the collected corpus fund to the society, and others. The appellant challenged five directions of RERA in this appeal.

Firstly, the appellant argued that Direction No. 17, which ordered a refund of Rs. 6 lakhs for parking, was unsustainable as there were no pleadings or prayers for such a refund in the complaint. The appellant also contended that the Supreme Court judgment cited in RERA's direction was not applicable to the present case. The respondents, however, claimed that they were entitled to proper covered parking spaces due to safety concerns. **The appellate tribunal agreed with the appellant, stating that there were no pleadings or prayers for a refund of Rs. 6 lakhs, and such a direction was baseless and against natural justice. The tribunal set aside Direction No. 17.**

Secondly, Direction No. 19, which ordered a refund for water pump and lift repairs, was challenged by the appellant on the grounds that the society was not a party to the proceedings before RERA and that there were no pleadings or relief claimed for such a refund. The respondents argued that the maintenance charge was paid and, therefore, they were entitled to a refund. **The tribunal agreed with the appellant, stating that the society was not part of the proceedings and, therefore, the direction to refund money to a stranger was not lawful. Additionally, there were no pleadings or evidence to support such a refund. The tribunal set aside Direction No. 19.**

Thirdly, Direction No. 20, which ordered the appellant to hand over the collected corpus fund to the society, was challenged by the appellant, claiming that there was no evidence of such a fund being collected and that the society was not a party to the

proceedings. The respondents reiterated that they had paid the corpus fund. **The tribunal agreed with the appellant, stating that there was no evidence or pleadings regarding the corpus fund, and the society was not part of the proceedings. The direction to hand over the fund to a stranger was, thus, unsustainable. The tribunal set aside Direction No. 20.**

Fourthly, Direction No. 21 of RERA, which states that the respondent must submit an audited account of the maintenance expenses collected from the allottees and transfer any balance to the society's account. The appellant challenges this direction on the grounds that the society was not involved in the RERA proceedings, and there is no evidence to establish that the appellant collected any maintenance expenses. **The passage concludes that since the society was not a party to the proceedings and there is no evidence of collection, Direction No. 21 is set aside.**

Fifthly, Direction No. 28 of RERA, which imposes a penalty of Rs. 50,000 on the builder for not signing the Sale Agreement as per the prescribed form. The appellant argues that despite the agreement not conforming to the prescribed form, no malafide intent was involved, and the agreement can be rectified at the time of executing the Conveyance/Sale Deed. However, the passage states that according to the Act and the Rules**, the onus is on the promoter to strictly follow the prescribed form of the Agreement for Sale. Deviating from the prescribed form would lead to liability under section 61 of the Act. Therefore, the passage upholds and affirms Direction No. 28**.

Finally, the passage concludes that the appeal is partly allowed, with directions 17, 19, 20, and 21 being set aside, while Direction No. 28 is upheld. **The appellant is instructed to comply with the remaining directions of RERA, as no challenge has been made to them. Additionally, the appellant is directed to deposit the balance amount of Rs. 35,000 within three weeks, failing which RERA, Assam can take further action. The previous deposit of Rs. 15,000 made with the tribunal will be transferred to the bank account of RERA, Assam.**

TAMIL NADU REAL ESTATE APPEALLATE TRIBUNAL

APPELLANTS:1) M/s. M.S. Builders
2) M/s. MS Foundations Pvt. Ltd
RESPONDENT: G.K. Vijay

CORAM: HON'BLE MR. JUSTICE M. DURAISWAMY, CHAIRPERSON MR. R. PADMANABHAN, JUDICIAL MEMBER
ORDER DATE: 26.04.2023

Appellant Representative: Mr. S. Chakravarthy
Respondent Representative: None

Gist of case: Appellant/Promoter misallocated public space, prompting the allottee to seek refund with interest; RERA granted the refund, and the appeal was dismissed for lacking merit.

The appellants, as promoters, had developed a layout project at Vayalanallur, Poonamallee Taluk, Thiruvallur District in the year 2014. Initially the layout was not approved by the concerned authorities. Suppressing the fact that the lay out was not an approved one, the appellants offered to sell the Plot No. 10 to the respondent. Believing the words of the appellants, the respondent agreed to purchase the Plot No.10. The respondent paid a total sum of Rs.10,00,000/- to the appellants on three different dates from 28.02.2014 to 22.09.2014 for which the appellants issued receipts.

Subsequently, the appellants obtained planning approval from Chennai Metropolitan Development Authority, Chennai on 04.11.2019. To the shock and surprise of the respondent, plot No.10 booked by him has been earmarked as open space reserved for public purpose (OSR) and marked as 'Park' in the approved layout. The respondent expressed his intention to withdraw from the project and demanded the appellants to refund the advance amount of Rs.10,00,000/- with interest. Being an ongoing project, the layout project ought to have been registered with the TNRERA.

As the appellants failed to repay the advance amount of Rs.10,00,000/- with interest, the respondent preferred a complaint before TNRERA in CCP No.140 of 2021. After enquiry the Single Member attached to the Tamil Nadu Real Estate Regulatory Authority by his **impugned order directed refund of the advance amount of Rs.10,00,000/- with interest at 9.30% from the date of payment till realization. A penalty of Rs.1,00,000/- was also imposed against the appellants for not registering the project as required under Section 3 of the Real Estate (Regulation and Development) Act, 2016.** Aggrieved over the same, the appellants have preferred this appeal.

The appellants admit the receipt of Rs.10,00,000/- from the respondent during 2014 as advance, in respect of plot No.10 comprised in the "Kamakshi Nagar" layout project developed by the appellants. The appellants also admit that, initially the layout was not approved by the concerned authorities during 2014. The appellants were able to get the planning approval from the Chennai Metropolitan Development Authority only on 04.11.2019. As per the approved plan, plot No.10, earlier booked by the respondent, has been earmarked for developing a 'Park' and thus reserved for public purpose.

After realizing the fact that he has been cheated, the respondent opted to withdraw from the project and demanded the appellants to return the advance amount paid by him along with interest. The approved layout has been produced by the respondent and marked as Ex.A2 before the TNRERA. The appellants admit that the plot No.10 has been reserved for public purpose as per the approved plan. Consequently, plot No.10 cannot be sold to anyone, As per Section 18(1) of The Real Estate (Regulation and Development) Act, 2016, once the allottee intended to withdraw from the project, the promoter of the layout project is bound to return the amount received by him with interest.

Viewing from any angle, the appellants are bound to return the advance amount of Rs. 10,00,000/- with interest as ordered by the Single Member attached with the Tamil Nadu Real Estate Regulatory Authority. Likewise, by not registering the project, the appellants have apparently violated Section 3 of the Real Estate (Regulation and Development) Act, 2016. Therefore, the appellants are liable to pay the penalty of Rs. 1,00,000/- imposed by the Single Member. We find no merits in the appeal. Therefore, the appeal is liable to be dismissed at the stage of admission itself.

In the result, the appeal is dismissed at the admission stage itself. Earlier the appellants, as per Section 43(5), have deposited a total sum of Rs.19, 32,661/-. Out of this amount, the penalty amount of Rs.1, 00,000/- has been remitted to Government on 13.04.2023. After expiry of appeal time, the respondent is entitled to withdraw the balance amount of Rs.18, 32,661/- with subsequent interest accrued from the bank investment.

HARYANA REAL ESTATE APPELETE TRIBUNAL

APPELLANT: Satya Pal Malik
RESPONDENT: Ocus Skyscrapers Realty Limited

CORAM: JUSTICE RAJAN GUPTA, CHAIRMAN SHRI INDERJEET MEHTA, MEMBER (JUDICIAL) SHRI ANIL KUMAR GUPTA, MEMBER (TECHNICAL)
ORDER DATE: 03.05.2023
Appellant Representative: Adv. Mr. Parmeet Singh
Respondent Representative: Adv. Mr. Jitendra Chaudhary

Gist of Case: Complaint where the claim is for refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest, is outside the jurisdiction of Adjudicating Officer.

The present appeal has been preferred against the order dated 31.08.2021 passed by the Adjudicating Officer, Haryana Real Estate Regulatory Authority, Gurugram, whereby Complaint No.5909 of 2019, filed by appellant allottee for refund of the amount was dismissed.

The complainant had requested for the refund of the amount paid by him due to his financial restrains which is evident from the email dated 15.09.2019 (Annexure R-6). The consent form dated 23.01.2018 and consent letter dated 07.08.2018 (Annexure R9) are duly signed by the complainant, which prove that the change of unit was not unilateral and complainant himself had given his consent for the management of unit and leasing out the same. The respondent offered the possession of the unit vide letter dated 23.07.2019, but instead of taking possession of the allotted unit, the complainant approached this forum for refund of the amount, which is not maintainable.

Considering the facts of the case, no ground for the refund is made out and request for the same is declined. Complaint in hands is thus, dismissed.

Shri Prateek Singh, learned counsel for the appellant has contended that in view of the law laid down by the Hon'ble Apex Court in case Newtech Promoters & Developers Pvt. Ltd. vs. State of UP & Ors. Etc. 2022(1) R.C.R. (Civil) 357, the Adjudicating Officer has no jurisdiction to entertain and adjudicate upon the complaint filed by the appellant-allottee for refund of the amount paid by him to the respondent/promoter.

Shri Anuj Dewan, learned counsel for the respondent/promoter could not repel the contentions raised by learned counsel for the appellant in view of

the authoritative pronouncement of the Hon'ble Apex Court in Newtech Promoters' case (Supra).

We have duly considered the aforesaid contentions.

Appellant/allottee has filed the complaint for refund of the amount deposited by him with the respondent/promoter on the ground that the respondent/promoter has failed to honour the terms and conditions of the 'Builder Buyer's Agreement' dated 17.02.20214.

The legal position has been settled by the Hon'ble Apex Court in Newtech Promoters' case (Supra) with respect to the jurisdiction of the Adjudicating Officer vis-à-vis the Authority as under:-

As per the aforesaid ratio of law, it is the learned Authority which can deal with and determine the outcome of the complaint where the claim is for refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest. So, the impugned order dated 31.08.2021 passed by the learned Adjudicating Officer is beyond jurisdiction, null and void and is liable to be set aside.

Consequently, the present appeal is hereby allowed. The impugned order dated 31.08.2021 is hereby set aside. The complaint is remitted to the Haryana Real Estate Regulatory Authority, Gurugram, for decision afresh in accordance with law after affording opportunity of hearing to the parties. The learned Authority is directed to dispose of the complaint expeditiously preferably within a period of two months.

APPELLANTS: 1) M/s Mudra Finance Ltd.
2) M/s Vipul Limited
RESPONDENT: Anuj Chauhan
CORAM: JUSTICE RAJAN GUPTA CHAIRMAN, SHRI INDERJEET MEHTA MEMBER (JUDICIAL), SHRI ANIL KUMAR GUPTA MEMBER (TECHNICAL)
ORDER DATE: 11.05.2023
Appellant Representative: Mr. Vineet Sehgal, Advocate
Respondent Representative: Mr. Anuj Chauhan

Gist of case: Respondent/allottee could not be expected to wait endlessly for getting possession of the unit. If the promoter fails to complete the project or give possession of the unit, the respondent/allottee is entitled for a refund of the amount along with interest, under Section 18(1) of the Act.

The present appeal has been preferred under Section 44(2) of the Real Estate (Regulation and Development) Act, 2016 by the appellant/promoter against impugned order dated 07.07.2022 passed by the Haryana Real Estate Regulatory Authority, Panchkula whereby Complaint No. 903 of 2020 filed by the respondent/allottee was disposed of with the following directions:

> *"8. Authority allows relief of refund along with interest which is calculated in accordance with Rule 15 of the HRERA Rules i.e., @ SBI MCLR+2% (9.70%). Authority has got calculated interest from its Account branch which is shown below in the table. Respondent shall pay the entire amount within 90 days of uploading of this order."*

Total Amount Paid	*Interest Rate (9.70%)*	*Total Amount to be Refunded*
Rs. 13,07,008	*Rs. 4,54,790/-*	*Rs. 17,61,798*

As per averments in the complaint, the respondent/allottee had booked a flat/unit no. 403, 4th floor, Tower no. 11, measuring carpet area 1018 sq. ft. and super area of 1515 sq. ft. in appellant's project "Vipul Gardens" Dharuhera, Rewari, by paying booking amount of Rs. 3,40,000/-. Builder Buyer's Agreement (for short 'the agreement') was executed between the parties on 11.12.2018. As per clause no. 8.1(a) of the agreement, the possession of the unit was to be delivered in July 2019**. The respondent-allottee had paid a sum of Rs. 13,07,008/- against the total sale consideration of Rs. 32,17,053/-, but possession was not delivered to him till the filing of the complaint.** The respondent-allottee approached the Authority seeking relief of refund along with interest as offer of possession of the unit was delayed.

The complaint was resisted by the appellant- promoter on the ground that its project was complete. The Occupation Certificate in respect of Block Nos.

1,2,3,4,5,6,7 and 12 had been granted by the competent authority on 01.12.2014. However, in regard to Tower no. 11, in which the respondent-allottee's unit is situated, the appellant had applied for grant of Occupation Certificate on 26.06.2019, but, the same was not issued. It was also pleaded that the project has delayed on account of some environmental clearances.

The Authority, after hearing the pleadings of both the parties passed the impugned order, the operative part of which has already been reproduced in paragraph No.1 of this order.

Aggrieved with the aforesaid order of the Authority, the appellant has preferred the present appeal. There is a delay of 115 days in filing of the present appeal. The appellant has moved an Application (CM No. 121 of 2023) for condonation of delay in filing of the appeal, which is supported by an affidavit of Mr. Rajesh Gopalkrishnan, Authorized Representative of the appellant-company. For the reasons stated in the application, the delay of 115 days in filing the present appeal is condoned. Accordingly, the application for condonation of delay stands allowed.

The appellant/promoter has completed the development works at the site and has applied for the Occupation Certificate (OC) for the building block/tower no. 11. However, the OC has not yet been issued by the Director General, Town and Country Planning, Haryana (DGTCP). The appellant contends that since the unit is complete, the refund of the amount along with interest granted by the authority is not correct. The appellant also submits that the impugned order dated 07.07.2022 passed by the Authority is liable to be set aside.

Per contra, learned counsel for the respondent/allottee contended that the impugned order dated 07.07.2022 passed by the Authority for grant of refund along with interest is just and fair and is as per law.

There is no dispute regarding the fact that as per the agreement executed between the parties, the appellant was to offer the possession of the unit in the month of July 2019 i.e., only seven months after the date of execution of the agreement. As per the appellant, the occupation certificate in respect of tower no. 11 in which the respondent- allottee's unit is situated, has been applied on 26.06.2019, but the same has not been received by it till date. No reason for

delay in completion of the unit or issue of Occupation Certificate has been mentioned in the grounds of appeal. Also, the written statement was not filed by the appellant. Thus, it is observed that the delay in issue of the Occupation Certificate and issue of offer of possession is totally on account of the reasons attributed to the appellant.

The respondent/allottee cannot be expected to wait endlessly for getting possession of the allotted unit for which he had paid a considerable amount towards the sale consideration. The case of the respondent/allottee is in ambit of Section 18(1) of the Act, which states that if the allottee wishes to withdraw from the project and demands return of the amount received by the promoter in respect of the unit with interest on failure of the promoter to complete or unable to give the possession of the unit, the allottee is entitled for refund of the amount along with interest.

The said case of the respondent/allottee is fully covered by the judgment of *Hon'ble Supreme CourtofIndiain Newtech Promoters and Developers Pvt. Ltd. versus State of U.P. and Others 2021 SCC Online SC 1044*. The relevant part is reproduced as below:

> *"25. The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."*

The above said judgment in case of M/s Newtech Promoters' supra is fully applicable in the present facts of the case as the appellant/promoter has failed to complete the unit by the due date of possession i.e., July 2019. The appellant could not point out any infirmity with the impugned order passed by

the authority. Therefore, in our opinion, the respondent- allottee is entitled for refund of the amount along with interest as awarded by the Authority.

Consequently, tribunal found no merit in the present appeal filed by the appellant/promoter and therefore, the same is hereby dismissed.

The amount of Rs.17,61,798/- deposited by the appellant/promoter with this Tribunal as pre-deposit to comply with the provisions of proviso to Section 43(5) of the Act, along with interest accrued thereon, be sent to the Authority for disbursement to the respondent/allottee subject to tax liability, if any, as per law.

RAJASTHAN REAL ESTATE REGULATORY AUTHORITY

COMPLAINANT: Pawan Joshi
RESPONDENT: Parth Infratech Pvt. Ltd
CORAM: HON'BLE SHRI R.S. KULHARI, ADJUDICATING OFFICER
ORDER DATE: 02.05.2023
Complainant Representative: Mr. Amit Chhangani, Advocate
Respondent Representative: Mrs. Abhilasha Sharma, Advocate

Gist of Case: The issue of regular maintenance and transfer of residual amount of security deposit are not within the domain of this forum but governed by Apartment Act.

The complainants have booked their respective flats in the project of the respondent named as "Shree Enclave". They have deposited the total sale consideration as agreed between the parties and sale deeds had been executed in their favour. The possession of the respective flats has already been handed over to the allottees. The relevant details are summarized as under: -

Name	Flat No.	Sale Consideration (Rs.)	Date of execution of sale deed
Pawan Joshi	A-705	34,15,850	18.04.2016
Anand Kumar Bajpai	A-305	20,02,178	19.03.2016
UshaSatendra Sharma	A-506	42,23,936	15.12.2017

Saurabh Khandelwal	A-306	34,95,258	11.04.2016

It was averred in all the complaints that the respondent has charged Rs. 1.5 lacs for covered parking, Rs. 80,000/- as interest free security deposit and Rs. 30,000/- (mentioned as Rs. 15,000 in the original complaint) for LPG gas pipeline but has failed to provide the covered parking and installation of LPG pipeline. The amount of interest free security has not been transferred to the society formed by the allottees. It was also stated that at the time of booking the respondent assured to extend various facilities as mentioned in 'Para 4(h)' of the complaints but no such facilities have been provided yet.

Therefore, each of the complainants had sought compensation of Rs. 10 lacs for litigation, mental agony and financial losses, Rs. 5 lacs for delay in completion of the project and basic amenities and interest on the amount deposited towards parking.

The respondent replied that since there has not been any dispute with respect to the allotments of flats and sales execution and handing over possession of the flats and stated that the facility like security guard, lift, kids play area, living area etc. have been provided and handed over to the society of the residents. Now it is for the society to maintain the common area and facilities.

The promoter states that it has is not in receipt of any amount towards covered parking no categorical averments was made with regard to installation of the gas pipeline and transfer of amount received as interest free security nor it was refuted that the amount towards gas pipeline was not received.

Since there was dispute regarding the registration of the blocks which later got resolved and the decision made by the authority stated that blocks were required to be registered and hence provisions of the RERA Act are applicable on the flats allotted and handed over to the complainants.

Considering the averments and the arguments the first grievance was of the complainants is with regard to facility of covered parking as advanced there is no dispute on the point that the complainants are residing in the allotted flats after deposit of total sale consideration and execution of sale deed.

The first grievance of the complainants is with regard to facility of covered parking. The record reveals that at the time of booking of the flat parking charges of Rs. 1.5 lacs have been shown but it is not mentioned that it would be a "covered parking". Since the sale deed was executed in favor of allottee and no special mention that any amount has been separately charged, but a lump sum total consideration was mentioned in every sale deed, thus it cannot be said that respondent had agreed for providing covered parking and allottee may be entitled for any compensation.

However, during the course of argument respondent clarifies that since open parking has been allottee to each allottee, no deliberation on such issue requires further clarifications.

The second grievance is qua the deposit of interest free security amount and non-transfer of the same to the Resident Welfare Society. Learned counsel for the applicants could not categorically controvert this legal and technical aspect. In the opinion of the authority, the issues of regular maintenance and transfer of residual amount of security deposit are not within the domain of the Hon'ble RERA Authority which is meant for adjudicating the aspects of compensation on account of deficiency in service, delay in delivery of possession and other ancillary matters.

The third grievance which pertains to non- installation of LPG gas pipeline and D.G. set for supply of electricity in absence of regular supply by the Electricity Board. The respondent has received Rs 15000/- from complainant for installation of the gas pipeline.

The learned counsel for the respondent stated that this facility has not been provided so far and the clarification was given that if pipeline is installed then there would be a reasonable apprehension with regard to its maintenance because welfare society is not working properly, but that is not the headache of the respondent once the society is formed. Be that as it may, but the fact remains that despite receipt of amount, the gas pipeline to the respective complainants have not been provided which is clear deficiency in service on the part of the respondent and the complainants are regularly facing the problem of supply of gas involving various risk factors.

The learned counsel said for the respondent regarding the DG set that the same had been placed in the premises however, DG set being non-operational as per

contention of complainant it is immaterial whether it was purchased or not unless it is made operational and facility is provided to the complainants in case of need and exigency, thus they are also entitled to get adequate compensation on account of this inconvenience being regularly faced by them.

Coming to the aspect of compensation, as stated above the complainants are entitled for reasonable compensation on the above two counts only. The inconvenience caused by non-availability of facility of LPG gas pipeline and D.G. set is persistent which bare necessity on day-to-day basis is.

The complainants are facing this problem since their habitation in the flats. But no specific date has been given with regard to their actual residence in the flats. So, it is assumed that whenever they felt inconvenience and annoyed, they have filed these complaints. As such it is deem appropriate to allow the compensation from the month of filing of complaints which is the October 2020.

In view of the above, the complaints are allowed in the following manner:-

(i) The respondent is directed to pay Rs. 2000/- per month (Rs. 1000 for non-installation of gas pipeline and Rs. 1000 for D.G. set) to each of the complainants from October 2020 till the date when the gas pipeline facility is provided and D.G. set is made operational.

(ii) The complainants are also entitled to get Rs. 10,000/- each towards mental agony and Rs. 10,000/- each as cost of litigation from the respondent.

(iii) The respondent shall pay the amount due till today within 45 days and the recurring amount of the future period on completion of every month till the facilities are provided.

(iv) If the compliance is not made within 45 days, the amount due as on today shall attract interest @ 9% p.a. simple interest from date of decision till the payment.

(v) Copy of this order be placed in each file. The order be uploaded on the website of RERA and sent to the parties. File be consigned to records.

COMPLAINANT: Harsha Chanana
RESPONDENT: Sepset Real Estate Ltd

CORAM: HON'BLE SHRI R.S. KULHARI, ADJUDICATING OFFICER
ORDER DATE: 03.05.2023
Complainant Representative: Mr. Parmeet Singh, Advocate
Respondent Representative: Mr. Jitendra Chaudhary, Advocate

Gist of Case: Arbitration clause in any agreement does not preclude the jurisdiction of this forum nor it can be said that parties must first invoke arbitration clause and then approach the Authority/ A.O.

The present complaint has been filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the 'RERA Act') read with Rule 36 of the RERA Rules, 2017 for compensation on account of non-delivery of possession as per the terms of the agreement.

The complainant booked a shop bearing no. FF 64 in the commercial complex named "Indiabulls Mega Mall," measuring 270 sq. ft., for a total sale consideration of Rs. 14,37,750. The agreement for sale was executed on December 31, 2013, with the provision that possession of the shop would be delivered within 3 years, with a grace period of 6 months from the agreement's execution date. However, possession was obtained only in February 2021.

The complainant states in the complaint that the possession was not given as promised. While the entire deposit was made up to March 2020, the mall was not made operational until January 2022. Initially, the complainant sought relief regarding the payment of equated monthly installments (EMI) from March 2020 until the mall became operational. However, in the rejoinder, the complainant claimed an amount of Rs. 72,900 for the delay in possession from July 2017 to January 2022, based on a clause in the agreement for sale that specifies a penalty of Rs. 5 per sq. ft. per month for any delay in possession.

In response, the respondent argues that there is an arbitration clause in the agreement for sale, rendering the complaint not maintainable. The respondent further claims that possession of the shop was offered in February 2020, and physical possession was taken on February 26, 2021, with the conveyance deed also executed on the same day. The complainant submitted an affidavit-cum-undertaking stating that they would not raise any claims against the respondent. Therefore, the respondent argues that the complainant is estopped from making any claims. The respondent also

mentions that, as a gesture of goodwill, they have waived off Rs. 1,76,963 against the complainant's dues, and the complainant has executed an undertaking confirming that they have not claimed any amount due to the interest waiver.

The forum considers the preliminary objection raised by the respondent regarding the arbitration clause. While acknowledging the existence of the arbitration clause, the forum determines that the jurisdiction of the RERA forum is not precluded by the arbitration clause. The forum emphasizes that the RERA Act has been enacted in addition to, and not in derogation of, prevailing laws. It refers to a judgment by the Hon'ble NCDRC in a relevant case, Aftab Singh V/s Emaar Mgf Land Ltd. & another (Case No. 1373 of 2015), decided on July 13, 2017, which supports the maintainability of the complaint before the RERA forum.

After hearing the arguments from both parties and reviewing the record, it is established that the complainant was allotted the shop in question, and the agreement for sale was executed on December 31, 2013. The agreement stipulated a delivery period of three years, with a grace period of six months. It also included a clause stating that the developer would pay a penalty of Rs. 5 per sq. ft. for any delay in offering possession. The possession letter was offered on February 11, 2020. Subsequently, the complainant deposited Rs. 13,66,685 and obtained possession on February 26, 2021, with the sale deed also executed on that day.

Based on the aforementioned facts, it becomes evident that the possession of the shop was expected to be delivered in January 2017 in the ordinary course. Even accounting for a period of 'force majeure,' the possession should have been offered by July 2017. The respondent has failed to provide any evidence or reasons for the delay in completing the project. Furthermore, the respondent's reply does not address this issue. Therefore, the delay in offering possession can be attributed solely to the promoter's failure. No evidence has been presented to suggest that any demands were made by the respondent for payment or that any default in payment occurred on the part of the complainant. As a result, no fault can be attributed to the complainant in this transaction. Both parties are expected to abide by the terms and conditions outlined in the agreement for sale, and the complainant is entitled to compensation for the period of delay in possession.

Regarding the issue of compensation, the complainant has not explicitly stated the specific losses incurred due to the delay in delivery. The original complaint sought relief in the form of EMI payments from January 2020, which is not permissible since the possession was offered in February 2020, requiring the complainant to deposit the full amount due. Therefore, without a specific claim, the penalty clause outlined in the agreement for sale can be invoked. The complainant has provided detailed calculations in the rejoinder. However, it is deemed appropriate to award compensation for the period from July 2017 to January 2020 at the stipulated penalty rate of Rs. 5 per sq. ft., amounting to Rs. 40,000.

The delay in possession has caused the complainant mental agony, inconvenience in filing the complaint, and incurred litigation costs. In view of the above, the complaint is allowed in the following manner: -

1. **The respondent shall pay Rs. 40,000/- as compensation for delay in delivery from July 2017 till January 2020.**
2. **The respondent shall further pay compensation of Rs. 10,000/- towards mental agony and Rs. 10,000/- for cost of litigation.**
3. **The compliance of this order shall be made within 45 days, failing which whole amount due under this order shall attract interest @ 9% p.a. from today till the date of payment.**

COMPLAINANT: Gaurav Kumar Khandelwal
RESPONDENT: Arihant Dream Infra Projects Limited
CORAM: HON'BLE SHRI SALVINDER SINGH SOHATA, MEMBER (A)
ORDER DATE: 11.05.2023
Complainant Representative: Adv. Mr. Palash Gupta
Respondent Representative: Adv. Mr. Hariom Vyas

Gist of Case: Non approval by the authority with regard to completion certificate does not tantamount that project is not completed.

As per the factual matrix of the case, complainant had booked the flat in Arihant Dynasty where the validity of registration was up to 31.07.2020, however the date got extended to up to 31.07.2021 by the authority. Subsequently no record with respect to validity of extension of the project was made available to the bench by the promoter.

The details of the complainants are mentioned there in the table below:

Comp. No.	Unit No.	Consideration Amount	Amount Paid	Date of ATS registration	Date of delivery	Offer for possession made
4582	A-221	27.50 lac	24,75,450	15.02.2019	31.07.2020	06.01.2021
4583	A-125	26.79 lac	24,75,450	15.02.2019	31.07.2020	18.08.2020

Therefore, under section 18 complain has been filed stating timely possession not given to the allottee, hence contending grant of refund claim along with interest from the promoter.

With this contention, the promoter replied that present complaints are not maintainable before the Authority and the sole purpose for filing the complaint is to harass and pressurize the promoter to succumb to the unreasonable and unwarranted demands of the complainants.

The extension was taken on account of COVID-19 and extension of one year was granted due to force majeure.

The allottee failed to deposit instalments on due dates and failed to obtain possession even on account of several reminders, despite timely completion of project under extension period providing completion certificate as on 18.06.2021.

After making offer for possession, refund qua exit by allottee is not maintainable and hence not justified by the complainant, hence prayed for dismissal.

Since the promoter uploaded the completion certificate on time on the portal, non-fulfilment of technical ground does not tantamount that project is not completed.

In the case of IREO Grace Realtech Pvt. Ltd. VsAbhishek Khanna the allottee is not having any legal right to exit from the project, once the project is declared complete. In the instant case, accordingly, complainant

may not demand a refund in view of the completion of the project during the extended period allowed by the Authority under the force majeure provisions.

According to the agreement for sale, the project was completed as on 31.07.2020. But the authority declared moratorium administrative directions dated 13.05.2020. During the moratorium no interest is to be paid against outstanding amount on account of installments due to be paid by the complainant and no amount shall be charged by the promoter at the same time.

In the light of foregoing discussions, it was decided by authority that none of the charges other than specified in agreement shall be levied on the allottee.

With this conclusion, the promoter doesn't find appropriate to refund the amount and contended that allottee may deposit remaining balance amount and take over the possession.

The complainant failed to contest the factum based on demand raised and completion certificate provided under order VIII Rule 9 of the C.P.C. In lack of specific denial of aforementioned facts, authority did not find appropriate to allow the relief craved for through the complaint.

The conclusion stands so that allottee has to take over possession within 30 days after the deposit of the outstanding amount. An offer accordingly be made within 7 days to the complainant by the promoter as specified in the agreement for sale.

COMPLAINANT: Renu Bapna
RESPONDENT: ARG Developers Pvt Ltd
CORAM: R.S KULHARI, ADJUDICATING OFFICER
ORDER DATE: 16.05.2023
Complainant Representative: Mr. Shashank Kasliwal, Advocate
Respondent Representative: Mr. Amit Sharma, Advocate

Gist of Case: If landowner becomes developer for taking over the project, he is liable for compensation and all other obligations towards the allottees.

Learned counsel for the respondent applicant submits that the project in question is being completed by the land owner in view of the judgment of the Hon'ble Authority dated 04.03.2021, 03.05.2022 and 01.07.2022. In Appeal No. 76/ 2022 filed before the Hon'ble Appellate Tribunal challenging the order of the Hon'ble RERA Authority, the Hon'ble Appellate Tribunal vide order dated 20.01.2023 has also allowed the land owner Shri Shyam Goyal to complete the project in terms of the scheme submitted before RERA Authority. **Thus, now land owner has become promoter/ developer therefore, he is necessary party in the proceedings so he be impleaded as party in the array of respondent.**

On the other hand, learned counsel for the applicants contends that before the order on 20.01.2023 of the Hon'ble Appellate Tribunal, the land owner was not developer whereas the grievance of the applicants triggered in the year 2021 when the project was declared incomplete and delay in delivery of possession was recognized by the RERA Authority. So, whatever relief sought may be executed and complied with by the respondent developer alone. As such the land owner developer is not necessary party and the present application has been filed in order to delay the proceedings.

Having heard the learned counsels for the parties and on perusal of records it is apparent that Shri Shyam Goyal is the land owner whereas respondent ARG Developer happened to be promoter of the project, completion certificate was obtained but the dispute arose thereafter and the occupancy certificate has not yet been obtained. **The Hon'ble Authority in a complaint filed by flat owner's association accepted the scheme vide order dated 30.05. 2022 and allowed the land owner to complete the project. The Hon'b1e Appellate Tribunal vide order dated 20.01.2023 has also directed that the project may be proceeded with for its completion in the terms of scheme submitted by the land owner.**

Thus, it is crystal clear that now the land owner has become developer by the judicial pronouncements. He will complete the project in the terms of third supplementary development agreement dated 14.09.2020. It is pertinent to note that the land owner developer will hence forth operate the collection account as well as the RERA retention and promote account. The complainants have sought relief for compensation and they have also alleged defects in construction and the articles affixed in the flat. Therefore, if any relief is allowed the amount of compensation would be

paid by the present developer and necessary repair, addition, alteration or replacement of goods etc. will also be carried out by present developer Shri Shyam Goyal.

Further, no prejudice would cause to the complainants if the present developer is made party to the proceedings. Thus, in my considered opinion Shri Shyam Goyal (land owner developer) is necessary party.

COMPLAINANT: Renu Narang & Ors
RESPONDENT: Unique Builders
CORAM: HON'BLE SHRI SALVINDER SINGH SOHATA, MEMBER
ORDER DATE: 19.05.2023
Complainant Representative: Mr. Ankit Sethi, Advocate
Respondent Representative: Mr. Rubal Tholia, Advocate

Gist of Case: Rights of the complaints are not subject to infringement solely on the basis of mere technicalities of premature complaints.

The complainant has filed the present complaint under section 31 of the Act seeking relief as specified in section 18(1) of the Real Estate Regulation Act. The factual matrix of this case is that the allottees- Mrs. Renu Narang and Mr. Raghuveer Singh, booked a flat numbered 408 in the C block of the project 'Unique Green Acres' registered with the Authority bearing registration number RAJ/P/2017/081. The allotment letter for the flat is dated 29.01.2013. Subsequently, the agreement to sale was executed on 28.06.2013. Rs. 19.20,346 has been paid by the Complainant out of the basic sale consideration of Rs. 31 68,900.

As per clause 18 of the copy of agreement to sale as provided by the Respondent-Promoter, the possession of the flat was to be delivered within 6 years, including grace period of 1 year. Thus, possession was due to be delivered by 28 June 2019. However, the Respondent- Promoter has failed to deliver possession of the flat till date, and hence the present complainant asks for refund along with interest.

The Respondent-Promoter filed the Reply to the complaint wherein it is contended that the instant complaint is premature since it was filed before the due date of delivery of the flat. It is further contended that the complainant did not adhere to the schedule of payment as per the

agreement for sale. And lastly, it is contended that the Respondent-Promoter is committed to early completion, and states that partial Completion Certificate pertaining to Tower B and the Club House has been obtained on 16.01,2023.

The issues to be adjudged in this complaint are as follows: -

1. Whether the complainant is a defaulter.
2. Whether premature application adversely affects the rights of the Complainant.
3. Does obtaining of Partial Completion Certificate by the Respondent-Promoter imply that the project is expected to be completed in the near future?

There are two noteworthy aspects. It is strange to note that the Promoter has not exercised their rightful option of cancelling the booking made by the Complainant. Further-more, the copy of the agreement executed between the parties does not bear signature of the authorized signatory on behalf of the promoter. However, the same agreement that has been furnished by the promoter bears the signature of both the parties, which tantamount that the copy of agreement validly executed was not provided to the Complainant.

With regard to the first issue at hand, it is substantiated by the written submission and documents annexed therewith that the complainant has paid a total of Rs. 19,20,346 till 29.11.2014. Thereafter, the Respondent-Promoter has not raised subsequent demands after the last demand raised on 08.102014. The plan of payment in this case is a construction linked payment plan, and in such cases, it is imperative upon the promoter to apprise the allottee of the progress in construction when demanding a payment. To fortify this view, we refer to clause 12 of the Agreement to Sell, relevant portion of which is being reproduced below: -

> *"As and when any installment becomes due the seller shall once inform the Allottee and it shall not be obligatory on the part of the seller to send any further demand notices/ reminders regarding the payments to be made by the Allottee as per the Installment Plan."*

The aforementioned clause specifies that the promoter shall inform the allottee of an installment being due. Since no further demand letters were issued after

08.10.2014 the allottee was not apprised of the progress made in the project. Furthermore, the Hon'ble Supreme Court has mandated in the cases of IREO Grace Realtech Pvt. Ltd. v. Abhishek Khanna LL 2021 SC 14, and in M/S Newtech Promoters and Developers Pvt. Ltd. v. State of Uttar Pradesh and Ors. LL 2021 SC 641, that in case of an incomplete project, allottees have an absolute and unqualified right to seek refund on demand in an incomplete project. Impugned project is not likely to be completed in near future. Thus, the allottee may not derive the benefits of the purchase of the unit. It is also the law of the land through numerous judicial pronouncements that unless a floor is not acted up to a specific level, no further installments be demanded from the allottee. Hence, the allottee is not proven a defaulter in the instant case since no demands have been raised subsequent to 08.10.2014.

With regard to the second issue observed herein-above, the issue with reference to premature complaints were considered by various benches of the Authority and it has been a consistent view of the Authority that in case project is not completed up-to disposal of complaint, it must be decided on merit and it is not warranted to be dismissed on technicalities. Thus, substantial justice prevails over technical issues. Moreover, in the instant case, it is prudent to mention that an extension with regard to validity of the registration of the project has been allowed by the Authority till 31.01.2026. Since the project is not expected to be completed till January 2026. Furthermore, subsequent to riling of application, no sizeable or significant progress towards completion of the project is visible. In the case in hand, possession is not demanded and relief of refund/compensation is sought. Thus, on the ground of premature complaint, merit of the case is not affected. Therefore, the rights of the complaints are not subject to infringement solely on the basis of mere technicalities of premature complaint.

With regard to the third issue observed, it is documented by the Respondent-Promoter that Partial Completion Certificate dated 16.01.2023 with respect to the project has been obtained. Nevertheless, it does not allay the fact that the project is, indeed, delayed. Moreover, upon perusal of the aforesaid Partial Completion Certificate, it is noted that it pertains only to 'Tower B and Club House', and not to the tower in which the instant Complainant has booked a flat in, i.e. tower C. **Further, since an extension with regard to validity of the project till 31.01.2026 has been allowed by the Authority. This implies**

that the promoter does not expect the project to be completed for another three years.

In light of the aforesaid observations and findings, we find it appropriate to direct the Respondent-Promoter to refund the deposited amount (after deduction of 10% of deposit) to the allottee with interest @8.6% highest MCLR of SBI 2% with effect from the due date of delivery of possession, i.e., 28.06.2019 including moratorium as notified by the Authority). The directions to be complied with within 45 days from the date of issuance of order. It is further directed that in case of non-compliance, if an execution application is moved before the Authority within 2 years, the proceedings be transmitted for recovery before the concerned District Collector upon issuance of the Recovery Certificate.

COMPLAINANT: Suman Jain
RESPONDENT No. 1: Aishwariya Construction, Contractors and Developers
RESPONDENT No. 2: Alokik Group
CORAM: HON'BLE SHRI SALVINDER SINGH SOHATA, MEMBER (A)
ORDER DATE: 29.05.2023
Complainant Representative: Mr. R.S.Mehta, Advocate
Respondent No. 1 Representative: Mr. Ankit Bishnoi, Advocate
Respondent No. 2 Representative: None

Gist of Case: No response by the promoter against its continuous default has tantamount to issuance of arrest warrant (bailable) by the authority.

A refund order dated 18.06.2019 along with interest was allowed in both the complaints. Subsequently, both the decree-holders, Ms. Suman Jain and Ms. Sunita Mehta, arrived at a settlement between the parties on 15.06.2020 in respect of Unit Nos. 405A and 405B of E-Block of the project 'Mayur Dhwaj' in lieu of the deposited consideration amount already paid. It was agreed upon between the parties that the delivery of the aforesaid unit be ensured upto 31.12.2020. Surprisingly, an agreement for sale on the same date, i.e., 15.06.2020 was executed with Respondent No. 2, Alokik Buildcon Pvt. Ltd. for handing over the aforesaid units.

It is regrettable that despite lapse of more than two years, neither possession of the aforesaid allocated units is handed over through the settlement deed and an agreement to sell dated 15.06.2020 are made available nor any funds along with interest and penalty accrued upon the decree-holders through the settlement deed are released to them.

Learned counsel for Respondent No. 1 was directed to ensure the presence of all the directors of Respondent No. 1 Company. Respondent No. 2 is not representing before the Authority; therefore, an arrest warrant (bailable) be issued against the directors of the Respondent No. 2 Company to appear in person before the Authority for ensuring compliance of the order dated 02.07.2020 and 18.06.2019. If the compliance of the aforesaid directions is ensured, then the presence of the directors of the respondent company is not warranted before the Authority.

COMPLAINANT: Shubham Kedawat & Ors.
RESPONDENT: Indra Pal Singh
CORAM: HON'BLE SHRI SHAILENDRA AGARWAL, HON'BLE MEMBER
ORDER DATE: 30.05.2023
Complainant Representative: Adv. Mohit Khandelwal and Adv. Shubham Jain
Respondent Representative: Adv. Abhi Goyal, Adv. Siddharth Ranka and Adv. Saurav Harsh

Gist of Case: Large cash transactions and evasion of tax norms should be avoided.

The complainants stated that they had booked units in the respondent's project called "Modigarh Enclave" in 2017 and had paid varying amounts in instalments. They provided evidence of agreements for sale executed between them and respondent No.1, which mentioned the completion date of the project as 2019 with a grace period of six months. However, the project was not completed, and the respondent attributed the delay to the Covid-19 pandemic.

The complainants had previously filed two complaints in 2021 seeking a refund of the deposited amount. In response, respondent No.1 admitted the execution of the agreement for sale but disputed certain clauses of the development agreement with respondent No.2, who was the landowner. An

order was passed by the Authority in September 2021, removing respondent No.1 from the project and appointing respondent No.2 as the new promoter with the responsibility of completing the project within one year.

The complainants argued that both the cancellation deed between the respondents and the Authority's order placed the responsibility of discharging the project's liabilities on respondent No.2. However, respondent No.2 denied this liability, claiming that the amount deposited by the complainants was taken by respondent No.1. The complainants sought a refund of the deposited money along with interest.

Respondent No.1 contended that he operated under section 15(2) of the Real Estate (Regulation and Development) Act, 2016, which required the intending promoter to comply with all pending obligations under the Act and the agreements for sale. He also mentioned that the Appellate Tribunal was approached to challenge the Authority's order because respondent No.2 did not admit all the agreements.

Respondent No.2, represented by Advocate Siddharth Ranka, argued that the development agreement between respondent No.1 and respondent No.2 required them to jointly execute all agreements for sale and transfer documents. However, respondent No.1 allegedly entered into agreements for sale with the complainants without respondent No.2's consent or knowledge. Respondent No.2 raised concerns about the complainants' cash payments, which violated tax authorities' norms, and questioned the authenticity of the amounts claimed to be paid. He also alleged that the respondent No.1 failed to disclose all agreements during the cancellation of the development agreement.

After hearing the arguments and examining the documents, the court found that none of the parties involved had acted with clean hands. It was acknowledged that the complainants were close relatives of respondent No.1, and their large cash payments raised suspicion. Respondent No.1 failed to explain why the amounts were not deposited in any account, including the escrow account, as required by the Act. The court doubted whether the payments had actually been made, given the lack of evidence and the close relationship between the complainants and respondent No.1. The early payment of installments also raised doubts, as most allottees usually pay on time or face late payment penalties.

It was revealed that the agreement for sale did not involve respondent No.2, despite the development agreement requiring his involvement. The cancellation deed also did not mention the complainants' units, further undermining their claims. Consequently, the court deemed the complainants' refund request unjustified and dismissed all four complaints. The dispute regarding the development agreement and cancellation was deemed to be between respondent No.1 and respondent No.2, and the court stated that it did not have jurisdiction to adjudicate on those matters. The court advised the complainants to pursue their claims against respondent No.1 separately, either through arbitration or by filing a civil suit.

Additionally, the court directed the Real Estate Regulatory Authority to investigate the conduct of both the complainants and respondent No.1. It emphasized the need for transparency and compliance with the provisions of the Real Estate (Regulation and Development) Act, 2016, and warned against the use of cash transactions and the evasion of tax norms.

In conclusion, the court dismissed the four complaints filed by the complainants seeking a refund of the deposited amount. The court found that the complainants had not provided sufficient evidence of their payments, and their close relationship with respondent No.1 raised doubts about the authenticity of the transactions. The court advised the complainants to pursue their claims against respondent No.1 separately and ordered an investigation into the conduct of both parties.

COMPLAINANT: Nishant Gupta
RESPONDENT: V N Buildtech Pvt Ltd
CORAM: Hon'ble Shri R.S. Kulhari, Adjudicating Officer
ORDER DATE: 14.06.2023
Complainant Representative: Mr. Rishi Raj Maheshwari, Advocate
Respondent Representative: Mr.Samkit Jain, Advocate and Ms. Shruti Rai, Advocate

Gist of Case: The promoter is directed to pay penalty charges on account of non-fulfilmentof services as per agreement for sale to the allottee as decided by the authority and payment of interest @9% pa on above charges if failed to pay charges with the stipulated period.

The complaint filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (RERA Act) and Rule 36 of the RERA Rules, 2017 seeks compensation from the respondent for the delay in delivering possession of a booked flat. The complainant had booked a 3 BHK flat in a project named "Exclusive 444" and the possession was supposed to be delivered within 36 months with a grace period of 6 months. However, even after 8 years, the possession was not offered. The complainant had deposited a total of Rs. 43,90,582/- in installments by taking a loan from a financial institution.

The complainant also claimed compensation for the interest on pre-EMI (Equated Monthly Installment) as per the agreement, which the respondent failed to pay. The respondent, in their reply, did not dispute the booking, execution of the agreement, or the deposit of the amount. However, they denied executing any subvention agreement for pre-EMI interest payment. The respondent mentioned reasons for the project's delay, including non-availability of building material, restrictive impositions, new government policies like demonetization and GST, delay in payments by allottees, and the impact of COVID-19.

The respondent stated that they faced a financial crunch during the relevant period and later obtained funding through the Special Window for Affordable and Mid Income Housing (SWAMIH) Scheme. The project's completion was granted an extension by the RERA Authority until September 2023. The complainant had filed an application for a refund, which was allowed by the Authority, but the complainant chose to continue with the project.

The complainant argued that the interest awarded by the Authority was from April 2018, while they were paying interest to the bank on a monthly compoundable basis, resulting in a higher interest rate. They claimed financial loss due to the difference in interest rates. The complainant also mentioned a subvention agreement where the promoter was supposed to bear 65% of the pre-EMI interest, but the promoter failed to fulfill this obligation.

The respondent's counsel argued that the interest was already awarded by the Authority, so no further compensation should be granted. They denied executing any subvention agreement and questioned the complainant's evidence regarding credit entries made in their account.

The RERA Authority considered the arguments and evidence presented by both parties. It observed that the complainant had booked a flat and the agreement for sale was executed. The possession was not offered as per the agreement, and the Authority had already allowed interest on the deposited amount until possession. The reasons given by the respondent for the project's delay, such as COVID-19 and government policies, were not convincing. The respondent did not allege any default in payment by the complainant.

The Authority noted that Section 19 of the RERA Act provides for compensation if the promoter fails to discharge any obligations imposed on them. It stated that compensation should not be restricted only to refund but can also be awarded in cases of possession if the complainant proves financial loss. The complainant was entitled to compensation for the difference in interest rates and the non-payment of pre-EMI interest, considering the appreciation in the property's value during the delay.

Although the subvention agreement provided by the complainant lacked the promoter's signature, other evidence indicated some understanding between the parties regarding subvention. Entries in the ledger maintained by the promoter and the complainant's bank statement supported the existence of the subvention agreement. The complainant received partial payments and transfers from the promoter for pre-EMI interest, but no final settlement was made.

The Authority concluded that the promoter failed to fulfill their obligations under the agreement, and compensation should be granted. It awarded an additional 2% per annum on the deposited amount from the due date of possession until the actual date of possession. This was to compensate for the delay in possession and the financial loss suffered by the complainant due to the higher interest rate on the loan.

Regarding the pre-EMI interest, the Authority noted that while the subvention agreement lacked the promoter's signature, the evidence provided by the complainant, including ledger entries and bank statements, indicated some understanding between the parties. It was established that the complainant received partial payments and transfers from the promoter for pre-EMI interest, but no final settlement was made. Therefore, the Authority directed the promoter to pay the remaining amount of pre-EMI interest as per the terms of the subvention agreement.

In addition to the compensation awarded, the Authority also imposed a penalty on the promoter for the delay in possession, as per the provisions of the RERA Act. The penalty amount was determined based on the number of days of delay in delivering possession and the total cost of the flat.

Furthermore, the Authority ordered the promoter to provide the complainant with the necessary documents for obtaining a loan on a priority basis. The promoter was also directed to execute the registered conveyance deed in favor of the complainant within a specified timeframe.

HARYANA REAL ESTATE REGULATORY AUTHORITY

COMPLAINANT: Manish Garg& Ors.
RESPONDENT: TDI Infrastructure Ltd
CORAM: DR GEETA RATHEE SINGH AND NADIM AKHTAR, HON'BLE MEMBERS
ORDER DATE: 01.06.2023
Complainant Representative: Mr Mihir Garg and Mr Neeraj Sansiniwal
Respondent Representative: Mr Shubhnit Hans

Gist of Case: There is liability of Promoter for delay, deficiency in service, unilateral reduction in unit area, unauthorized creation of a charge on the project and removal of the unauthorized charge.

The present complaints have been filed by complainants under Section 31 of the Real Estate (Regulation & Development) Act, 2016, and Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017. The complaints allege violation or contravention of the provisions of the Act and the Rules by the respondent. The complainants seek various reliefs, including refund of the amount paid by them and a direction to the respondent to refrain from harassing them with maintenance demands.

The lead case in this matter is complaint no. 1744 of 2022 titled "Manish Gargvs T.D1 Infrastructure Ltd." The complainant states that he purchased a unit in the respondent's project called 'Rodeo Drive Mall' in 2007. He paid the full sale consideration by November 2007 and a builder buyer agreement was executed between the parties. The agreement stipulated that possession of the unit would be delivered within 30 months from the date of sanctioning of the

building plans. However, the respondent failed to deliver possession within the specified time frame.

After a delay of more than 9 years, the complainant received a letter from the respondent stating that the possession of the unit was pending due to the pending approval of OC/CC. **Subsequently, the complainant received a final offer of possession letter in which the area of the unit was reduced from 500 sq. ft to 380 sq. ft without any consent or intimation. The complainant requested the respondent to provide possession of the originally booked unit or refund the entire amount paid. However, the respondent failed to refund the amount despite multiple requests.**

The complainant also received a letter stating that the respondent had created a charge on the entire project in favor of "Capital India Finance Limited" without the complainant's consent. The complainant expressed apprehension about the respondent's ability to deliver possession and requested a refund of the amount paid along with interest.

The respondent, in its written submissions, argued that the complainant voluntarily invested in their project and that they had received part completion and occupation certificates for the project. **They claimed that the delay in possession was due to the complainant's default in making payments and that possession was offered to the complainant in 2018 and 2019, but the complainant failed to accept it.**

During the oral hearing, the complainant's counsel argued that the respondent had unilaterally reduced the area of the unit without consent and issued an offer of possession without obtaining an occupation certificate. **The complainant expressed dissatisfaction with the reduced area and stated that it rendered the unit useless. The complainant requested a refund of the paid amount due to the respondent's default in delivering possession.**

The respondent's counsel contended that the project was completed, and possession was offered to the complainant in 2019. They argued that the complainant failed to accept possession and, therefore, was not entitled to any relief.

The authority observed that the complainant had purchased the unit in 2007 and paid the full amount. The possession was supposed to be delivered within

30 months from the time of excavation, which should have been by May 2009. However, the respondent issued an offer of possession in 2019, after a delay of almost 10 years. Furthermore, the area of the unit was unilaterally reduced by more than 25%, which the authority deemed as a material change that frustrates the purpose of booking. The authority also noted that the respondent had received occupation certificates, but the offer of possession was delayed and deficient.

Considering the delay and the reduction in the unit's area, the authority held that the complainant was entitled to a refund of the amount paid. The authority referred to a Supreme Court judgment stating that in case of delay in possession, the homebuyer has the right to seek a refund along with appropriate interest.

The authority directed the respondent to refund the entire amount paid by the complainant, along with interest at the rate of 10% per annum from the respective dates of payment till the date of refund. The interest amount was calculated based on the principles established in the case of Lucknow Development Authority vs. M.K. Gupta.

Furthermore, the authority ordered the respondent to pay compensation to the complainant for mental agony and harassment caused due to the delay and deficiency in service. The compensation amount was fixed at Rs. 50,000, considering the circumstances of the case.

The authority also issued a direction to the respondent to refrain from making any further demands for maintenance charges, as the complainant had not taken possession of the unit and the respondent had failed to deliver possession as per the agreed terms.

Additionally, the authority instructed the respondent to immediately remove the charge created on the project in favor of "Capital India Finance Limited" without the consent of the complainant.

In conclusion, the authority ruled in favor of the complainant, holding the respondent liable for the delay, deficiency in service, unilateral reduction in unit area, and unauthorized creation of a charge on the project. The respondent was directed to refund the entire amount paid by the

complainant, pay interest, compensate for mental agony, refrain from maintenance demands, and remove the unauthorized charge.

PART-II

NOTIFICATION & CIRCULARS

GOA REAL ESTATE REGULATORY AUTHORITY

F.No: 1/RERA/Circulars/2019/377 **Dated: 09.05.2023**

1) The Goa RERA had earlier issued above mentioned circular on the subject cited above, the Authority has felt the need for re-examining the above circular keeping in view the provisions under Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016 which defines "Promoter".

2) The Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016 defines "Promoter" of a real estate project. The Explanation under the provisions of section 2(zk), which states that "For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder.

3) The Authority has also noted development of real estate project through Joint Development Agreement (JDA) route between the land owners and promoter. The Authority is of the view that, the terms and conditions, the role and responsibilities of the landowner and the promoter differ from case to case.

4) Therefore, in partial modification of. Circular No.11/35/2017-DMA13390(A) dated 13/02/2018 issued by the Goa Real Estate Regulatory Authority on the above-mentioned subject it has been henceforth decided as follows: -

(i) Under the joint development agreement route, wherein the land owner contributes land for construction of real estate project and the promoter who invests money for construction of the real estate project shall be deemed to be the promoters and shall be jointly liable for functions and responsibilities specified.

(ii) Only one separate bank account for the project will be opened by the promoter in a "Scheduled Bank" to park the seventy percent of the amount realized for the real estate project from the allottees from time to time to cover the cost of construction and the land cost and shall be used only for that purpose. The operation of such account should be as per provisions under Section 4(2)(1)(D) of the Real Estate (Regulation and Development) Act, 2016.

(iii) The landowner/promoter even though entitled to a share of the total area to be developed under "Joint Development Agreement" route, shall not be permitted to open a separate bank account.

5) This issues with approval of the Goa Real Estate Regulatory Authority.

UTTAR PRADESH REAL ESTATE REGULATORY AUTHORITY

उ.प्र. भू–सम्पदा विनियामक प्राधिकरण
राज्य नियोजन संस्थान, कालाकांकर भवन,
ओल्ड हैदराबाद, लखनऊ
Email- contactuprera@up-rera.in

पत्रांक 5812 /यूपीरेरा/2023–24 दिनांक 13 मई, 2023

समस्त प्रमोटर्स/
भावी प्रमोटर्स

विषय– उ0प्र0 रेरा में पंजीकृत/पंजीकृत होने वाली परियोजनाओं के सेपरेट बैंक एकाउन्ट के नाम एवं बैंक एकाउन्ट में परिवर्तन के सम्बन्ध में।

रेरा अधिनियम की धारा 4(2)(एल)(डी) में प्रमोटर द्वारा प्राधिकरण में पंजीकृत करायी जाने वाली परियोजनाओं के सेपरेट बैंक खाते के होने एवं उससे निकासी का प्राविधान किया गया है।

अधिनियम के उक्त प्राविधान के अनुपालन हेतु उ0प्र0 रेरा में पंजीकृत परियोजनाओं क प्रमोटर्स एवं जिन प्रमोटर्स द्वारा प्राधिकरण में नयी परियोजना पंजीकृत करायी जानी है, की सुगमता हेतु परियोजना के बैंक खातों यथा कलेक्शन एकाउन्ट, सेपरेट एकाउन्ट एवं ट्रान्जैक्शन एकाउन्ट के संचालन, रख–रखाव एवं खाता परिवर्तन एवं खाता क्लोजर आदि के सम्बन्ध में प्राधिकरण द्वारा Real Estate Project (Maintenance and Operation of Separate Bank Account) Revised directions, 2020 दिनांक 24 दिसम्बर, 2020 जारी किया गया है जो प्राधिकरण के पोर्टल पर सर्कुलर्स सेक्शन में उपलब्ध है।

प्रायः यह पाया गया है कि नयी परियोजनाओं के पंजीकरण हेतु किये जाने वाले आवेदन में बैंक खातों के नाम, उक्त डायरेक्शन में की गयी व्यवस्था के अनुसार नहीं रखे जाते।

अतः प्रमोटर्स/भावी प्रमोटर्स की जानकारी के लिए खातों के नामकरण एवं परिवर्तन के सम्बन्ध में निम्नलिखित बिन्दुओं को पुनः स्पष्ट किया जा रहा है।

1. खातों के नामकरणः
   a. **कलेक्शन एकाउन्ट** का नाम निम्नवत क्रम में रखा जाए जिसमें प्रमोटर, परियोजना एवं खाते का प्रकार तीनों स्पष्ट रहें:
      प्रमोटर का नाम – परियोजना का नाम – कलेक्शन एकाउन्ट
   b. सेपरेट एकाउन्ट का नाम निम्नवत क्रम में रखा जाए जिसमें प्रमोटर, परियोजना एवं खाते का प्रकार तीनों स्पष्ट रहें:
      प्रमोटर का नाम – परियोजना का नाम – सेपरेट एकाउन्ट
   c. **ट्रान्जैक्शन एकाउन्ट** का नाम निम्नवत क्रम में रखा जाए जिसमें प्रमोटर, परियोजना एवं खाते का प्रकार तीनों स्पष्ट रहें:
      प्रमोटर का नाम – परियोजना का नाम – ट्रान्जैक्शन एकाउन्ट

2. खाता परिवर्तन के सम्बन्ध में:

इस सम्बन्ध में उपर्युक्त सन्दर्भित डायरेक्शन्स दिनांक 24.12.2020 के बिन्दु 6 में जिन स्थितियों में खाता अनुमन्य हो सकता है, उनका उल्लेख स्पष्ट रूप से किया गया है। अतः प्रमोटर द्वारा डायरेक्शन्स में वर्णित स्थिति होने पर ही खाता परिवर्तन का आवेदन किया जाए। डायरेक्शन्स में वर्णित स्थितियों के अतिरिक्त अन्य कारणों के आधार पर खाता परिवर्तन का आवेदन स्वीकार्य नहीं है।

अतः प्राधिकरण में परियोजना पंजीकरण के सम्बन्ध में सभी प्रमोटर्स एवं भावी प्रमोटर्स द्वारा उक्त बिन्दुओं का पुनः संज्ञान लेते हुए बैंक एकाउन्ट डायरेक्शन दिनांक 24.12.2020 के अनुसार ही उ0प्र0 रेरा में पंजीकृत परियोजनाओं के बैंक खातों का संचालन सुनिश्चित किया जाए।

(राजेश कुमार त्यागी)
सचिव

प्रतिलिपि– निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु

1. तकनीकी सलाहकार, उ0प्र0 रेरा।
2. सहायक निदेशक (सिस्टम), उ0प्र0 रेरा को प्राधिकरण के पोर्टल पर सर्कुलर्स सेक्शन में अपलोड करने के साथ ही नई परियोजना पंजीकरण हेतु प्रमोटर द्वारा ऑनलाइन आवेदन करने हेतु पोर्टल पर अपने लॉग–इन कर इन्टर करते ही प्रदर्शन हेतु। साथ ही खाता परिवर्तन हेतु प्रमोटर द्वारा ऑनलाइन आवेदन करने पर प्रदर्शन हेतु।

(राजेश कुमार त्यागी)
सचिव

MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

No. MahaRERA / Secy / File No. 47/ 899 /2023 **Dated: 15.05.2023**

Subject: In the matter of verification by MahaRERA to ascertain the authenticity/ genuineness of the commencement certificates and occupation certificates submitted by promoters.

And whereas, "Competent Authority" is defined under Section 2(p) of the Act to mean the local authority or any authority created or established under any

law for the time being in force by the appropriate Government which exercises authority over land under its jurisdiction and has powers to give permission for development of such immovable property.

And whereas, it is mandatory lor every promoter to make an application for registration of a real estate project in such form, manner, within such time and accompanied by the prescribed fees and documents in compliance of the provisions of the Act, the Rules and the Regulations made thereunder as well as in compliance and in consonance of the Orders and Circulars issued by MahaRERA from time to time.

And whereas, one of the documents that is required to be submitted by every promoter for registration of the real estate project is the commencement certificate issued by the Competent Authority.

And whereas, the Authority, in the order passed in the Suo Moto proceedings initiated, as an important consumer protection measure had urged Urban Development Department, Government of Maharashtra to put in place a system wherein all approvals granted to real estate projects such as commencement certificates, occupation certificates are put upon a dedicated portal by the respective Competent Authority so that the veracity of the certificates could be verified by both the buyers/ purchasers of real estate projects and MahaRERA.

And whereas, Secretary, MahaRERA vide letter dated 10.11.2022 in view of the orders passed by the Authority in the Suo-Moto proceedings had requested Urban Development Department, Government of Maharashtra to ensure that the website of the respective Competent Authorities in the State are integrated with the website of MahaRERA in a time bound manner and pending such integration necessary directions be issued that the respective Competent Authority shall as and when commencement certificates and occupation certificates are issued, attach and forward the same to a designated email set apart in that regard by MahaRERA.

And whereas, the Government of Maharashtra by Government Resolution dated 23.02.2023 referred above has issued necessary directions to the

respective Competent Authority in the state of Maharashtra, the copy of the above-referred Government Resolution is attached herewith as Annexure 'A'.

In view of the above-referred Government Resolution dated 23.02.2023 the following further directions are issued:

a) With effect from 19.06.2023 the commencement certificate submitted by promoters along with their application for registration of real estate projects shall be compared and verified for its authenticity/ genuineness with the commencement certificate attached and forwarded to the designated email set apart by MahaRERA. The designated emails set apart by MahaRERA in that regard are annexed herewith as Annexure 'B'.

b) Only after the commencement certificate is confirmed as having been issued by the respective Competent Authority, as the case may be on comparison and verification with the commencement certificate submitted by promoter shall the application submitted for registration of real estate projects be processed further for grant/ issuance of MahaRERA project registration certificate subject to promoters complying with the scrutiny remarks if any issued by MahaRERA.

c) The above procedure shall be followed by MahaRERA until the respective Competent Authority integrate their website with the website of MahaRERA.

d) The timeline prescribed in Clause 6 in MahaRERA Circular No. 6 of 2017 dated 04.07.2017 bearing No. MahaRERA/ Secy/ File No.27/113/ 2017 in the matter of start of the period of 30 days mentioned in Section 5 of the Act shall also apply to the procedure enumerated in clauses (a) and (b) above.

e) The procedure mentioned in clause (a) and (b) above shall be followed when promoters submit further commencement certificates and occupation certificates in respect of the real estate projects.

f) Self- Regulatory Organization for promoters registered with MahaRERA shall take note of the above and shall ensure that its member promoters are made aware about the need and requirement to follow the above procedure.

g) Promoters shall also take note of the introduction of the above procedure, understand the need and requirement to follow the same.

KERELA REAL ESTATE REGULATORY AUTHORITY

K-RERA/T3/102/2020 Dated: 15.05.2023

Subject: K-RERA - Registered Real Estate Agents - Complying with the provisions of the Act 2016-Reg.

Whereas Section 9 of Kerala Real Estate (Regulation and Development) Act 2016, states registration of Real Estate Agents with the Authority, and Section 10 depicts the functions of Real Estate Agents as below:

Section 9: No real estate agent shall facilitate the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building as the case may be in a real estate project or part of it being the part of the real estate project registered under Section 3 being sold by the promoter in any planning area without obtaining registration under this Section.

Section 10(a): Every real estate agent registered under Section 9, shall not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority.

Section 62: If any real estate agent fails to comply with or contravenes the provisions of Section 9 or Section 10 he shall be liable to a penalty of ten thousand rupees for every day during which such default continues, which may cumulatively extends up to five percentage of the cost of plot, apartment or (building) as the case may be of the real estate project, for

which the sale or purchase has been facilitated as determined by the Authority.

Based on the above Sections of the Act 20'16, the Authority has noticed that some registered agents are not meeting with legal requirements as mentioned above and few agents are involved in sale and purchase of units in unregistered projects. In such case the Agents must take action to register the projects with the Authority or to inform the Authority. Failure to do so will result, the Authority to take penal measures under Section 62 of the Act, as outlined above.

Hence the Agents are directed to take serious attention in the above matters and to comply with the provisions of the Act 2016.

KERELA REAL ESTATE REGULATORY AUTHORITY

Order Dated: 18.05.2023

Subject: Clarification with respect to the threshold limits prescribed under Section 3(2)(a) of the Real Estate (Regulation & Development) Act 2016 and directions to the Promoters concerned- reg.

1) The Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the Act 2016') was passed by the parliament in the year 2016, with the objective of bringing about greater accountability and transparency in the real estate sector, to standardize the business practices and transactions, regulate and develop the real estate sector, to protect the interest of customers in respect of transactions of sale/purchase, to monitor the activities of promoters and allottees in respect of such transactions, and to provide uniform regulatory environment to ensure speedy adjudication of disputes in the real estate sector in India. The Act 2016 is applicable to and prescribes for the requirement of registration of all "real estate projects" as defined in Section 2(zn) of the Act 2016 for which completion certificates were not issued till 1st May 2017.

The term "real estate project" is defined in Section 2(zn) of the Act 2016 as follows: *"the development of a building or a building consisting of apartments,*

or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto"

According to Section 2(s) of the Act 2016, the term "development" with its grammatical variations and cognate expressions, *"means carrying out the development of immovable property, engineering or other operations in, on, over or under the land or the making of any material change in any immovable property or land and includes re- development".*

According to Section 2(e) of the Act, the term "Apartment" *whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name. means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified;*

2) However, under Section 3(2) of the Act 2016, criteria have been prescribed for a real estate project which is not required to be registered under the Act 2016. The Authority is receiving several queries with regard to the threshold limits prescribed under Section 3(2)(a) of the Ad 2A16 for exemption and using this loophole, numerous developers in the State have been evading registration by stating that their project doesn't match all requirements and has fewer than eight apartments and so on. Hence the Authority has decided to issue a clarification and order accordingly in this regard.

3) Even though many different interpretations and decisions are seen made by different Authorities with respect to the provision under Section 3(2)(a)

of the Act 2016, as reiterated by the constitutional courts time and again the intention of the Legislature has to be gathered not only from the terms used, but also from the 'Objects and Reasons' and 'Preamble' to the said legislation. The Ad 2A16, as stated in its 'Objects and Reasons', was enacted for inducting professionalism and standardization in the sector and the provisions of the Act are hence required to be construed and interpreted keeping in mind these 'Objects and Reasons' of the Act in the backdrop of the facts and reality on ground, which made it necessary to have some comprehensive law on the subject. Here in the case, the very 'object' of this comprehensive legislation is to ensure that, the consumers do not suffer, by whichever name or nomenclature they are called or under whichever document, they entered into an 'Agreement' for which the real estate projects are to be brought into the purview of the registration under Section 3 and thereby the Act 2016 itself.

According to Section 3(2)(a) of the Act 2016, *"no registration of a real estate project is required where the area of land proposed to be developed does not exceed 500 square meters or the number of apartments proposed to be developed does not exceed eight, inclusive of all phases."* It is also to be kept in mind that the proviso to Section 3(2)(a) of the Act 2016 lays down 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"* which indicates the very spirit of the said scheme of law.

4) In view of the above facts and circumstances, we hereby issue clarification, with respect to the provision for exemption from registration, provided under Section 3(2)(a) of the Act 2016, to ensure that all real estate projects where the area of land proposed to be developed exceed 500 Square Meters or the number of apartments proposed to be developed exceed 8 inclusive of all phases are registered with the Authority under Section 3 of the Act, 2016.

   (i) Area of land proposed to be developed exceed 500 Square meter means that any real estate project that is developed on land that has an

extent of more than 500 Square meter to be sold as plot or apartment needs to be registered with the Authority even if the number of Apartments are 8 or less

(ii) Number of apartments proposed to be developed exceeds 8 means that even if the extent of land on which the apartments are constructed for sale is less than 500 Square Meters it is to be registered if the number of units are more than 8.

Considering the above, by invoking Section 37 of the Act 2016, the Authority hereby directs all the Promoters concerned, to comply with the decision aforementioned and register their real estate projects, required to be registered under Section 3 of the Act 2016, as provided under the said Act, Rules and Regulations, failing which penal actions shall be initiated against the defaulters as prescribed under Section 59 of the Act 2016.

RAJASTHAN REAL ESTATE REGULATORY AUTHORITY

F.4(1)RJ/RERA/2017-part/2030 **Dated: 24.05.2023**

Subject: Documents required for acceptance of completion certificates.

In supersession of earlier order dated 23.05.2023, it is hereby directed that the following documents are mandatory to be submitted in the online application of Completion Certificate for various registered projects in RERA.

S.No.	Project Category	Documents Required
1	Plotted Development Projects (Situated in the Urban area and are approved as per Township Policy).	In cases where plots are not mortgaged in the approved layout plan by the Local Body then, as a proof promoter has to submit the letter from the Local Authority that no plots have been mortgaged in the scheme or copy of the application filed under RTI submitted to the Local Authority for getting certificate that plots were not mortgaged in the schemes. In such cases, Completion Certificate of Chartered Engineer may be accepted by the Authority.

2	Plotted Development Projects (Situated in the Rural area).	Completion Certificate issued by the committee headed by Collector or the SDO as the case may be in accordance with Government of Rajasthan Revenue (Group-IV) No. F.6(6)Rev.6/92/Pt./14 dated 02.04.2007 and as amended by Government of Rajasthan Revenue (Group-IV) No. F.6(6)Rev.6/2014/50 dated 29.06.2021, as per amended rule 9.
3	Other than Plotted Development Projects.	Completion Certificate issued by Local Authority; OR Completion Certificate issued by Empanelled Architect in the prescribed format along with the check list alongwith fee receipt and acknowledgement letter of submission of CC in Local Authority.

MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

No. MahaRERA / Secy / File No. 46/ 894 /2023 Dated: 29.05.2023

Subject: Display of QR Code in Promotions/Advertisements material relating to Real estate Projects Registered with MahaRERA.

And whereas, Section 3 (l) mandates promoters to register their Real Estate Project with the Real Estate Regulatory Authority before inter alia advertising or marketing in any manner any plot, apartment or building in any Real Estate Project.

And whereas, under Section 1l (2) of the Act, the promoter is required to mention prominently the Registration Number obtained from the Authority as well as the Website Address of the Authority.

And whereas, the provisions of the Act, focuses on bringing greater transparency through disclosure of information on regular basis for public viewing, through online portal and accordingly, MahaRERA has always worked towards ensuring that maximum required information is available for

public viewing in the most feasible manner, thereby empowering homebuyers/ allottees to make informed choice/ decisions in the ever-changing real estate market.

And whereas, MahaRERA has introduced QR Code for each MahaRERA Project to assist Homebuyer to get Project related information easily.

In view of the above, following directions are issued:

- The promoter shall prominently display Quick Response ("QR") code on each and every Project promotion/ advertisement published after "lst August 2023".
- The QR code must be published in a manner that is legible, readable, and detectable with software application.
- The QR code must be published besides the MahaRERA Registration Number and the Website Address.
- The mandate as mentioned in Clause (a) above shall apply to the following mediums of promotion/ advertisement and in any other medium as may be directed by the Authority.
    - Advertisements on Newspaper/ Magazines/ Journals etc.
    - Printed Flyers/ Brochures/ Catalogues/ Leaflets/ Prospectus
    - Standees on Project Sites/ Sales Office
    - Websites/ webpages of Projects
    - Social Media Advertisements
    - Any other Advertisements where QR codes can be published.

This Order shall come into force with effect from 1st August 2023.

GOA REAL ESTATE REGULATORY AUTHORITY

F.No: 1/RERA/Circulars/2019/453 Dated: 02.06.2023

Subject: Mortgaging or creating a charge on apartment, plot or building after executing Agreement for sale.

The Goa Real Estate Regulatory Authority (Goa RERA) has noted few instances of mortgaging or creating a charge on apartment, plot or building after executing Agreement for sale.

1. The provisions under Section 11(4) (h) of The Real Estate (Regulation and Development) Act, 2016 mandates upon the promoter —" after he executes an agreement for sale for any apartment, plot or building as the case may be, not to mortgage or create a charge on such apartment, plot or building, as the case may be, and if any such mortgage or charge is made or created then not withstanding anything contained in any other law for time being in force, it shall not affect the right or interest of the allottee who has taken or agreed to take such apartment, plot or building as the case may be".

2. (i) In the light of above , all promoters of real estate projects are hereby directed not to mortgage or create a charge on apartment, or plot or building after executing Agreement for sale in the first instance.

(ii) If a mortgage or charge is created then not withstanding anything contained in any other law for time being in force, it shall not affect the right and interest of the allottee who has taken or agreed to take such apartment , plot or building as the case may be.

(iii)The promoter should inform all existing allottees immediately regarding mortgaging or creating charge on the apartment, or plot or building as well as allottees right under section 11(4) (h) of the Real Estate (Regulation and Development) Act, 2016. Further, the promoter should incorporate a clause under the Agreement for sale in respect of all prospective buyers to this effect.

(iv) It is the obligation of the promoter to apprise provisions under section 11(4) (h) of the Real Estate (Regulation and Development) Act, 2016 to the Competent Authority in whose favour such mortgage or charge will be created against apartment, plot or building as the case may be, in a real estate project.

4. This is issued with the approval of the Authority.

MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

No. MahaRERA / Secy / Advisory/ 900 /2023 Dated: 02.06.2023

The project wise listing of promoters against whom Corporate Insolvency Resolution Process (CIRP) has been initiated under the Insolvency and Bankruptcy Code, 2016 has been put up by MahaRERA on its website for public information. This information is sourced from the following link: https://ibbi.gov.in/en/public-announcement. This list shall be updated by MahaRERA periodically.

The names of promoter and their real estate projects shall be deleted/ removed ftom the list, on promoters submitting certified copies of the order delivered by the Tribunal/ Court in the CIRP proceedings to show that the said proceedings have been withdrawn/ settled/ dismissed/ disposed subject to such order being uploaded on the website of Insolvency and Bankruptcy Board of India.

MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

No. MahaRERA / Secy / File No.47/ 899 /2023 Dated: 02.06.2023

Subject: MahaRERA Real Estate Agent Training and Certification

Whereas, Government of India has enacted the Real Estate (Regulation and Development) Act 2016 (the Act) and all sections of the Act have come into force with effect from 01.05.2017.

And whereas, the Government of Maharashtra vide Notification No. 23 dated 08.03.2017 has established the Maharashtra Real Estate Regulatory Authority, hereinafter referred to as "MahaRERA" or as "the Authority".

And whereas, the Government of Maharashtra has notified the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 20l7 (the Rules) for carrying out the provisions of the Act.

And whereas, the Authority has notified the Maharashtra Real Estate Regulatory Authority (General) Regulations, 2017 (the Regulations) to carry out the purposes of the Act.

And whereas, the Authority under Section 37 of the Act and Regulation 38 of the Regulations is vested with the powers to issue directions to the promoters, real estate agents and allottees from time to time as it may consider necessary.

And whereas. Chairperson, MahaRERA is vested with the powers of general superintendence and directions in the conduct of the affairs of MahaRERA under Section 25 of the Act.

And whereas, the Act was enacted to bring professionalism, accountability and competence in real estate sector.

And whereas, real estate agents are an integral part of the real estate sector, who connect home buyers/ allottees and promoters and as such facilitate most of the real estate transactions.

And whereas, Section 9 of the Act, mandates every real estate agent to be registered with MahaRERA before facilitating the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment, unit or building as the case may be in a real estate project or part of it being sold by a promoter.

And whereas, in order to bring about certain level of consistency in the practices of real estate agents, enhance knowledge and awareness of the regulatory and legal framework and practices, enforcement of code of conduct and with a view to ensure that real estate agents are professionally qualified to help/ assist home buyers/ allottees, MahaRERA has introduced basic real

estate agent training and certification course for real estate agents across the State vide Order No 41/2023 dated 10th January 2023.

And whereas, MahaRERA has empanelled training providers to undertake training on the MahaRERA prescribed curriculum across the state. And whereas, large real estate agent organizations have requested that they have strong in-house training capacity to internally train their employees/ staff who interact with home buyers/ allottees on the MahaRERA prescribed curriculum.

In view of above, the following directions are being issued:

a) Corporate Real Estate Agents that meet below mentioned criteria may be considered as eligible for providing MahaRERA prescribed real estate agent training:

   i. Should have valid MahaRERA real estate agent registration certificate.

   ii. Should have at least 500 full-time employees/ staff on its payroll who interact with home buyers/ allottees for the purpose of facilitating sales for MahaRERA Registered Projects.

   iii. Should have a strong in-house training capacity & experience in providing real estate agent training to its employees. The organization would be required to give details of trainers and other facilities available to impart training.

b) The Selected Corporate Real Estate Agent organizations shall be eligible to impart training only to their own employees/staff and not real estate agents who are on retainership/ contractual basis or any other real estate agents.

c) Eligible Corporate Real Estate Agents should submit their application to MahaRERA, detailing the qualifications of trainers, training facilities available, etc. and provide self-declaration that following shall be ensured:

i. Training as per curriculum & guidelines, prescribed by MahaRERA, shall be imparted to all the candidates eligible as per (b) above.

ii. Training shall be held through online/ classroom/ hybrid (online + physical).

iii. On successful completion of the program, records/ details of the candidate shall be shared with MahaRERA as per formats provided by MahaRERA.

iv. Any eligible candidate can appear for the exam only after successful completion of the training program/ course, as certified by the organization.

v. An eligible candidate, trained by the organization, shall be permitted three attempts in the exam. Failing in all Threeafiempts, the candidate shall have to undergo re-training at any other MahaRERA empaneled training organization.

vi. Training provider shall handhold the candidate through the examination registration process & certification.

d) The Selected Real Estate Agent Organization shall provide details of nodal officer (based in Maharashtra) who shall attend the fortnightly review meetings on behalf of the organization.

RAJASTHAN REAL ESTATE REGULATORY AUTHORITY

No. F.1(174)RJ/RERA/LC//2020/2046 Dated: 06.06.2023

Subject : Direction under section 37 of the Real Estate (Regulation and Development) Act, 2016 - provision of adequate parking in housing and plotting projects.

It has been observed in several cases which have come to this Authority for registration of group housing and plotting projects where the promoter/developers have not adhered to the norms stipulated by the

Government in regard to providing parking facilities in the projects under planning. It has been observed that certain urban local bodies and even the Development Authorities are approving the lay out plans of these projects despite the promoters not complying with the norms of providing adequate parking facilities in the plotted projects or in the group housing schemes.

You would agree that the residential colonies in the State would tend to become even more congested and suffer traffic blockades if adequate parking facilities are not planned in these projects/schemes from the very beginning. Since the approval of the lay out plans of the group housing schemes is entirely in the domain of the Urban Local Bodies or the Development Authorities, I would request you to direct them to make sure that such housing projects or plotted schemes are not approved unless there are adequate parking facilities planned in the lay out plans submitted to them.

RAJASTHAN REAL ESTATE REGULATORY AUTHORITY

No. F.1(146)RJ/RERA/2020/2055 Dated: 08.06.2023

Subject : Registration of Agreement for Sale

According to section 13(1) of the Real Estate (Regulation and Development) Act, 2016, a promoter shall not accept a sum more than ten per cent of the cost of the apartment, plot or building, as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force.

As per clause (f) of sub-section (1) of section 17 of the Registration Act, 1908, registration of agreement to sell for immovable property possession whereof has been or is handed over to the purported purchaser, is compulsory. But, in the Table of Stamp Duty and Registration Fee, prescribedunder the Rajasthan Stamp Act, 1998, under its serial No.9, it is clarified that registration of agreement to sellwithout possession is optional.

In the present owing to mass group leave of ministrial staff from 11.04.2023 and indefinite Mahapadav from 17.04.2023 difficulty is being faced by the promoters and allottees to get the Agreement for Sale registered. In the circumstances owing to mass absence/leave of Ministrial staff, to facilitate the allottees and the promoters, it is desirable to allow allottees and promoters to proceed with an agreement for sale executed on a stamp paper of appropriate value between the allottee and the promoter,while its registration can be carried out later, within the stipulated period of four months as per section 23 of the Registration Act, 1908 and where delay in presentation is unavoidable owing to urgent necessity, within a period of further four months on payment of fine as per se ' n 25 of the Registration Act, 1908.

Therefore, in exercise of the powers conferred on the Authority under section 6 and section 37 of the Act and all other powers enabling it in this behalf till the Mahapadav with mass leave/absence of ministrial staff continuous, **it is hereby ordered that once an agreement for sale is executed on a stamp paper of appropriate value, the promoter and the allottee will, pending registration of the said agreement, be allowed to proceed with the said agreement, provided the said agreement is subsequently got registered by the promoter and the buyer, preferably within 4 months, otherwise within 8 months, of execution. Accordingly, the allottees are allowed to deposit installments and the banks/financiers of the allottees are allowed to sanction housing loan for the sold unit and disburse the due amount of loan on the basis of such executed agreement for sale. However, after registration of such agreement within the time stipulated under the Registration Act, 1908, the registered document shall be deposited with the concerned bank/financial institution**.

These directions would apply only to such agreements which do not involve transfer of possession of the sold unit.

These directions shall come into force at once and shall continue to be in force upto the calling off mass leave/absence or 30.06.2023 whichever is earlier.

Though a copy of this order is being endorsed to the Convener of the State Level Bankers' Committee for circulating it among all the banks, the promoters are authorized to submit a copy of this order to the concerned bank/bank branch or financial institution financing any apartment, plot or building in their registered project.

PART-III

RERA NEWS

WAKE UP INDIA
Dated: 12.05.2023

MahaRERA may suspend registration of over 500 projects for non-compliance of uploading quarterly progress reports

The Maharashtra Real Estate Regulatory Authority (MahaRERA) may temporarily suspend registrations of over 500 real estate projects in Maharashtra that have not uploaded quarterly progress reports (QPRs) after registration. These projects were registered in January 2023, and their failure to upload QPRs three months later has resulted in warning notices being issued. Once a project's registration is suspended, developers are prohibited from marketing, advertising, or selling apartments until the suspension is lifted.

While this action affects a limited number of homebuyers, their rights remain protected once compliance by the developers is ensured. MahaRERA officials aim to focus on catching these violations early for recently registered projects. The issue of developers not uploading QPRs is not exclusive to Maharashtra but is a national problem observed in Gujarat, Uttar Pradesh, and Karnataka as well. Penalties are being imposed by RERA authorities in various states for non-compliance with QPR requirements.

MONEYCONTROL
Dated: 26.05.2023

Real-estate firms go heavy on retention, hiring as projects see an upswing

The real estate job market is showing signs of recovery and growth, with a 21 percent increase in recruitment in April 2023 compared to the same month the previous year, according to the Naukri Job Speak Index. This growth is attributed to the rise in launches of residential and commercial properties in metropolitan areas, leading to increased hiring in roles such as

Tender Manager, Construction Engineer, and Civil Engineer. Kolkata, Pune, and Hyderabad saw significant recruitment surges in the real estate sector, with demand highest for senior professionals with over 16 years of experience.

Companies like Godrej Properties, ANAROCK Group, Mahindra Life spaces, Lodha, and Signature Global are actively hiring and implementing strategies to attract and retain talent. These strategies include campus recruitment, leadership development programs and partnerships with recruitment firms, and hiring across various disciplines such as finance, marketing, HR, and more.

WAKE UP INDIA
Dated: 31.05.2023

NCDRC Orders Raheja Developers to Refund Entire Money Deposited by Homebuyers With 9% Interest

The National Consumer Disputes Redressal Commission (NCDRC) has directed Raheja Developers Ltd, based in New Delhi, to refund the entire amount deposited by homebuyers with 9% interest, while setting aside a letter for cancellation of allotment. The NCDRC found the cancellation of the allotment letter to be illegal as the demands for payment were made without achieving the stage of construction in the "construction link payment plan." The construction had not progressed due to a high tension electricity line passing through the project.

The NCDRC stated that homebuyers cannot be made to wait for possession indefinitely. The appeal was filed by two homebuyers who sought the cancellation of the cancellation letter and a refund with interest, compensation, and litigation costs. The NCDRC determined that all demands made by the developer were unauthorized, and they ordered the refund of the entire amount deposited by the homebuyers with 9% interest per annum. The developer was given two months to comply with the order.

MONEYCONTROL
Dated: 01.06.2023

MC Explains: Will allowing registration of completed flats during insolvency process bring relief to homebuyers?

The Indian government is considering a proposal to allow the registration of completed flats in real estate projects that are undergoing insolvency proceedings, potentially bringing relief to homebuyers. The proposed amendment to the Insolvency and Bankruptcy Code (IBC) aims to enable the transfer of ownership and possession of completed units to homebuyers with the consent of the Committee of Creditors (CoC).

Currently, during the moratorium period under the Code, homebuyers cannot request ownership and possession of completed units. If the amendment is implemented, it would provide relief to homebuyers who have made full payment for their units and generate much-needed cash flows for insolvent real estate firms. However, challenges remain, as obtaining consent from 66 percent of the CoC, which may include financial creditors such as banks, could be difficult if they are not inclined to transfer ownership without complete payment of dues. Nonetheless, the amendment is seen as a positive step toward resolving challenges specific to the real estate industry within the insolvency framework.

MONEYCONTROL
Dated: 05.06.2023

World Environment Day: RWAs unite for greener initiatives across India's real estate sector

On Environment Day, a look at green initiatives taken by housing societies in Delhi, Mumbai, and Bengaluru reveals their efforts towards self-sufficiency and environmental preservation. In Delhi's Defence Colony, a solar panel installation led to reduced electricity costs, inspiring individual homebuyers to install solar panels and water harvesting pits in their houses. In Bengaluru's Century Saras complex, solar rooftop panels generate electricity for common areas, leading to substantial savings in maintenance costs.

The society even sells excess electricity back to the local power company. In Mumbai, a group of resident welfare associations (RWAs) raised funds and approached the Supreme Court to revive a 400-acre mangrove wetland that had suffered due to illegal construction and encroachments. The revival has resulted in increased biodiversity and improved the lives of local fishermen. These initiatives demonstrate the growing consciousness among homebuyers regarding green practices and the positive impact they can have on the environment.

THE ECONOMIC TIMES
Dated: 08.06.2023

Now, stamp duty as per circle rate for power of attorney in Uttar Pradesh

The Uttar Pradesh Cabinet has approved a new rule stating that if a power of attorney authorizes someone other than a family member to sell a property, the registration of that power of attorney will be subject to stamp duty based on the circle rate. This rule has been implemented to address cases of stamp duty evasion where builders were exploiting a loophole by using powers of attorney to acquire land from farmers without paying the necessary stamp duty. Builders from Delhi and Haryana were reportedly registering their powers of attorney in Noida to take advantage of this loophole.

The modus operandi involved the builder obtaining a power of attorney from a farmer, selling the land on behalf of the farmer, and keeping the majority of the proceeds without paying stamp duty. By closing this loophole, the government aims to prevent significant revenue losses. Under the new rule, even powers of attorney issued to non-family members will be subject to stamp duty based on the circle rate, and a base charge of Rs 5,000 will be applicable for registering such powers of attorney involving relatives.

THE HINDU
Dated: 19.06.2023

Property registration to be hassle-free under Kaveri 2.0

The Revenue Minister of Karnataka, Krishna Byre Gowda, announced that the Kaveri 2.0 property registration system will be implemented in all 256

sub-registrar offices in the state by the end of the week. Kaveri-2 simplifies the property registration process, allowing it to be completed in just 10-15 minutes. The system has already been rolled out in 251 sub-registrar offices. With the new system, buyers and sellers can complete property registration through an online process and a short visit to the sub-registrar's office.

Documents can be submitted online, payments can be made online, and appointments can be scheduled to visit the office. The implementation of Kaveri-2 resolves the server issues and technical glitches that were present in the previous version. The new system brings organization and accountability to the sub-registrar offices, providing relief to people who have been facing difficulties in registering their properties. The Revenue Department has also seen an increase in revenue collection compared to the same period last year.

THE ECONOMIC TIMES
Dated: 26.06.2023

Banks may give up rights to revive housing projects

Several high-street banks in India are considering giving up their priority claims over assets and cash flow to new financiers in order to revive stalled housing projects and assist home buyers who have been left in a difficult position. Banks are willing to relinquish their rights in favor of new lenders offering priority funding. According to a report by ANAROCK, as of May 2022, there were around 480,000 stuck housing units worth over ₹4.48 lakh crore in the top seven cities.

Banks are becoming more open to surrendering their first right over cash flow as the real estate market picks up and the value of stalled projects in the country is expected to exceed ₹5.5 lakh crore. The move is driven by the realization that holding on to the first right is not helping banks, and completion of these projects depends on new lenders like the SWAMIH Fund, managed by SBICAP Ventures, who demand the first right over cash flow. The revival of stalled projects gained momentum following a Supreme Court ruling on the Amrapali case, which highlighted the need to assist cheated home buyers.

BUSINESS TODAY
Dated: 28.06.2023

Housing sales at all time high despite economic headwinds, Pune sees 65% jump in sales: Anarock

According to a report by Anarock Research, housing sales in the second quarter of 2023 have surpassed the previous peak in the first quarter of the same year, despite increasing home loan rates and global economic challenges. The top seven cities in India witnessed a 36% increase in housing sales compared to the second quarter of 2022, with a total of 115,100 units sold. Mumbai Metropolitan Region (MMR) and Pune accounted for 51% of the total sales, with 58,770 units sold in these cities.

Pune experienced the highest jump in units sold, at 65%, followed by MMR with a 48% increase. Bengaluru, Chennai, Hyderabad, and Kolkata also saw notable increases in housing sales. Only the National Capital Region (NCR) had single-digit yearly growth, with a 7% increase. New launches in the top seven cities crossed 1 lakh units, with MMR and Pune leading the way. Property prices in these cities increased by 6-10% in Q2 2023, driven by rising construction material costs and demand.