

RERA TIMES

Real Estate

(Regulation and Development) Act, 2016

(A Journal on Real Estate Bye Laws)

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Wishing you very happy and prosperous Diwali



CA. Sanjay Ghiya
FCA, DISA, CCCA

CA. Ashish Ghiya
LLB, CS



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

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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**

Assisted By: Manisha Sherawat, Ghanishtha Sharma, Sanjali Ghiya

Email Id: ghiyaandcso@yahoo.co.in

**Address: E-68, Ghiya Hospital Complex, Sector12, Malviya Nagar, Jaipur, Raj-
302017**

FROM THE EDITOR'S DESK.....



Dear Readers,

Now-a-days Government is taking several initiatives so as to make India's economy grow in the face of setbacks caused by the rising pandemic. The Government announced in the month of September, 2021 production-linked incentive (PLI) scheme with an outlay of Rs 25,938 crore which will benefit domestic auto and auto components sectors in multiple ways. This scheme aims for a future-ready and globally competitive Indian auto sector, by fast-tracking investments in technology and components where our country needs to leapfrog. The production and export of advanced automotive components will also help compensate for the potential loss of revenues from traditional components to an extent as overseas markets move into electric vehicles (EVs) in the future.

Recently, Union Cabinet approved major reforms in the telecom sector, which is expected to boost employment, growth, competition and consumer interests. Key reforms include rationalisation of adjusted gross revenue, rationalisation of bank guarantees (BGs) and encouragement to spectrum sharing.

Also, Prime Minister launched a Rs. 100 Crore National Master Plan for 'multi-model connectivity' called PM Gati Shakti. The new initiative is GIS-based platform with as many as 600 layers, capturing all utilities and network in various economic clusters. PM Gati Shakti targets to cut logistics costs, increase cargo handling capacity and reduce the turnaround time. The plan aims to lend more power and speed to projects by connecting all concerned departments on one platform. Gati Shakti plan involves the creation of a common umbrella platform through which infrastructure projects can be planned and implemented with coordination between various ministries/departments on a real-time basis.

Although GDP falls by 7.5% in July-September quarter of 2020-21 and Sensex and Nifty jumped 12-13% as compared to 6-7% in the previous three months.

The country's gross GST (Goods and Services Tax) revenues crossed the ₹1.3 lakh crore mark in October, 2021, the second highest collection since the tax regime was implemented in July 2017 and it probably will be highest in the month of November, 2021.

According to RBI Indian economy entered into a technical recession for the first time in history at the end of the first half of 2020-21, and with all the ups and downs in the economy, attempts are being made to restore India to its former glory and even better state. India has climbed two spots to 46 in the Global Innovation Index (GII) 2021 prepared by the World Intellectual Property Organization (WIPO). The country's rank has been consistently rising in the last few years.

Tata Group's marked a successful start to the Modi government's privatization programme by taking over state-owned Air India, and brought an end to the decades-long hunt for a buyer for the airline.

The popular belief was that property market in India would crash due to the adverse impact of the multiple waves of the Coronavirus pandemic, those predictions now seem to be wishful thinking. There is no denying that housing affordability in India has improved remarkably.

Enjoy a joyous, warm, happy and prosperous Diwali with friend and family. We wish that all be blessed by Lord Ganesha and Goddess Laxmi and grow in synergy.

Warm wishes on the occasion of Diwali to all.

With Regards
CA Sanjay Ghiya
Contact No. 9351555671
E-mail: ghiyaandco@yahoo.co.in
Place: - Jaipur
Date: 31.10.2021



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PART-I
MILESTONE JUDGEMENT

**MILESTONE JUDGMENT OF THE RAJASTHAN REAL ESTATE
REGULATORY AUTHORITY, JAIPUR**

Complaint No. RAJ-RERA-C-2020-3958

Mukesh Agarwal
(Managing Director,
SurbhiElectronet Pvt. Ltd.)

...Complainant

Versus

SNG Real Estate Private Limited
Shashi Kant Sharma
Kusum Lata Sharma
Union Bank of India

...the respondent developer

...the respondent landowners

...the respondent Bank

CORAM: Shri Nihal Chand Goel
Petitioner Representative: Adv. Mohit Khadelwal
Respondents Representative: CA Himanshu Goyal and Ors

Gist of Case: RERA cancels auction of flats in RERA registered project by bank. Internal disputes amongst developer, landowner and bank cannot be a ground for allottee to be left in lurch or for the project to be allowed to remain incomplete forever.

INTRODUCTION

The complainants have filed these complaints under section 31 of the Real Estate Act, 2016 praying for possession of the flats booked by them in the project ‘Sunrisers’ located in C-Scheme, Jaipur, comprising 38 flats in all and promoted by the respondent developer in collaboration with the respondent landowners. During its construction, the

project was mortgaged by the respondent developer and the respondent landowners in favor of the respondent Bank and, later, taken over by the respondent Bank to recover its project loan. As the respondent Bank has since auctioned 19 of the 38 flats in the project and the 19 auctioned flats include 9 flats of the complainants, the concerned complainants have also made an alternative prayer of possession of substitute flats in the project and, failing that, of refund of their entire deposited amount along with interest.

A-SUBMISSION OF COMPLAINANT

Some of the complainants had taken loan from ICICI Bank against the allotted flats on the strength of tripartite agreements executed by the concerned complainant, the respondent developer and the ICICI Bank. The security interest of ICICI Bank created in at least five of these allotted flats was registered with and notified on the website of Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI).

As per the agreement to sale, the respondent developer was required to complete the project and handover possession of the allotted flats by September, 2017, with a grace period of six months, i.e., latest by March, 2018, but the project has not been completed and possession has not been offered to the allottees till date, firstly because the respondent developer defaulted in repayment of the project loan he had obtained from the respondent Bank, and consequently because the loan account of the respondent developer was declared as NPA on 31.05.2018 and possession of the whole project was taken over by the respondent Bank on 03.10.2018 and the project has continued to be in possession of the respondent Bank till date. The whole exercise of obtaining project loan and mortgaging the project, including the flats allotted to the complainants, is a fraudulent action of the respondent developer, the respondent landowners and the respondent Bank, acting in connivance, taken behind the back of the complainants and other allottees in the project.

In the year 2016, the respondent developer and the respondent landowners approached the respondent Bank (the then Andhra Bank, now merged in and known as Union Bank of India), obtained a project loan of Rs. 15.00 crore and fraudulently mortgaged the whole project in favour of the respondent Bank, without disclosing the fact that some flats in the project had already been allotted and security interest of the banks, who had sanctioned home loan to the allottees,

had been created thereon under the tripartite agreements signed between the respondent developer, the allottees and their lending banks/financial institutions. In doing so, the respondent developer was in connivance with the respondent Bank because, on its part, the respondent Bank did not do any due diligence before it sanctioned the project loan on 04.06.2016, and it failed to ascertain even the basic information available in public domain that at least in the case of 3 flats of the project, the security interest of ICICI Bank had already been registered with CERSAI and at least in the case of one flat, the agreement for sale had already been registered with the Sub-Registrar. After the project loan account became NPA, the respondent Bank has taken the entire project, including the flats of the allottees, into its possession on 03.10.2018 and has put 19 flats of the allottees to auction, which included 9 flats of the complainants.

The action taken by the respondent Bank is wholly fraudulent, malafide and arbitrary insofar as it is prejudicial to the interest of the allottees, including the complainants. **Firstly, the respondent Bank could not have created mortgage on the flats which had already been allotted as per the agreements for sale executed between the allottees and the respondent developer and were encumbered in favour of the allottees and their banks/ lending agencies.**

Secondly, even if mortgaged, the respondent Bank could not have taken the flats of the allottees in its possession, it could have taken possession only of unallotted flats in the project. Thirdly, having taken possession of the whole project, the respondent Bank should have auctioned either the whole project or only the unallotted flats, but to target the bonafide homebuyers, the respondent Bank has chosen to auction only the flats of the allottees, which included 9 flats of the complainants. And, acting in connivance with the respondent landowners, the respondent Bank has decided not to auction the unallotted flats forming part of the respondent landowners' share, even though these flats had also been mortgaged and the respondent landowners were guarantors of the project loan. The respondent landowners are equally responsible to the allottees under the development agreement executed between the respondent landowners and the respondent developer and also because the respondent landowners have executed a power of attorney in favour of the respondent developer and, acting as an agent of the principal, the respondent developer has entered into agreements for sale with the allottees.

The respondent Bank, the respondent landowners and the respondent developer are all in connivance and are attempting to hide their own misdeeds by denying the right of complainants to the flats allotted to them long back and against which substantial amounts have been paid by them.

B- SUBMISSION OF RESPONDENT DEVELOPER

The Respondent has obtained the loan and mortgaged the project in a lawful manner as, at that time, there was no such restriction that allotted flats cannot be mortgaged for obtaining project finance.

C- SUBMISSION OF RESPONDENT LANDOWNER

The allegation that the respondent landowners are in collusion with the respondent Bank is baseless. The complainants cannot claim any relief against the respondent landowners since the latter are not a party to the agreements for sale and there is no privity of contract as between them.

D- SUBMISSION OF RESPONDENT BANK

The case of the respondent Bank is that it had sanctioned a project loan of Rs. 15.00 crore on 04.06.2016 and created a legally valid mortgage whereby the whole project 'Sunrisers', including the project land, stood mortgaged by the respondent developer and the respondent landowners in favour of the respondent Bank. The complainants have only an agreement for sale executed in their favour, but, being unregistered and unstamped, these agreements are a mere piece of paper and do not confer any right, interest or title of the property in their favour. The present complaints are not maintainable also because the complainants have approached this Authority with an undue and unexplained delay of three years as, according to the agreements for sale, the possession of the allotted flats was due to be delivered by the respondent developer to the allottees in the year 2017.

FINDINGS & OBSERVATIONS

The present complaints have been filed by the allottees under section 31 of RERA Act in relation to a real estate project named 'Sunrisers', which is registered under RERA

Act as an ongoing project, vide registration No. RAJ/P/2017/378. As the complaints relate to a registered project and promoter of the project is admitting that he is not able to give possession of the allotted flats to the complainants as per terms of the agreements for sale he executed with them, the complainants are admittedly 'aggrieved persons' for the purposes of section 31 of RERA Act; and, therefore, the present complaints are maintainable before this Authority.

As regards the proceedings pending before DRT/DRAT under the SARFAESI Act, suffice it to say that, as per section 88 of RERA Act, the provisions of RERA Act are "in addition to, and not in derogation of, the provisions of any other law for the time being in force"; and, therefore, in addition to the remedies available under RERA Act, the allottees in a real estate project are at liberty to seek parallel remedies available under other Acts. Moreover, section 18 of RERA Act, under which relief has been sought in the present complaints, itself provides that the remedy provided therein is "without prejudice to any other remedy available" to the allottees. Accordingly, the provisions of RERA Act are supposed to be an additional measure, not an alternative measure, for protecting the interest of allottees in a real estate project. As observed by the Hon'ble Supreme Court in the matter of Pioneer Urban Land and Infrastructure Ltd. &Anr. (2019) 8 SCC 416, "Remedies that are given to allottees of flats/apartments are, therefore, concurrent remedies...". Thus, simply because some of the complainants have also chosen to avail the remedies available to them under the SARFAESI Act, their complaints under RERA Act do not become non-maintainable. RERA Act and the SARFAESI Act both are special Acts, RERA Act being a later Act, its provisions will prevail over the provisions of the SARFAESI Act.

The Authority has full jurisdiction to consider and decide the matters at hand, notwithstanding the fact that the auction of 19 flats in the project has been undertaken by the respondent Bank under provisions of the SARFAESI Act, against which an application is pending before the DRT in which the DRT has made an interim order and an appeal against that interim order is pending before DRAT.

An issue has been raised by the respondent landowners and the respondent Bank that in four of the complaints, the flats forming the subject matter of the complaints, have been allotted in the name of the complainant's company, M/s Surbhi Electronet Pvt. Ltd., but these complaints have been filed by Shri Mukesh Agarwal; and, therefore,

these complaints are not maintainable.

Due to constraints of the online system, these complaints have been filed in the name of Shri Mukesh Agarwal, who is the Managing Director of M/s Surbhi Electronet Pvt. Ltd., the allottee company. The explanation offered on behalf of the complainants appears to be satisfactory; and, therefore, the said objection to the maintainability of these complaints is rejected.

If a landowner reserves the right to sell developed flats of his share, he is also to be treated as a promoter. This Authority has further clarified the role and status of landowners under RERA Act, vide its order dated 30.06.2020 issued in exercise of its powers under section 37 of RERA Act. The respondent landowners are also promoters of the project; and, therefore, this Authority has jurisdiction to issue directions to them. Their liabilities will be limited to the extent of their functions and responsibilities specified under the development agreement.

Being an assignee of the promoter, the respondent Bank falls within the ambit of the definition of promoter as provided under section 2(zk) of RERA Act. Accordingly, the respondent Bank shall be treated as promoter for all purposes of RERA Act; and, in that capacity, it is liable to fulfill all the obligations of promoter towards the allottees as provided under RERA Act and rules and regulations made there under.

This Authority is expected to protect the interest of even those allottees in whose favour no agreement for sale has been executed. In all the complaints before us, therefore, the mere fact that agreements for sale have been executed in favour of the complainants, entitles them to the protection the allottees enjoy under RERA Act, even if these agreements are not registered.

The respondent landowners and the respondent Bank have taken a plea that these agreements for sale are not duly stamped and registered; and, therefore, are not valid. But, in the State of Rajasthan, registration of agreement for sale has never been compulsory under the registration law as applicable to the State of Rajasthan.

We find that all the complainants are bonafide allottees of flats in the project. They have all the rights under RERA Act to claim possession of the allotted flats and, in the

alternative, refund of the deposited amount along with interest and compensation, no matter who of the respondents gives it to them or who this Authority directs to give it to them.

When the project is not in the possession of the respondent developer, any direction to him to complete the project and deliver possession of the allotted flats to the allottees, will be an exercise in futility and bring no relief to the allottees. Similarly, when the respondent Bank itself is struggling to recover its loan from the respondent developer and, unlike the respondent Bank, this Authority has no personal guarantees or collateral securities other than the project itself and the project is in possession of the respondent Bank, any direction to the respondent developer to refund the deposited amount along with interest would be an eyewash and serve no purpose.

If the respondent developer has cheated the respondent Bank in any manner, it will get investigated under the FIR filed by the respondent Bank with CBI.

Internal disputes of the respondent developer, the respondent Bank and the respondent landowners, all of whom have been held hereinbefore to be promoters of the project, cannot be a ground for the allottees to be left in lurch or the project to be allowed to remain incomplete forever.

The respondent Bank is also to be treated as a promoter of the project and is obliged to fulfill the obligations of promoter towards allottees in the project and towards this Authority, as provided under RERA Act.

In the present case, the impugned project is registered as an ongoing project under RERA Act, and, therefore, the mortgage of the allotted flats, even though may have been lawful at the time when mortgage was created, has ceased to be valid as against the allottees, in the eyes of law laid down under section 11(4)(h) of RERA Act, quoted hereinbefore.

The second and even more important illegality is that, even though the whole project was mortgaged to it, the respondent Bank has auctioned the allotted flats even after RERA Act had come into force and it had come to its notice that those flats were already allotted by the respondent developer to various allottees, who were protected

by the said section 11(4)(h) of RERA Act.

The action of the respondent Bank, in the present case, of taking over and auctioning the allotted flats to a third party is in complete violation of section 11(4)(h) of RERA Act.

Another major illegality committed by the respondent Bank is that it has auctioned part of the project, i.e., half of the flats in the project, without an assurance to the auction purchaser that the respondent Bank will complete the project, including its common areas, facilities and amenities.

Therefore, the auction of 19 incomplete flats in an incomplete project, on ‘as is where is and as is what is’ basis, as made by the respondent Bank, is not only practically non-feasible, but also unlawful.

Respondent Bank claiming ownership of and taking over the whole project, including the allotted flats, as an assignee of the respondent developer and the respondent landowners, the obligation of completing the whole project stands transferred to it as a promoter, rather de facto promoter, of the project who is jointly and severally liable for all obligations of promoter under RERA Act.

Ideally, having taken over the project, the respondent Bank should have first got it completed and then proceeded with transfer of allotted flats to the allottees and auction of the unallotted flats. Alternatively, after obtaining prior written consent of 2/3rd of the allottees and prior written approval of this Authority as provided for in section 15 of RERA Act, it could have transferred the project to a third party for completing the project and handing over the completed and allotted flats to the allottees and using for itself or handing over the remaining completed flats to other persons who may be agreeing to buy those.

But, by auctioning half of the project (19 out of 38 flats) to a third party, without completing the project or putting the onus of its completion on itself or on the auction purchaser as part of the conditions of auction and without following the procedure provided therein, the respondent Bank has acted in complete violation of section 15 of RERA Act.

Therefore, action of the respondent Bank to take over the whole project and selling 19 allotted flats in the project to a third party in an incomplete state of the flats and the project, without obtaining prior written consent of 2/3rd of the allottees and prior written approval of this Authority, is in complete violation of section 11(4)(h) and section 15 of RERA Act.

SUMMARY OF CONCLUSIONS

1. This Authority has full jurisdiction to decide the present complaints, filed under section 31 of RERA Act, notwithstanding the proceedings pending with the DRT/DRAT and the writ petitions pending with the Hon'ble Rajasthan High Court and the interim orders passed in those proceedings/writ petitions.
2. Being an assignee of the promoter and having taken control of the project in exercise of its rights as such assignee, the respondent Bank is to be treated as a promoter under section 2(zk) of RERA Act; and, in that capacity, the respondent Bank is liable to fulfill, in relation to the impugned project, all the obligations of promoter towards the allottees and towards this Authority as provided under RERA Act, including the obligation of completing the project. In view of the area sharing provided in the development agreement, the respondent landowners are also to be treated as promoters of the project, though their liabilities are limited to those specified in the development agreement.
3. All the complainants are bonafide allottees in the project and no proceedings under the SARFAESI Act can deprive them of their rights under RERA Act.
4. Under section 11(4)(g) of RERA Act, the respondent developer is and continues to be responsible for the payment of all outgoings, including the mortgage loan payable to the respondent Bank, until he transfers the physical possession of allotted flats to the allottees and of common areas, facilities and amenities to the association of allottees. Also, under section 11(4)(e) of RERA Act, the respondent developer is and continues to be responsible for the formation of an association of all the allottees of the project.
5. The action of the respondent Bank in taking over possession and auctioning the 19 flats (all of which stood allotted/ sold on the date of takeover by the respondent

Bank) is grossly violative of section 11(4)(h) and section 15 of RERA Act, firstly, because the respondent Bank cannot take away the flats that are allotted by the respondent developer, even if those are mortgaged to it; secondly, because flats in this incomplete project cannot be auctioned and possession thereof parted with, unless the whole project, including the common areas, facilities and amenities in the project, is first completed or the conditions of auction make all necessary disclosures and specify (a) whether onus of completion of the whole project will be on the respondent Bank (seller-promoter) or on the auction purchaser, (b) by when will the whole project be completed, and (c) that it will not affect the interest or rights of existing allottees and once the project is completed their flats will be handed over to them; and, thirdly, because the respondent Bank cannot transfer the project or a part of it to a third party without obtaining prior written consent of 2/3rd of the allottees and prior written approval of this Authority, and for that it has to give a clear and time-bound commitment for completion of the project and protection of the interest and rights of the allottees existing on the date of takeover of the project by the respondent Bank.

6. This Authority cannot allow any registered project to remain incomplete forever, jeopardizing the interest of allottees in the project.
7. Registration of the subject project has lapsed and it has to be dealt with accordingly for achieving its completion under section 8 of RERA Act.
8. The auction of 19 flats conducted by the respondent Bank is not irreversible as possession of auctioned flats has not yet been handed over to the auction purchaser and no conveyance deed/sale deed has yet been executed and registered in his favour.

DIRECTIONS

In view of the above observations and findings and the conclusions drawn, and in exercise of the powers conferred on this Authority under section 37 of RERA Act, authority hereby issue the following directions:

1. As required under section 11(4)(e) of RERA Act, the respondent developer shall get an association of allottees formed and registered and submit details thereof to this Authority within 45 days from the date of issue of this order.

2. As the auction of 19 flats conducted by the respondent Bank is wholly violative of the provisions of RERA Act, the respondent Bank shall cancel the said auction forthwith and restore status quo ante. The respondent Bank shall not transfer the possession of auctioned flats to the auction purchaser and shall not execute any sale deed/ conveyance deed in favour of the auction purchaser.
3. Having done that, the respondent Bank shall hand over possession of this lapsed project to the Registrar of this Authority within 45 days from the date of issue of this order for enabling its completion under the provisions of section 8 of RERA Act. Accordingly, this Authority shall approve a scheme and get the project completed by or under the supervision and monitoring of the association of allottees or a development manager or a third party promoter, with due assistance from the respondent developer, the respondent landowners and the respondent Bank, so that, upon completion of the project, allotted flats are made available to the allottees, common areas, facilities and amenities in the project are handed over to the association of allottees and all unallotted flats, along with cash surplus, if any, are handed over to the respondent Bank. If any amount of mortgage loan still remains unpaid, the respondent developer shall be liable to pay it as part of his obligation, under section 11(4)(g) of RERA Act, of payment of all outgoings.
4. Within 90 days from the date of issue of this order, the association of allottees shall prepare, in consultation with all concerned, a scheme for completion of the project and submit it for consideration of this Authority.
5. The respondent Bank shall also have the option of submitting such a scheme to this Authority, within 90 days from the date of issue of this order, if it wants to get the project completed at its level and then hand over possession of the allotted flats to the allottees and of common areas, facilities and amenities to the association of allottees and dispose of the unallotted flats.
6. This Authority will examine the scheme(s) submitted to it and approve the scheme it finds more feasible to have the project completed under the provisions of section 8 of RERA Act. If the scheme(s) submitted to it is/are not found feasible, this Authority will procure through open auction a third party development manager or promoter to have the project completed.

7. If the respondent developer and the respondent Bank fail to comply with these directions within the time allowed, they shall be liable to a penalty under section 61 of RERA Act for violation of the relevant provisions of RERA Act and to a penalty under section 63 of RERA Act for violation of the directions contained hereinabove. The respondent Bank shall also render itself liable, under section 18 of RERA Act, to refund the entire amount deposited by the complainants and other allottees towards the allotted flats, along with interest at the prescribed rate from the date of each deposit upto the date of refund and compensation as may be determined by the Adjudicating Officer of the Authority under section 71 and section 72 of RERA Act.

With these directions, all the present complaints stand disposed of. Further action as required shall be taken as part of the execution proceedings.

PART-II
HIGH COURT JUDGEMENT

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

WRIT PETITION NO. 7861OF 2021

Date: 02.08.2021

CHETAN PRAKASH GOYAL

: Petitioner

VERSUS.

RAJASTHAN REAL ESTATE REGULATORY AUTHORITY :Respondent

CORAM: JUSTICE SABINA

Petitioner Representative: Adv. Muzaffar Iqbal

Gist of case: Petition pending before single member bench but same can proceed if taken up by its all three member

List along with D.B. Civil Writ Petition No.5145/2021. There shall be stay vis-à-vis proceedings pending against the present petitioner before Single Member Bench. However, respondent No.1 can proceed with the matter if it is taken up by its all the three members.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL (ST) NO.4996 OF 2020
WITH
INTERIM APPLICATION NO.3383 OF 2020
DATED: 30-08-2021

The Bombay Dyeing & Manufacturing
Company Limited: Appellant

VERSUS.**Ashok Narang & ORS.: Respondents****CORAM: JUSTICE C. V. Bhadang****Petitioner Representative: Adv. Dinyar Madon****Gist of Case: In the absence of written agreement appellant cannot raise a new contention for the first time in second appeal.**

In this case, appellant failed to deliver possession of flat on the stipulated time even the time of possession extended by 2 years. Thus, the Respondents filed a complaint u/s 31 of the Real Estate (Regulation and Development) Act, 2016 (“2016 Act”) before the Authority citing breach u/s 12 read with section 18 of the 2016 Act seeking cancellation of the allotment and also a refund of the amount they had paid.

The Authority did not pass any order regarding the refund stating that section 12 did not apply retrospectively and also that the cancellation should be done as per the allotment agreement. Further when appealed before the Appellate authority, it found that section 12 of the 2016 Act had a retroactive operation and directed the respondent to refund with due interest and also ordered cancellation of the allotments.

Consequently, the Appellants approached the Bombay High Court wherein the Appellant submitted that the provisions of the 2016 Act were prospective in operation and that the written agreement for sale was also absent due to which no liabilities could be imposed upon it as u/s 18. In the response of the same Respondent-counsel contended that the application of the 2016 Act to an ongoing project itself indicated that the provisions were quasi-retroactive in nature. Also, regarding the absence of a written agreement, it was argued that the Appellant could not be permitted to raise a new contention for the first time in the second appeal, thus it had waived the right to raise any such claims and that could not be allowed to approbate and then reprobate later on.

In the result, the Appeals are hereby dismissed with no order as to costs. In view of disposal of Second Appeals, the Interim Applications are disposed of.

At this stage, the learned counsel for the Appellants seeks stay of the impugned order passed by the Appellate Tribunal, in order to enable the Appellants to take further steps as may be advised. The prayer is opposed on behalf of the Respondents. It is pointed out that there was no interim relief operating during the pendency of these Appeals. Therefore, there is no question of grant and/or continuation of any interim relief after the dismissal of the Appeals. **The learned senior counsel has however pointed out that the Respondents have not as yet filed any proceedings, for execution of the impugned judgment passed by the Appellate Tribunal. Considering these circumstances and having regard to the fact that there was no interim relief operating during the pendency of the Appeal, the prayer for stay is hereby rejected.**

PART-III

REPORTING OF CASE LAWS

MAHARASHTRA REAL ESTATE APPEALLATE TRIBUNAL

APPELLANT: Lucina Land Development Ltd.

RESPONDENT: Faizan Khatri & Others

CORAM: Indira Jain J.

ORDER DATE: 03.09.2021

Appellant Representative: Advocate Abir Patel

Respondent Representative: Ms. Pooja Gaikwad

Gist of Case: Change in Legal team and Board of Directors justified grounds for condonation of delay in filing the appeal.

Applications have been filed by promoter for condonation of delay in filing appeal under Section 44 of The Real Estate (Regulation and Development) Act, 2016 (for short "the Act"), for setting aside common final order dated 7.10.2019, passed by learned Adjudicating Officer, MahaRERA, in complaints.

Appellant contended that delay occurred due to vacuum in legal team of promoter as previous legal person had resigned and all decisions were required to be taken by the Board of Directors in consultation with legal team.

Applications have been strongly resisted by allottees vide reply dated 31st August, 2021. It is alleged that applicant is a big company and in a business since long, so it is hard to believe that entire legal team underwent change. It is contended that applicant ought to have sought legal advice from available counsel instead of waiting for reconstitution of legal team. According to respondent, appellant is playing delaying tactics and in the absence of sufficient cause applications deserves to be dismissed.

Needless to state that there should be a liberal, pragmatic, justice oriented, non pedantic approach while dealing with an application for condonation of delay. At the same time 'sufficient cause' should be understood in its proper spirit and to be applied in proper perspective to the fact —situation of a particular case. The

principal ground on which delay is sought to be condoned is that there was change in the legal team of applicant and the Board of Directors could not arrive at the decision in the absence of legal advice.

The reason assigned is substantiated by an affidavit. The same is not controverted by counter affidavit as reply filed by respondents is signed by learned counsel for allottees. In the absence of counter affidavit, we do not find any reason to disbelieve the facts stated on affidavit by appellant. Hence considering the reasons assigned in the applications supported by affidavit we answer above point in the affirmative.

RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL

APPELLANT: Adarsh Thought Works Pvt. Ltd.

RESPONDENT: Jai Prakash Garg

CORAM: Justice V.S. Siradhana

ORDER DATE: 05.10.2021

Appellant Representative: None present

Respondent Representative: None present

Gist of Case: Case dismissed as defect not cured in spite of repetitive reminders.

In the present case liberty was granted to the appellant to cure the defects pointed out by the registry on 05th July, 2021. Time and again prayers for opportunity to cure the defects were allowed all along till the matter was listed before this Tribunal on 20th August, 2021. None entered appearance on behalf of the appellant. However, in the interest of justice, two weeks' time was allowed to make good the deficiencies. None appeared on behalf of the appellant even on 05th July; 2021. **Having regard to the prevailing circumstances on account of COVID-19, this Tribunal allow further opportunity of four weeks to cure the defects. Status of things did not change even on 24th August, 2021 for none appeared on behalf of the appellant on 24th August, 2021, as well.**

From the proceedings recorded, it appears that the appellant has lost interest in the matter.

Accordingly, appeal is dismissed in default and for want of prosecution.

HARYANA REAL ESTATE APPELLATE TRIBUNAL

APPELLANT: M/s TDI Infrastructure Limited

RESPONDENT: Sunil Mor

CORAM: Justice Darshan Singh

ORDER DATE: 17.09.2021

Appellant Representative: Adv. Rajnish Singh

Respondent Representative: None

Gist of Case: No direction given by the Hon'ble Apex Court to revive or restore the appeals which have already been dismissed by the Appellate Tribunal due to non-compliance of the statutory of the Act.

As per averments in the application, the applicant had filed the aforesaid appeal against the order dated 29.01.2019 passed by the learned Haryana Real Estate Regulatory Authority, Panchkula. The said appeal filed by the applicant was dismissed by this Tribunal due to failure of the applicant to make the pre-deposit as required under the proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act').

In the month of May, 2019, the applicant had filed petition before the Hon'ble High Court of Punjab and Haryana, Chandigarh challenging inter alia, the constitutional validity of retroactive application of Sections 12, 14, 18 and 19 of the Act. Vide judgment dated 16.10.2020, the said writ petition was dismissed by the Hon'ble High Court with many directions and the Hon'ble High Court was pleased to grant liberty to the applicant to make the pre-deposit in terms of Section 43(5) of the Act before this Tribunal not later than 16.11.2020 and this Tribunal was directed to recall the order dismissing the appeal, to restore the appeal and proceed to dispose of the same on merits.

Thereafter, the applicant filed SLP (Civil) No.13093 of 2020 before the Hon'ble Apex Court challenging the judgment and final order dated 16.10.2020 passed by the Hon'ble High Court. The Hon'ble Apex Court vide order dated 05.11.2020 was pleased to stay the operation of the aforesaid order. It is further pleaded that vide order dated 25.11.2020, the Hon'ble Apex Court was pleased to allow the appellate authority to take up the appeal for hearing and pass the decision on

merits, in case there is no objection from the respondent herein. It is further pleaded that the intent of this order is that the objection, if to be exercised would be in the context of not entertaining the appeal if the developer files the said appeal without depositing the pre-deposit under Section 43(5) of the Act. It is further pleaded that in the light of the aforesaid facts and circumstances, the captioned appeal filed by the developer may be restored and this Tribunal may proceed to hear the same on merits.

Learned counsel for the applicant has contended that the appeal filed by the applicant was dismissed by this Tribunal due to non-compliance of the provision of Section 43(5) of the Act. He further contended that the constitutional validity of the provisions of Section 43(5) of the Act was under challenge before the Hon'ble High Court. The Hon'ble High Court was pleased to dismiss the bunch of writ petitions vide order dated 16.10.2020, but the Hon'ble High Court granted the liberty to the petitioner (applicant herein) to make the pre-deposit in terms of the proviso to Section 43(5) of the Act before the Appellate Tribunal not later than 16.11.2020 and upon making the pre-deposit, the Appellate Tribunal was required to recall the order dismissing the appeal, to restore the appeal and to further dispose of the appeal on merits.

He further contended that the applicant filed SLP (Civil) No.13093 of 2020 challenging the judgment and final order dated 16.10.2020 passed in CWP No.15647 of 2019 and the Hon'ble Apex Court was pleased to stay the operation of the order dated 16.10.2020, vide order dated 05.11.2020. He further contended that vide order dated 25.11.2020, the Hon'ble Apex Court has clarified that the Appellate Tribunal would be entitled to take up the appeal for hearing on merits, if there is no objection from the side of respondent. He contended that the applicant wants to avail this liberty granted by the Hon'ble Apex Court. He further contended that the intent of this order is that the objection, if to be exercised would be in the context of not entertaining the appeal if the developer files the said appeal without depositing the pre-deposit under Section 43(5) of RERA Act. Thus, he contended that appeal filed by the applicant should be restored and be heard on merits.

As per the direction of the Hon'ble High Court, the applicant was required to make the pre-deposit in terms of the proviso to Section 43(5) of the Act with this Tribunal not later than 16.11.2020 and only in that case, this Tribunal was required to recall the order dismissing the appeal, restore the appeal to files and proceed to

dispose of the appeal on merits. Admittedly, **in this case, the applicant has not complied with the aforesaid direction of the Hon'ble High Court as the requisite amount of pre-deposit was not deposited before the stipulated date** as ordered by the Hon'ble High Court, rather the applicant filed SLP (Civil) No.13093/2020 before the Hon'ble Apex Court against the above said order of the Hon'ble High Court.

Copy of the order in SLP (Civil) No.13093/2020 shows that the operation of the order passed by the Hon'ble High Court was stayed by the Hon'ble Apex Court. Learned counsel for the applicant has vehemently relied upon the order passed by the Hon'ble Apex Court in the aforesaid SLP.

In the aforesaid order, the Hon'ble Apex Court has clarified that the Appellate Authority under the Act would be entitled to take up the appeal for hearing and decision on merits, in case there is no objection from the respondent. It is evident that the order passed by the Hon'ble Apex Court was applicable only to the cases which were the subject matter of the aforesaid SLPs and the appeals were pending before the Appellate Tribunal. In our opinion, this order passed by the Hon'ble Apex Court was not applicable to the appeals which had already been dismissed due to non-compliance of Section 43(5) of the Act. No direction has been given by the Hon'ble Apex Court in the order dated 25.11.2020 to revive or restore the appeals which have already been dismissed by the Appellate Tribunal due to non-compliance of the statutory provisions of Section 43(5) of the Act.

The applicant has tried to take undue advantage of the order passed by the Hon'ble Apex Court, even though the same was not applicable to this case. The applicant has un-necessarily wasted the valuable time of this Tribunal.

Consequently, the application moved by the applicant being without any merits is hereby dismissed with Rs.5,000/- as costs. The costs shall be deposited with the District Legal Services Authority, Panchkula within two weeks, failing which the District Legal Services Authority shall adopt the procedure as per law for recovery of the costs.

TAMIL NADU ESTATE APPEALLATE TRIBUNAL

APPELLANT: Army Welfare Housing Organization

RESPONDENT: Tamil Nadu Real Estate Regulatory Authority (TNRERA)

CORAM: Justice B. Rajendran

ORDER DATE: 06.10.2021

Appellant Representative: Managing Director

Respondent Representative: None

Gist of Case: The matter remanded for fresh disposal to the Regulatory Authority by following the principles of natural justice.

In the present case appeal has been preferred by the promoter against the order of the Tamil Nadu Real Estate Regulatory Authority dated 10.06.2021.

The appellant is registered under the Indian Societies Registration Act. The aim and object of the organization is to construct houses for the welfare of serving/retired Army personnel and the widows in selected stations throughout the country. As such the respondents have been allotted respective houses and handed over possession. The above said project commenced in May 2012, The Tamil Nadu Real Estate (Regulation and Development) Rules, 2017 came into force on 22.06.2017. Hence the allottees came forward with the complaints before the Regulatory Authority for registration of the project and for delay compensation. **The Regulatory Authority closed the complaints by stating that the housing project developed by the appellant has been structurally completed hence exempted from registration with RERA.**

Aggrieved upon the same the allottees have preferred appeals before this Tribunal. This Tribunal, after contest, set aside the order of the Regulatory Authority by its order dated 31.10.2019 and directed the promoter to register the project.

Aggrieved upon the same the promoter preferred Civil Miscellaneous Second Appeal before the Hon'ble High Court. After contest the Hon'ble High Court remanded the matter to the Regulatory Authority for fresh decision. After issuing notice to the appellant as well as the respective respondent and summoning all records from the planning authority and if necessary, the authority shall examine witnesses and record statements by issuing commissions, provide adequate opportunity to the respective respondent to place materials before the Authority and take an informed decision by recording reasons. Then the Regulatory Authority after contest delivered the order on 25.03.2021 by holding that the project of the promoter is an ongoing project and directing the promoter to register the project before 30.04.2021. Aggrieved upon the

same the promoter preferred appeals before the Tami Nadu Real Estate Appellate Tribunal and that appeal were taken on file on 28.06.2021. In the mean time the Regulatory Authority suo moto imposed penalty on 10.06.2021 for non-compliance of the order dated 25.03.2021.

Aggrieved upon the same the appellants have preferred this appeal on the following grounds:

- 1. The appellant has preferred appeals on 30.04.2021 itself vide S.R.Nos.351, 353 and 355 of 2021 against the final order dated 25.03.2019.**
- 2. In the event of the authority penalizing the appellants then the appeals filed by the appellants under the statue will become infructuous.**
- 3. During the pendency of the appeal the authority has imposed with penalty**
- 4. The appeal has been preferred by the appellant within the limitation period and the same has been filed within 30 days from the date of receipt of the copy of the order.**
- 5. Due to pandemic/lockdowns/force majure and unavailable circumstances and the office of this Tribunal remained closed due to summer vacation are the reasons for the appellant being unable to bring up the appeals and stay applications for hearing at the earliest.**

These are the main grounds put forth by the appellants that the learned Regulatory Authority failed to consider and failed to give sufficient opportunity to explain his position. During the course of arguments the learned counsel for the appellants would submit that before invoking Section 59 and 63 of The Real Estate (Regulations and Development) Act, 2016 for imposing penalty on the appellants the Regulatory Authority has miserably failed to follow the natural justice. **If an opportunity is given by the authority before imposing penalty certainly there is a chance for the appellants to bring the facts of pendency of appeals by the appellant. Preferring of appeal is a statutory right given under Section 44 of The Real Estate (Regulations and Development) Act, 2016 and before the appeals have been decided by the Tribunal imposing of penalty, suo moto, without giving opportunity to the appellants is certainly against the principles of natural justice**

and against The Real Estate (Regulations and Development) Act, 2016. Therefore this appeal has to be allowed and the order of the authority imposing penalty has to be set aside.

Against the promoter the Tamil Nadu Real Estate Regulatory Authority has passed orders and directed to register the project before 30.04.2021. Since the appellant failed to register the project. Tamil Nadu Real Estate Regulatory Authority suo moto passed an order on 10.06.2021 by invoking Section 59 and 63 and imposed penalty are all not disputed.

On the side of the appellants there are two contentions put forth by them. The first contention is the order passed by the Regulatory Authority without notice to the appellants. The second contention is that during the pendency of the appeal the above said order has been passed.

Regarding first contention is concerned the Regulatory Authority has suo moto passed an order. According to the appellants after the receipt of the impugned order dated 10.06.2021 they have presented the appeals on 30.04.2021 itself before the Real Estate Appellate Tribunal. On perusal of the appeal memorandum the appeals have been presented on 30.04.2021. As per the attendance register of the TNREAT due to summer vacation and lockdown upto 6.6.2021 from 7.6.2021 to 10.06.2021 TNREAT office was functioning with skeleton staff. Subsequently from 14.06.2021 onwards regular functioning of the office commenced. Hence on 15.6.2021 the appeal memorandum was returned for rectification of defects and after representation appeals have been numbered on 28.06.2021. In the mean time on 10.06.2021 the Tamil Nadu Real Estate Regulatory Authority as suo moto has passed impugned order. **Before passing the impugned order no notice was served to the appellants. Admittedly, as per Section 59 and Section 63 before imposing penalty service of notice to the promoter is not contemplated. The powers conferred for imposing penalty under this Act is contemplated under Section 38 of The Real Estate (Regulations and Development) Act, 2016.**

In the above said provision sub clause (2) adumbrated the word guided by the principles of natural justice. Nowhere in this provision Section 38 suomoto power has been given. But at the same time suo moto power conferred in Section 35 of this Act.

It is very clear from the judgment of **Supreme Court of India Jolly George Verghese & Anr vs. The Bank of Cochin** that while imposing penalty the principles of natural justice shall be followed. In execution of decrees are concerned there is a specific provision contemplated under Section 51 and Order 21 Rule 37 of CPC. **Even though Civil Procedure Code is not applicable for the proceedings under the Real Estate (Regulations and Development) Act, 2016 the precedents can be taken into account.** Furthermore, Section 35 and 38 of this Act clearly speaks about the guiding principles of natural justice and the suo moto power conferred only under Section 35 to call for information and conducting investigations. **If the authority followed the principles of natural justice certainly the fact of pendency of appeal would have come to the light of the learned authority and further litigation namely this appeal could have been avoided.** Therefore this Tribunal comes to a conclusion that the impugned order passed by the authority without following Section 38 of the Act is liable to be set aside and the authority is empowered to impose penalty only after hearing the party on the principles of natural justice and this appeal deserves to be allowed. The point is answered accordingly.

In the result, the appeal is allowed. The order of the Regulatory Authority is set aside and the matter is remanded for fresh disposal to the Regulatory Authority by following the principles of natural justice as contemplated under Section 38 of The Real Estate (Regulations and Development) Act, 2016. Connected Miscellaneous Application is closed.

KERALA REAL ESTATE REGULATORY AUTHORITY

COMPLAINANT: M/s. Parthas

RESPONDENT: 1.M/s. Great India Estates (P) Ltd.

2. Mrs. Tabitha Sarah Alex &Ors

CORAM: T.U. Mathukutty

ORDER DATE: 14.09.2021

Complainant Representative: Sri. V. Ajakumar

Respondent Representative: Sri. A. Abdul Kharim

Gist of Case: Adjudicating officer directed to respondent to pay sum of Rs 500,000 towards compensation as respondent fails to deliver the project on time.

In the present case complainant is a registered partnership firm named 'M/s. Parthas' engaged in textile business. The respondent is a construction company known by the name "M/s. Great India Estates Pvt. Ltd.", represented by its Director. And respondent has to commence construction of building within 45 days and to complete its construction within 33 months. Thereupon, the respondent obtained an approved plan and permit for construction of the multi-storied apartment project in the name and style of 'GIE Grand Asteria'.

Thereafter, the respondents 1 and 2 entered into an agreement dated 28.09.2010 whereby the 1st respondent agreed to sell and the 2nd respondent agreed to purchase apartment in the proposed building along with the proportionate undivided right over the land and the 1st respondent agreed to complete the construction of the apartment and to deliver its possession before September, 2013, subject to the payment of the stipulated amount. While the construction of the building was in progress, the 1st respondent proposed to re-allot the aforesaid apartment to the complainant firm. Pursuant to it, the aforesaid Flat was re-allotted to the complainant as per the tri-partite agreement executed by the complainant and respondents 1st and 2nd and the complainant paid the entire sale consideration for the same to the 1st respondent by way of fund transfer from the bank account. The 1st respondent failed to complete the apartment and to deliver its possession to the complainant inspite of repeated demands and consistent follow up. The complainant, therefore, lodged the present complaint against the respondents for return of amount with interest, to recover the compensation provided under the Act and the cost of the proceedings.

The 1st respondent filed written statement contending that complaint is not maintainable either in law or facts. The respondent launched the apartment project and completed 95% of civil work as per the agreement with the allottees. It is true that the complainant entered into tri-partite agreement for sale with the 1st respondent and the 2nd respondent to purchase an apartment. Originally, the said apartment was sought to be purchased by the 2nd respondent, wherein, the 1st respondent agreed to complete and hand over the apartment by September 2013. But the project could not be completed as expected due to the various reasons beyond the control of the 1st respondent. Nearly after three years from the agreed date of completion of project, the complainant expressed willingness to purchase the apartment in the project. The complainant entered into tri-partite agreement with the 1st and 2nd respondent with the full knowledge regarding the delay and sloth in handing over the apartment and uncertainty in completing the project. **An allottee can seek return of amount with interest only**

if the promoter fails to complete or is unable to give possession of an apartment in accordance with the terms of agreement as laid down in sub-section (1) of Section 18 and sub-section (4) of Section 19 of Real Estate (Regulation and Development) Act. Since the agreement relied on by the complainant does not mention any date for completion of apartment or handing over of its possession, the complainant cannot successfully claim for return of amount with interest and compensation provided under the Act by seeking shelter either under sub-section (1) of Section 18 or sub-section (4) of Section 19 of the Act. E-mail communication of the 1st respondent to the complainant suggesting a date of completion of project as December 2018 does not form part of the tri-partite agreement relied on by the complainant. There is no deficiency in service or any unfair trade practice on the side of the 1st respondent. There is no infraction of any provisions of Real Estate (Regulation and Development) Act by the 1st respondent. The complaint is devoid any merits and bonafies. It is liable to be dismissed with costs.

The points that arise for consideration are:-

1. Whether complaint is maintainable?
2. Whether the complainant entitled to get the reliefs as sought in the complaint? If so, in what manner?

Points 1 and 2

The learned counsel for complainant drew the attention to Exts.A1 to A6 to substantiate his plea that the complainant has succeeded in establishing a case coming under sub-section (1) of Section 18 as well as sub-section (4) of Section 19 of the Act and the complainant is entitled to get all the reliefs sought in the complaint on account of it.

The learned counsel for the 1st respondent, on the other hand contended that the date of completion of building and handing over of possession of apartment shown in email communication sent by 1st respondent to the complainant is only a mere suggestion and email communication cannot be relied on and acted upon for the reason that it does not form part of tri-partite agreement executed by parties. It is also contended that there is no deficiency in service or any unfair trade practice on the side of the 1st respondent and the complainant cannot seek the aid of this forum in the absence of any infraction of any provisions of the Act and Rules.

When tri-partite agreement governing the parties in respect of the apartment in question was in force and there was failure to complete the apartment and to deliver its possession, the newly enacted Real Estate (Regulation and Development) Act and Kerala Real Estate (Regulation and Development) Rules governing the Real Estate sector for the redressal grievance of allottees came into force. Admittedly, the Real Estate (Regulation and Development) Act and Rules are squarely applicable to the present case.

The dispute centres around only the complainant's entitlement to get relief either under sub-section (1) of Section 18 (1) or sub-section (4) of Section 19 of the Act. There is no dispute that failure to construct the apartment or inability to give its possession by the promoter in accordance with the agreement for sale confers right on the allottee to seek relief of return of amount with interest and to recover compensation provided under the Act as laid down under sub-section (1) of Section 18 and sub-section (4) of Section 19 of the Act. It is worthwhile to note that immediately after the execution of tri-partite agreement; the complainant paid the entire sale consideration as stipulated in it.

It is significant to note that what is stated at clause No.4 in tri-partite agreement executed by respondents 1, 2 and the complainant, as parties 1, 2 and 3 therein respectively. The entire sale consideration was paid, by way of three installments, as stipulated in tri-partite agreement as shown and described. The last and final payment was made, as third installment, on 29.12.2016 as shown in it. So the entire sale consideration was paid before 29.12.2016. A mere perusal of above recitals of said Clause in tri-partite agreement is more than sufficient to show that the 1st respondent was bound to complete construction of the apartment and to deliver its possession soon after the payment of the entire sale consideration by the complainant. In spite of last and final payment on 29.12.2016 to the 1st respondent and sending Ext.A5 email on 25.11.2017 by the 1st respondent to the complainant assuring to hand over the apartment by September 2018, the 1st respondent/builder failed to complete the building and to hand over the possession of the apartment in violation of tri-partite agreement. In view of the above facts and circumstances, it has to be held that the complainant has established a case falling under sub-section(1) of Section 18 and sub-section(4) of Section 19 of the Act for the return of amount with interest and to recover the compensation provided under the Act. Even though, there was failure to complete the apartment and to deliver its possession to the complainant despite the receipt of

entire sale consideration. And all the contentions raised by the 1st respondent in his written statement are meritless and not legally sustainable. The 1st respondent is solely responsible for the failure to complete the apartment and to deliver its possession.

The liability cast upon the promoter in the event of allottee establishing a case falling u/s 18(1) (a) or 19(4) of the Act is not only to return the amount received by him in respect of the apartment but also to pay its interest as provided under the Act. The rate of interest so payable by the promoter to the allottee is the SBI's Benchmark Prime Lending Rate plus two percent from the date of payment till the date of actual payment as laid down in Rule 18(1) and (2) of Kerala Real Estate (Regulation and Development) Rules 2018. The present SBI's Benchmark Prime Lending Rate is 12.05%. So the 1st respondent is legally bound to return the amount with interest at the rate of 14.05% from the date of payment till the date of actual payment. Hence, the 1st respondent is liable to return a sum of Rs.75, 00,000/- with simple interest at the rate of 14.05% from 11.07.2016 and Rs.1, 79, 38,000/- with simple interest at the rate of 14.05% from 11.11.2016 and Rs.9, 48,000/- with simple interest at the rate of 14.05% from 29.12.2016 to the complainant till the date of actual payment or realization.

The 1st respondent is not only bound to return the amount with interest but also liable to pay compensation as provided u/s 18(1) and 19(4) of the Act. As 1st respondent failed to complete the apartment and deliver its possession as stipulated in agreement, he patently made the breach of contract. The complainant, who thereby suffered, is entitled to get compensation for the loss and damage sustained in consequence thereof. The fact that the 1st respondent refused to return the amount with interest and compensation payable by him inspite of repeated demands assumes much significance in the present case. While adjudging the compensation, certain factors as enumerated hereunder u/s 72 of the Act, have to be taken into account.

The complainant paid the fabulous sum towards sale consideration to the 1st respondent about five years back. The depletion of money value is also to be taken into account. There is escalation in costs of construction for putting up an identical apartment in future. What the complainant hopefully desired about the apartment booked by it was not fructified due to the non-completion and non-conveyance of the apartment. The complainant was constrained to spent precious time and energy to achieve its object. **The complainant's miserable plight and mental agony and pain due to non-performance of contract by the 1st respondent are to be considered in a pragmatic**

manner. On exhaustive consideration of the various factors enumerated u/s 72 of the Act and other relevant facts discussed earlier. Compensation is so awarded as a remedial measure to make mends in terms of money for the loss occasioned by the non-performance of the contract by the 1st respondent. So, in view of what has been stated above, the complaint is allowed in the manner indicated below.

In the result, the promoter is directed to return

1. Rs. 75,00,000/- with simple interest at the rate of 14.05% from 11.07.2016;
2. Rs.1,79,38,000/- with simple interest at the rate of 14.05% from 11.11.2016 and
3. Rs.9, 48,000/- with simple interest at the rate of 14.05% from 29.12.2016 till the date of actual payment or realization to the complainant.

The 1st respondent (promoter) is also directed to pay a sum of Rs.5, 00,000/- towards compensation and Rs. 10,000/- towards cost of the present proceedings to the complainant. If the promoter fails to pay the aforesaid sum as directed above within a period of 60 days, the complainant is at liberty to recover the aforesaid sum from the promoter and its assets by executing this decree as provided under the Real Estate (Regulation and Development) Act and Rules.

RAJASTHAN REAL ESTATE REGULATORY AUTHORITY

COMPLAINANT: Lotus Buildestate Pvt. Ltd.

NON-COMPLAINANT: Vineet Jain

MEMBER: Shri Salvinder Singh Sohata

ORDER DATE: 17.09.2021

Complainant Representative: Adv Samkit Jain

Respondent Representative: CA Sandeep Kumar Kedia

Gist of Case: Ex parte order cannot be recalled once written submissions are available on file.

In the given complaint an ex-parte order on was passed against the promoter on application submitted by the non-applicant before the Authority.

A reply was filed by the complainant but on the hearing day, appellant(promoter) was not present, therefore, without hearing an ex-parte order against the promoter applicant was passed. Therefore, in pursuance of directions issued by the Authority an application through Form 'X' is submitted by the promoter applicant.

The representative of the appellant reiterated that due to suffering from Covid, the counsel for the promoter has not appeared before the Authority for arguments. The representative of the respondent objected and submitted that it is not a case for service of summons. Once a written statement is submitted before the Authority, the application under the aforesaid provisions is not maintainable.

We are agreed with the submissions made by the learned counsel for non-applicant and a reply was available on file. The order was passed, keeping in view the provisions of Rule-35 (2) (j) of the Rajasthan Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as 'the Rules').

Therefore, application submitted by the promoter applicant is likely to be dismissed.

COMPLAINANT: Suo Moto

NON- COMPLAINANT: Akshat Apartments Pvt. Ltd.

MEMBER: Shri Shailendra Agarwal

ORDER DATE: 28.09.2021

Complainant Representative: Adv Garvit Agarwal

Respondent Representative: CA Ashish Ghiya

Gist of Case: Project completed on within validity period and completion certificate obtain and uploaded on the web portal of the Authority.

In the instant case, the real estate project registered with this Authority vide registration No. RAJ/P/2019/932, had an estimated finish date 31.10.2020 as declared by the respondent promoter himself at the time of registration. The estimated completion date having elapsed and the respondent promoter not having informed this Authority about the completion of the project or applying for extension of the project, a notice was issued to the respondent promoter in exercise of the powers conferred on the Authority under section 8, 35, 37, 38 and section 61 of the Real Estate (Regulation and Development) Act, 2016 to show cause why a penalty upto five percent of the

estimated cost of the project be not imposed upon the respondent promoter under section 61 read with section 11 of the Act for his failure to complete the project and obtain the completion certificate within the validity of registration or why he should not be ousted from the said project.

The respondent promoter, represented by CA Ashish Ghiya admitted that the estimated finish date of the project was 31.10.2020. He further submitted that the completion certificate was obtained on 20.01.2020 and the occupancy certificate was obtained on 01.05.2020. He also submitted that the completion certificate had also been uploaded on the web portal of this Authority. In the light of above, the legal representative of the respondent prayed for dropping the proceedings.

Having heard the arguments of the respondent promoter and examining the documents including the completion certificate submitted by the respondent, it is considered by this Authority that the project was completed within the validity period and a completion certificate was obtained from the empanelled architect and the same has also been uploaded on the web portal of this Authority, in view of which, the proceedings are dropped and the notice issued by this Authority is discharged.

COMPLAINANT: Suo Moto

NON-COMPLAINANT: Orient Builders and Developers

MEMBER: Shri Salvinder Singh Sohata

ORDER DATE: 17.09.2021

Complainant Representative: Adv. Gaurav Gidwani

Respondent Representative: Adv. Pankaj Kumar Ghiya

Gist of Case: If Completion Certificate is issued after the validity date project needs to get extension from Authority.

The brief facts of the case on the basis of the submissions of the parties are that a project 'Orient Apex' having registration No. RAJ/P/2017/398 elapsed on 30.06.2018, a notice under section 8, 61 and 11 (4) (b) of the Rajasthan Real Estate (Regulation and Development) Act, 2016 was issued against the promoter either to submit completion certificate or apply for extension of validity of the registration.

Respondent promoter submitted that the project was completed on 29.05.2019 and information to the Authority is already made available. The Authority has

circulated administrative guidelines on 28.06.2021 for such projects which were completed after expiry of validity of its registration. These projects required to get extension of the validity upto issuance of completion certificate. Therefore, the case in hand is a fit case to have an extension of validity with regard to date of issuance of completion certificate on 15.05.2019 and remittance of requisite fee mentioned there in directions dated 28.06.2021.

The directions dated 01.05.2017 and 31.05.2017 with regard to authorisation of empanelled architect issued by the Department of UDH mandate that the requisite fee be deposited with Local Body in addition to fee payable to the empanelled architect.

Accordingly, the proof for remittance of fee is not produced. Therefore, it is expected from the promoter that once an application for extension of validity of registration is filed as mentioned above, a copy of the receipt for deposit of fee with Local Body mandatorily be annexed with it.

It is directed that a penalty for Rs. 5,000/- is imposed against the promoter, in addition to prescribed fee mentioned there in directions dated 28.06.2021. Promoter is also expected to submit a status report with regard to fulfillment of its obligations, functions and duties or promises under the provisions of the Act or made through the agreement for sale with the buyers.

COMPLAINANT: Dharmendra Kumar Jain

NON-COMPLAINANT: Goldendunes Builders and Developers Pvt. Ltd.

MEMBER: Shri Salvinder Singh Sohata

ORDER DATE: 10.09.2021

Complainant Representative: Mr Pawan Agarwal

Respondent Representative: Adv. Vaseem Ahmed Qureshi

Gist of case: No refund is allowed if the project is near completion. Further no interest is to be paid by promoter for moratorium period.

As per the case applicant claims as per clause-2 of the subsequent agreement, offer/delivery of the possession was required to be made by 30th September, 2019 excluding grace period for six month by which it amounts up to 31st March 2020. Applicant claims that in failure of delivery of possession within four years exit

provisions existed. The project was not developed within the stipulated period; hence applicant is entitled for claiming refund with interest and compensation thereupon.

Advocate on behalf of respondent submits that exit clause does not exist in the provisions of the agreement. He further claims that if all the dues as per the terms and conditions of the agreements are paid, respondent shall deliver the possession of the impugned unit. Respondent humbly prayed that complainant is not entitled for any relief, therefore, application required dismissal.

Respondent agreed that project was likely to be completed up to 31st March, 2020. The validity of registration certificate for the project is got extended by the promoter up to 30th December, 2022, therefore, we may infer that project is not yet completed.

Authority is not convinced with the viewpoint of the respondent that subsequent agreement is not having any exit plan. The provisions entailed in section 18 of the Act categorically provide the right to exit by applicant from the project in given circumstances. Although, we don't find it appropriate to allow applicant to exit from project for case in hand. We are not inclined to make the exit option more lucrative in the light of remarks by learned Full Bench of the Authority in Ravi Kant Gupta's case according to the available situations where project is likely to be completed.

Promoter has not made available the completion or occupancy certificate to prove his contention that the project was developed in all respect. The scheme of the Act envisaged under the provisions of section 11 (4)(b) and 19(5)&(10) of the Act mandate that copy of completion and occupancy certificate be provided to allottees. In dearth of aforesaid certificates, we are not inclined to accept the version made by the respondent that applicant failed for taking over the possession of completed project. The contentions of respondent with reference to failure of taking possession are required to be ignored.

The possession was due on 31.03.2020, hence information for completion of project not provided to applicant, therefore applicant is entitled to claim interest under provisions of Section 18(1) of the Act.

The promoter respondent has got extension for validity of the registration of the project

up to 30th December, 2022, while at registration informed finish date 30.12.2020, therefore, undoubtedly, it is proved that completion certificate was not obtained upto stipulated date i.e. 31st March, 2020 in agreement.

In the light of aforesaid discussions, it is directed that:

- i. Respondent shall pay interest on rates applicable under Rule 17 of the Rajasthan Real Estate (Regulation and Development) Rules, 2017 to applicant with effect from 01.04.2020 till actual delivery/offer for possession is made along with copy of completion/occupancy certificate;
- ii. No interest shall be applicable for the moratorium period between 13.05.2020 to 31.03.2021

COMPLAINANT: Kamlesh Pandey

NON-COMPLAINANT: Adinath Properties Pvt. Ltd.

MEMBER: Shri Salvinder Singh Sohata

ORDER DATE: 09.09.2021

Complainant Representative: Adv. Shruti Rai

Respondent Representative: CA Praneti Agarwal

Gist of case: Validity of Completion Certificate is not to be looked by Authority.

In the present case appellant claims that for purchasing the unit loan facility Rs.13,65,168/- was availed and against the EMI irrespective of payment Rs.6,26,639/- against interest, still outstanding loan balance occurs Rs. 12,32,786/-. After lapse of 14 months, a demand letter/offer for possession on 11.02.2019 raised by the respondent and interest for Rs.63,578/- is claimed. The project is still incomplete. Therefore, applicant prayed for refund with interest, penalty for delay and compensation for Rs. 5 lakh.

Respondent filed the reply and made averments therein that an application before the Competent Authority on dated 10.02.2017 was moved for issuance of completion certificate and subsequently, a completion certificate is issued on dated 01.05.2017 for the impugned project. Accordingly, respondent claims that impugned project was not liable to be registered and prayed for dismissal of the application.

Appellant inviting the attention towards facts mentioned in the trail E-Mails dated 04.08.2017 sent to applicant by the officials of the respondent prove that work was in progress. Therefore, the project may not be treated as complete prior to promulgation of the Act.

It is undoubtable that the respondent promoter has filed an application before the Competent Authority Collector, Alwar for issuance of the completion certificate and subsequently, on 01.05.2017, the completion certificate is issued by the Competent Authority. Time and again, it is made explicit by the various judicial pronouncement of the Authority that validity of the completion certificate is not to be looked into by the Authority and either of the party has to challenge it before the Competent Forum.

The learned Coordinate Bench vide its order dated 30.06.2021 after application of mind ordered that the project is not liable to be registered. Accordingly, once a judicial pronouncement is available with regard to issue liable for registration of the project is settled, the Bench is debarred to have re-look on the specific issue under the provisions of section 39 of the Act.

On the basis of the aforesaid discussions, the project is not liable to be registered with the Authority. The application submitted by the applicant is dismissed with liberty to approach before the Competent Forum to seek relief.

COMPLAINANT: Suo Moto

RESPONDENT: Veritas Buildtech Pvt. Ltd.

MEMBER: Shri Shailendra Agarwal

ORDER DATE: 21.09.2021

Complainant Representative: Adv Garvit Agarwal

Respondent Representative: None

Gist of Case: Penalty imposed for failure to get Completion Certificate

In the instant case, the real estate project registered with this Authority vide registration No. RAJ/P/2017/303, had an estimated finish date 27.05.2018. The estimated completion date having elapsed and the respondent promoter not having informed this Authority about the completion of the project or applying for extension

of the project, a notice was issued to the respondent promoter in exercise of the powers conferred on the Authority under section 8, 35, 37, 38 and section 61 of the Real Estate (Regulation and Development) Act, 2016 to show cause why a penalty upto five percent of the estimated cost of the project be not imposed upon the respondent promoter under section 61 read with section 11 of the Act for his failure to complete the project and obtain the completion certificate within the validity of registration or why he should not be ousted from the said project.

A reply was filed on behalf of the respondent. In the reply it has been pleaded that the project was completed before 27.05.2018 which was the original date of completion and the concerned purchasers were offered possessions. It was further pleaded in the written reply that the respondent contacted the Jaipur Development Authority in November, 2018 for the completion certificate whereby they were told verbally that the proceedings regarding completion certificate would be taken up only when the proposed elections to the State Assembly were over. The respondent applied for a completion certificate in January, 2019. However, the Jaipur Development Authority has not taken any action regarding that and no completion certificate has been provided to them so far. In the reply it was further submitted that there was no official procedure in the Jaipur Development Authority regarding the completion certificate and, therefore, it was no fault of the respondent if a completion certificate was not provided by the Jaipur Development Authority.

The respondent applied for a completion certificate in January, 2019 which was eight months after the original date of completion. The argument of the respondent that Jaipur Development Authority does not have any official procedure for affording the completion certificate and therefore, it was not their fault if the completion certificate was not obtained, is not a valid argument.

In the circumstances, the contravention of the provisions of section 11(4)(b) read with section 61 of the Real Estate (Regulation and Development) Act, 2016 is proved. A penalty of Rs.1,00,000/-, is therefore, imposed on the respondent promoter

COMPLAINANT: Suo Moto

RESPONDENT: Rajasthan Housing Board

MEMBER: Shri Nihal Chand Goel

ORDER DATE: 20.09.2021

Complainant Representative: Adv Garvit Agarwal
Respondent Representative: CA Himanshu Goyal

Gist of Case: Token penalty of Rs.50000.00 imposed in 13 Projects for advertisement without mentioning RERA registration number.

In the present matter, show cause notices were issued to the respondent on 31.08.2020 under section 61 read with section 11(2) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'), in respect of the following 13 projects for having advertised those projects on its website without mentioning registration number of the project and website address of the Authority.

It has been stated on behalf of the respondent that the omission of such requisite details from the website of the respondent was wholly inadvertent. Therefore, a lenient view of the matter may be taken by the Authority.

However, having regard to the fact that this contravention was inadvertent and unintentional and the respondent has taken steps to ensure compliance of the provisions of the Act for future, we find that a token penalty will meet the ends of justice.

Therefore, a penalty of Rs. 50,000/- only is hereby imposed on the respondent

BIHAR REAL ESTATE REGULATORY AUTHORITY

COMPLAINANT: Manoj Kumar Roy

RESPONDENT: M/s Ghar Lakshmi Buildcon Pvt Ltd

MEMBER: Mr R.B. Sinha, Member

ORDER DATE: 18.10.2021

Complainant Representative: Adv. Ranjeet Ranjan

Respondent Representative: Adv. Ishteyaque Hussain

Gist of Case: Authority directed that new project of the Promoter will not be register unless they refund the entire funds collected from unsuspecting

consumers as respondent fraudulently shifted the entire project without intimating the complainant.

In his complaint petition, the complainant has submitted that he had booked a 3 BHK flat in A Block of the project Ghar Lakshmi Residency Phase I situated at Danapur, Patna in February 2014 at the total consideration amount of Rs 15 lakh and paid Rs5.01 lakh in four installments by 21/12/2014. As per the agreement for sale, the flat was to be handed over to him within a period of thirty six months including grace period of six months.

The complainant claimed that the respondent has dishonestly as well as fraudulently shifted the entire project near Danapur Railway Station without intimating the complainant. He has sought relief of allotment of a flat forthwith of the same specification in the ongoing project of the promoter at Danapur or to refund the deposited amount along with interest at the rate of 18 percent per annum and compensation. The respondent company in its reply admitted the claims of complainant. They further submitted that as the total area of land was 3.75 kathas only, so according to new master plan and bye-laws of Patna, no plan can be sanctioned over an area of landless than 6.5 kathas of land and therefore, the complainant was offered to take back his deposited money or take a flat in another project namely Ghar Lakshmi Milestone at Bihta Road on increased rate of the flats but the complainant did not reply and instead sent a legal notice which was suitably replied.

The respondent company further offered to refund the initial payment of Rs5,01,000/- but stated that no interest can be paid as there was default on the part of the complainant. He however didn't refund the deposit amount to the complainant until he filed the petition before the Authority. In course of hearing, learned counsel of the complainant submitted that there was no progress in the work on the plot of land mentioned in the agreement for sale and the respondent has not refunded the amount of deposits though more than five years have elapsed. As per respondent the project was not taken up as building map was not approved and also agreed to refund the deposit amount of complainant.

The Bench directed the respondent to pay the principal amount within a week because there were sufficient grounds like booking flats without sanctioned plan etc to impose penalty on them. The Bench while directing the respondent to comply with the order, summoned Mr Rahul Kumar, Director of the respondent

company on the next date of hearing. The Bench further directed the respondent to submit the details of money collected and the list of customers who are required to get refund of money due to cancellation of the project on affidavit.

Though the Respondent company claimed in their written response that they had contacted the complainant and offered him a flat in another project or refund of the principal amount, the complainant claimed that the promoter did never inform him about abandonment of the project. There is no clause in the Patna Master Plan and then existing Bihar Building Byelaws that prohibited construction of multistoried building on 3.75 kathas of land. Thus the reasons cited by the respondent company for abandoning the project were not convincing. However, on the direction of the Bench, the Respondent Company refunded the principal amount of Rs 5.01 lakh to the complainant during February to August 2021 after 7 years.

Therefore, it is established that the promoter has availed the economic benefits of deposit of the complainant for nearly seven years and is liable to pay interest to the consumer. They collected huge funds from unsuspecting consumers by booking flats in an unapproved project, promising them flats and thereafter they quietly abandoned the project without refunding the deposits to consumers even after six years on their own. The promoter has himself admitted that 80 percent fund collected by them for the Project in 2014-15 was still with them and only 20 % funds have been refunded back to the consumers.

The Bench orders the Respondent company to pay interest at the rate of Marginal cost of Lending Rate (MCLR) of the State Bank of India as applicable for three years plus two percent from the date of deposit to the date of refund within sixty days of the issue of the order. In so far the claim for compensation for physical and mental harassment is concerned, the Complainant if he so wishes, may approach the Adjudicating officer under the section 31/71 of the Real Estate (Regulation and Development) Act 2016. As regards resolution of fraudulent activities of the respondent company is concerned, the complainant may file a criminal case/FIR under relevant sections of IPC and approach competent civil court. **The Registration cell of the Authority may not register any new project of the Promoter unless they refund the entire funds collected from unsuspecting consumers for the project Ghar Lakshmi Residency Phase I.**

COMPLAINANT: Ranchhor Prasad Choudhary

RESPONDENT: M/s Soho Infrastructure Pvt Ltd

CORAM: Mr Naveen Verma

ORDER DATE: 26.10.2021

Complainant Representative: Adv. Mayank Rukhaiyar

Respondent Representative: Mr Vijay Ahuja

Gist of Case: The question of any specific permission to undertake construction on one's own land is not envisaged in the RERA Act, 2016.

During the hearing learned counsel of the complainant submits that as allottees, they should be permitted to complete their shares of the part in the Project subject to structural audit.

The Complainant cannot take the role of the promoter in completing the entire project without the approval of the NCLT. The Learned Counsel of the Respondent reiterated his submission that the Authority has no jurisdiction as the matter is before the NCLT and requested to record his objection.

The Bench observed that the issue of maintainability has already been settled by a speaking order and hence this issue cannot be reopened. On the plea of the complainant that they may be allowed to resume construction on their share, the Bench felt that since the complainant is not willing to apply as a promoter with an intent to sell flats, the question of any specific permission to undertake construction on one's own land is not envisaged in the Real Estate (Regulation and Development) Act, 2016.

The Bench advised the learned counsel of the complainant that they can always apply fresh as promoter for completion of the project, but before that assessment and valuation of the works done as on date by the respondent company a chartered valuer at their expense.

PART-IV
NOTIFICATION & CIRCULARS

KERALA REAL ESTATE REGULATORY AUTHORITY

K-RERA/T3/102/2020

Date: 09th September ,2021

Sub: Reminder to comply with the direction passed by the Authority.

Ref: 1. Public notice K-RERA/T3/102/2020 dated 16/04/2021

2. Public notice K-RERA/T3/102/2020 dated 22-07-2021

Several directions have been given to strictly follow the provision concerned of the Act, Rules and regulations while uploading the details of project in the web portal and releasing advertisements. But some promoters are committing defaults continuously. Hence the Authority hereby directs all the promoters of real estate projects to strictly follow the provisions inserted below without fail:

A. Quarterly updating the details of the project in the web portal of the Authority.

As per Section 11(1) in Real Estate (Regulation & Development) Act 2016. the promoter shall quarterly update the following details of the project in the web portal of the Authority. (1) The list of number and type of apartments or plots, as the case may be, booked, (2) List of number of garages, (3) The list of approvals taken and the approvals which are pending subsequent to commencement of the project, (4) Status of the project. (5) Other information and documents specified by the rules 2018 and regulation 2020.

As per Rule 17 (1) (e) of the Kerala Real Estate (Regulation & Development) Rules 2018, such quarterly progress updates have to be done within 7 days from the expiry of each quarter.

B. Uploading of forms required for withdrawal of money from designated account.

The certificates as required for withdrawal of money from designated account under Regulation number 4 (3) of chapter IV of the Kerala Real Estate Regulatory Authority (General) Regulations 2020, to be issued by the Architect, Engineer and Chartered Accountant in form no. 2, form no 3 & form no 4 respectively, shall be uploaded from time to time. The promoters can upload the above-mentioned certificates along with the quarterly updates for the project.

C. The annual report in Form No 5 of the Kerala Real Estate Regulatory Authority (General) Regulations 2020,

The annual report on the statement of accounts in Form No.5 issued in accordance with the 3rd proviso to section 4(2)(I)(D) of the act shall be certified and signed by a Chartered Accountant in practice and uploaded by the promoter on the web portal on or before 31st October of every year until the project is completed.

D. Completion certificate for Projects in Form 6. of the Kerala Real Estate Regulatory Authority (General) Regulations 2020,

Regulation No.5(4) of chapter IV of the Kerala Real Estate Regulatory Authority (General) Regulations 2020, stipulates that the promoter shall upload a certificate from an Architect in Form No. 6, as required for registered ongoing projects, which are completed in all respects.

E. Displaying K-RERA registration number and website address in advertisements and other publicity releases by Promoter

As per Section 11(2) of the Real Estate (Regulation and Development) Act 2016, it is stipulated that advertisement or prospectus issued or published by the promoter for any real estate project shall mention prominently the web site address of the

Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto. The Authority vide public notice referred 2nd above, directed all the promoters to display the K-RERA project registration number and website address in all advertisements and prospectus. It has come to the notice of the Authority that many promoters are violating the above said directions and K-RERA website (www.rera.kerala.gov.in) is not mentioned in many of the advertisements and prospectus/brochures released by the promoters. In this circumstance, Authority again directs all promoters to adhere to the public notice referred 2nd above while publishing all advertisements and prospectus.

F. Displaying plans and other specifications at Project site

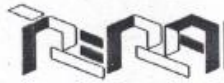
As per Regulation number 4 (5) of chapter IV of the Kerala Real Estate Regulatory Authority (General) Regulations 2020, stipulates that the promoter shall prominently display in laminated form, the sanctioned plans, layout plans along with specifications as approved by the competent authority and also the Project Registration Certificate issued by the Authority at the project site.

Hence, in exercise of the powers conferred under Section 34(f)&(g) and Section 37 of the Act 2016, the Authority hereby directs all the promoters to strictly adhere to the above instructions and informs that if any data/information/document furnished by any promoter is found to be false/incorrect/deficient in any manner, it will amount to contravention of Section 4 of the Act and such a promoter shall be liable to a penalty which may extend up to 5% of the estimated cost of the project, as provided under section 60 of the Act.

MADHYA PRADESH REAL ESTATE REGULATORY AUTHORITY

No.3976/2021

Date:- 15th September, 2021



म.प्र. भू-संपदा विनियामक प्राधिकरण
रेरा भवन, अरेरा हिल्स, मेन रोड न.1 भोपाल

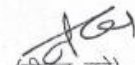
भोपाल, दिनांक 15/09/2021

// आदेश //

क्रमांक 376/2021 मध्यप्रदेश भू-संपदा विनियामक प्राधिकरण में पंजीकृत परियोजनाओं में बैंक खाता परिवर्तन के आवेदन प्राप्त होते हैं। इसके शीघ्र निराकरण की दृष्टि से ऐसे प्रकरण जिनमें बैंक खाता भारतीय रिजर्व बैंक या भारत सरकार के दिशा-निर्देशों अथवा बैंकों के मर्जर के कारण परिवर्तित हुआ है, बैंक का प्रमाणीकरण प्राप्त किया जावे। प्रमाणीकरण में यह उल्लेख हो की खाते में परिवर्तन किस कारण से हुआ है। परिवर्तन के फलस्वरूप पूर्व के खातों की समस्त राशि नवीन खातों में अंतरित हो गई है।

सम्प्रवर्तक ऐसे प्रमाण पत्र को प्राधिकरण के पोर्टल पर अपलोड करेंगे तदपरांत उक्त प्रमाण पत्र के आधार पर बैंक खाता परिवर्तित किया जावे। उपरोक्त के अतिरिक्त अन्य किसी कारण से बैंक खाता परिवर्तन की अपेक्षा है, तो उस पर गुण दोष के आधार पर निर्णय लिया जाये।

(प्राधिकरण द्वारा आदेशित)


(नीरज दुबे)
सचिव

म.प्र. भू-संपदा विनियामक प्राधिकरण

MADHYA PRADESH REAL ESTATE REGULATORY AUTHORITY

No.82/2021

Date:- 17th September, 2021



म.प्र. भू-संपदा विनियामक प्राधिकरण

रेरा भवन, अरेरा हिल्स, भोपाल दूरभाष-0755-2556340, 2556760
Website:- www.rera.mp.gov.in, Email id- secretaryrera@mp.gov.in

भोपाल, दिनांक 17-09-2021

// आदेश //

क्रमांक ७१/ 2021, मध्यप्रदेश भू-संपदा विनियामक प्राधिकरण के संज्ञान में यह तथ्य आया कि परिशिष्ट अनुसार 228 परियोजनाएं त्रैमासिक प्रतिवेदन अपलोड न करने के कारण निलंबित श्रेणी में रखी गई थी और उन्हें अवैध घोषित करने, नई बुकिंग एवं रजिस्ट्रियों पर रोक, बैंक खाते फ्रीज करने जैसे प्रतिबंध भी लगाए गए थे।

2. मध्यप्रदेश अपीलीय अधिकरण में प्रस्तुत कई परिवादों में यह अधिकरण ने यह पाया कि प्राधिकरण के द्वारा परियोजना की गंभीरता पर विचार किए बिना, निलंबित करने और अन्य प्रतिबंध संबंधी आदेश पारित किए। इन प्रतिबंधों के अधिरोपित होने से सम्प्रवर्तकों को कार्य करने में व्यापक कठिनाई हो रही है तथा आवंटितियों के हितों के विपरीत भी है। अधिनियम की धारा 11(1) के अपेक्षानुसार त्रैमासिक प्रगति प्रतिवेदन अपलोड नहीं करने मात्र से अधिनियम की धारा 36 के परियोजना के क्रियान्वयन को रोकना आवंटितियों के हितों के प्रतिकूल है। अतः परिस्थितियों पर समग्र रूप से विचार करते हुए प्राधिकरण ने दिनांक 25-08-2021 की बैठक में यह निर्णय लिया कि :-

"ऐसे प्रकरणों में निलंबन की कार्यवाही समाप्त की जाये तथा शेष कार्यवाहियों पर प्रकरण के गुण-दोष के आधार पर सम्प्रवर्तक को यथोचित सुनवाई का अवसर देते हुए निर्णय लिया जाये।"

3. प्राधिकरण ने उक्त निर्णय के अनुक्रम में दिनांक 13.09.2021 की बैठक में प्राधिकरण द्वारा निम्न निर्णय लिया :-

- प्राधिकरण द्वारा लगभग 228 समरूप प्रकरणों में लगाए गए प्रतिबंधों से, एक ही आदेश द्वारा मुक्त किया जाये। अधिनियम की धारा 11 के अंतर्गत सम्प्रवर्तकों के कृत्यों के आंकलन की स्थिति के अनुसार, प्राधिकरण अधिनियम की धारा 63 के अंतर्गत कार्यवाही हेतु स्वतंत्र रहेगा।

निरंतर

///2///

- ii. संबंधित सम्प्रवर्तकों को अधिनियम के अंतर्गत भविष्य के लिए सचेत करते हुए समस्त लंबित त्रैमासिक प्रतिवेदन प्राधिकरण के पोर्टल पर अपलोड करने के लिए पत्र जारी किया जाये।

इस प्रकार प्राधिकरण ने दिनांक 13.09.2021 की बैठक में लिए गए निर्णय के अनुक्रम में उक्त सभी परियोजनाओं को निलंबन आदेश से मुक्त किया है।

4. सम्प्रवर्तकों से यह अपेक्षा है कि वे भू-सम्पदा(विनियमन एवं विकास) अधिनियम, 2016 की धारा 11 की अपेक्षानुसार अपने त्रैमासिक प्रतिवेदन मध्यप्रदेश भू-संपदा विनियामक प्राधिकरण की वेब-साईट पर अपलोड करने की कार्यवाही 15 दिवस में पूर्ण करें।

(नीरज दुबे)
सचिव 17.9.21

म०प्र० भू-संपदा विनियामक प्राधिकरण

MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

MahaRERA/Secy/FileNo.27/203/2021

Date – 21th September, 2021

Sub: Procedure for validation of Form-4 (Architect's Certificate on Completion of Project).

MahaRERA has so far registered 30668 projects, out of which 7214 projects are completed. It is seen that 3371 projects have expired and Promoters have not applied for extension of the project date nor uploaded the Form 4.

A list of expired projects has now been uploaded, on our portal. Many promoters are either uploading form 4 with or without OC or they are applying for extension of the date of completion.

Following procedure is hereby decided for validation of Form 4.

A. Projects with Form 4 and with OC having date of OC before date of expiry of the project and in cases where OC is received after date of completion.

1. Form 4 with OC within the date of completion. Action -- Can be validated as correct.
2. Form 4 with OC received after date of completion. Action —
 - i. If there is no sold inventory, promoter can apply in correction module and completion date can be corrected. In case there is sold inventory, then
 - ii. Promoter has to apply for extension which will be valid up to the date of OC. (As project has been completed, post facto extension may be granted.)

B. Projects with Form 4 but no OC or Part OC, OR Projects which are expired but have not uploaded either Form 4 or OC.

1. Form 4 but no OC or Part OC. Action: -
 - i. If there is no sold inventory, promoter can apply in correction module and completion date can be corrected.
In case there is sold inventory, then
 - ii. Promoter has to apply for extension under section 6 if applicable
OR
 - iii. Promoter to apply for extension under section 7(3) with at least 51% allottees consent.
OR
 - iv. If consents are less than 51%, apply with available consents. (Authority may set up a joint Hearing with allottees and may consider extension with additional conditions).

2. Projects is expired but no Form 4 or OC is uploaded. Action: -

- i. In case there is no sold inventory, promoter can apply in correction module and completion date can be corrected. If there is sold inventory, then
- ii. Promoter has to apply for extension under section 6 if applicable OR
- iii. Promoter has to apply for extension under section 7(3) with at least 51% allottees consent. OR
- iv. If consents are less than 51%, apply with available consents. (Authority may set up Hearing with allottees and may consider extension with additional conditions).
- v. If promoter does not apply for extension, or does not respond, then Allottee's society can apply to Authority under section 7, and after Hearing, appropriate order will be passed by the Authority.

The above procedure shall come into effect immediately.

RAJASTHAN REAL ESTATE REGULATORY AUTHORITY

No. F. 1(199)RJ/RERA/APR/2021/1892

Date – 27th September, 2021

Sub: Submission of Annual Report on Statement of Accounts of the Project (APR) for the Year 2020-21

In reference to this Authority's order no. 535 dated 19.03.2021, the last date for online submission of APR for the year 2020-21 (due to be submitted online latest by 30.09.2021) is hereby extended to 31.01.2022, without payment of any delay processing charges or penalty.

This issues with the approval of Hon'ble Chairman, in view of the difficulties reported in audited accounts for the year 2020-21 becoming available in all cases before January, 2022,

BIHAR REAL ESTATE REGULATORY AUTHORITY

Date – 29th September, 2021

Sub: Submission of Quarterly Progress Reports by the Promoters of Registered Real Estate Projects

Section 11 (b), 11 (c), 11 (d) 86 11 (e) of the Real Estate (Regulation & Development) Act, 2016 and Rule 4 of the Bihar Real Estate (Regulation 86 Development) Rules, 2017 enjoin upon the promoters of a registered real estate project to upload quarterly progress/ status report (Physical/ Financial) of each project including up to date list of number and types of apartments booked, number of garages booked, lists of approvals taken and the approvals which are pending subsequent to commencement certificate etc on the website of RERA within fifteen (15) days from the expiry of each quarter.

The status of the project will include status of construction of each building with photographs, status of construction of each floor with photographs and status of construction of internal infrastructure and common areas with photographs.

The Status of approvals will include approvals received, approvals applied and expected date of receipts, approvals to be applied and date planned for application and modifications, amendment or revisions, if any, issued by the competent authority with regard to any sanctioned plans, layout plans, specifications, license, permit or approval of the project.

It has come to our attention that many promoters/ builders have not been uploading the quarterly status/progress reports of the registered projects along with block-wise/ floor-wise status of construction with photographs in time.

All promoters of real estate projects are therefore directed to upload the quarterly status reports of the registered projects along with block-wise/ floor-wise status of construction with photographs on the website of the Authority (RERA) within fifteen

(15) days of the expiry of the quarter ending 30th September 2021, failing which prescribed fee will be payable for delay.

Promoters/Builders of registered real estate projects who have not uploaded the quarterly status/ progress reports of the registered project for two successive quarters or more are liable for proceedings under section 8 of the Act for revocation of registration of the project and/ or for levy of penalty under Section 61 of the Real estate (Regulation and Development) Act 2016.

RAJASTHAN REAL ESTATE REGULATORY AUTHORITY

No. F.1(231)RJ/RERA/EA/2021/1914

Date – 29th September, 2021

ORDER

It has come to the notice of the Authority that some banks are not transferring the mandatory 70% amount from Collection Account (the account in which 100% of the money paid by homebuyers of a registered real estate project is collected) into RERA Retention Account (the separate account for that project, into which 70% of the money collected in Collection Account is required to be transferred). This is totally unlawful and violative of section 4(2)(I)(D) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the RERA Act'), which reads as under:

(D) that seventy per cent of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose:

Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project:

Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project: Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

Accordingly, it is obligatory both for the promoter and the bank to ensure strict compliance of the above-stated provisions of the RERA Act, which mandates that 70% of the amount collected from homebuyers of a project is reserved for meeting land and development costs of that particular project; and is, therefore, necessarily required to be transferred into RERA Retention Account of the concerned project. The promoters are allowed to use only 30 per cent of the amount collected from homebuyers for other purposes, like creating a charge in favour of lending banks and financial institutions to repay any loans or creating a revolving fund for the project.

All banks are, thus, obliged under the RERA Act to transfer, from time to time, into RERA Retention Account 70% of the amount that gets collected from homebuyers in Collection Account. Neither the promoters nor the banks can use this 70% share of the homebuyers' money to repay any loans of the bank or other financial institutions, until the project is completed and unused balance of the 70% money accumulated in RERA Retention Account becomes available for such other purposes. If any part of the 70% amount that is statutorily required to be transferred into RERA Retention Account is not so transferred and is directed towards any other purpose, like repayment of a loan, it would amount to misappropriation of the homebuyers' money which was kept in reserve for the completion of the project. Therefore, if it is found that any bank has violated section 4(2)(1)(D) of the RERA Act and is not depositing or is depositing less than 70% of the collected amount into RERA Retention Account, it will be viewed

seriously and the Authority may debar such banks from having Collection Account and/or RERA Retention Account of real estate projects registered with this Authority.

All banks are, therefore, advised to comply with the aforesaid provisions of section 4(2)(I)(D) of the RERA Act and transfer, without any exception and without any delay, into RERA Retention Account of the project not less than 70% of the homebuyers' money that gets collected, from time to time, in Collection Account of the project. It is best if this transfer happens automatically as soon as any amount is credited in Collection Account; otherwise it must be effected on daily basis and latest within T+2 days.

RAJASTHAN REAL ESTATE REGULATORY AUTHORITY

No. F1(167)RJIRERA/QPR/2020/2285

Date – 14th October, 2021

ORDER

Sub: Submission of Quarterly Progress Report (QPR) for July-September, 2021 for Registered Real Estate Projects

Looking to the technical difficulties the promoters are facing today in uploading QPRs, the last date for online submission of Quarterly Progress Report (QPR) for the quarter ending on 30.09.2021 is hereby extended to 29.10.2021, without payment of any delay processing charges or penalty.

If QPR for this quarter is not submitted by 29.10.2021, it will attract a penalty under Section 61 of the Real Estate (Regulation and Development) Act, 2016 for contravention of relevant provisions of the said Act and the rules and regulations made there under. In addition, delay processing charges as already specified shall be attracted on delayed submission of QPR.

This issues with the approval of Hon'ble Chairman.

MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

MahaRERA / Secy / File No.27/234/2021

Date – 29th October, 2021**Subject: Report From CERSAI**

Whereas Ministry of Finance notified the establishment of the Central Registry Securitisation Asset Reconstruction and Security Interest of India (CERSAI), a Government Company, incorporated for the purpose of operating and maintaining the Central Registry under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). The objective of setting up of Central Registry is to prevent frauds in loan cases involving multiple lending loan different banks on the same immovable property.

Whereas Government of India has subsequently issued a Gazette Notification dated January 22, 2016 for filing of the following types of security interest on the CERSAI portal:

- a) Particulars of creation, modification or satisfaction of security interest in immovable property by mortgage other than mortgage by deposit of title deeds.
- b) Particulars of creation, modification or satisfaction of security interest in hypothecation of plant and machinery, stocks debts including book debts or receivables, whether existing or future.
- c) Particulars of creation, modification or satisfaction of security interest in intangible assets, being knowhow, patent, copyright, trademark, license, franchise or any other business or commercial right of similar nature.
- d) Particulars of creation, modification or satisfaction of security interest in any 'under construction' residential or commercial or a part thereof by an agreement or instrument other than mortgage.

Whereas, CERSAI had started registration of the data in respect of paragraphs (a) to (c) above, for the security interests created on or after January 22, 2016, w.e.f. May 25, 2016 for Scheduled Commercial Banks and w.e.f. July 1, 2016 for all other entities registered with them. Further, the registration of data in respect of paragraph (d) above has commenced since June 8, 2017 for all banks and Fls registered with CERSAI. Meanwhile, the bank/Fls have also started registering the security interests created before January 22, 2016 (subsisting records).

Whereas, Homebuyers/Allottees should be aware of such security interests created on real estate Projects /Apartments, which homebuyer is interested in purchasing.

Therefore, the promoters shall:

- During project Registration, Submit Report from CERSAI on security interests created in the Real Estate Project along with the encumbrances certificate. Incase no security interest has been created then the Promoter shall provide an undertaking confirming the same.
- Further, as and when there are any changes, Promoter shall submit updated CERSAI Reports on Security interests created on Real Estate Project by the Promoter.
- The CERSAI reports submitted should be generated within 10 days before the date of submission.

Amended pursuant to the directions issued by the Authority in its meeting held on 08th October 2021. Accordingly, order No. 1912021 dated 25th July 2021 stands amended with this order.

This order shall come into effect immediately

PART-V

RERA NEWS

PTI
04.09.2021

DEVELOPERS WHO DID NOT PAY DUES CAN'T SELL, BUY PROPERTIES

Taking a stringent measure against the developers who did not turn up for the payment of dues for regularization of colonies, the municipal corporation has started sending letters to the revenue department for curbing sale and purchase of their properties.

The officials claimed this action would force the developers to clear their dues otherwise their properties would be of no use. And they had sent many reminders to the developers to clear their dues, but most of them paid the initial amount and did not turn up for the rest of the payment and continued selling plots and construction work was also going on at full pace at their sites.

The plots were being registered despite the fact that Punjab and Haryana high court imposing a ban on sale of plots in colonies that had not obtained NOC from the civic body or developing authority concerned. This is the reason why developers did not approach the civic officials for getting NOC by clearing their dues. In some of the illegal colonies, the number of houses is increasing, but there is no sign of basic amenities.

Municipal town planner will request the revenue department to mention the pending amount in the land record of that particular developer (against land in the colony as well as his personal land) so that whenever he comes to take fard (revenue record) for a deal, he will have to first clear the dues.

TNN
05.09.2021

RAJASTHAN RERA TO SEND NOTICES TO REALTORS FOR NOT SUBMITTING REPORTS

The Real Estate Regulatory Authority (RERA) will issue notices to approximately 300 developers in the state for not submitting quarterly progress reports. According to the mandatory provision, the promoters have to upload updates on the RERA website for the project at the end of each quarter on apartments/flats, status update of each building.

A senior official at RERA said that “After issuing the notices, the developers will be given time to submit their reply in October. Registration will be cancelled if the reply is dissatisfactory.”

And also said that penalty will be imposed if developers failed to adhere to the norms of uploading the quarterly report. However, during Covid, the authorities have provided relaxation and decided not to take any action on the defaulters. Now, the authority will issue notices again.

TIMES OF INDIA
06.09.2021

3,400 HOUSING PROJECTS IN MAHARASHTRA HAVE 'TIME-LAPSED'

As many as 3,371 residential projects across the state have been declared "lapsed" between 2017 and 2021 because the builders were unable to complete them in the deadline they had set while registering their projects with the MahaRera. The validity of MahaRera registration for these projects has expired. The promoter shall not advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be.

Builders must in such a case apply for an extension. These builders are granted a year's extension by the housing authority. But if they are still unable to complete the project after the one-year extension, such builders will have to seek the consent of at least 51% of the people who have booked apartments in their projects. If these flat buyers agree to a further extension, MahaRera will not object.

Rera registration numbers of various projects in the state have lapsed on account of several factors, but funding is by far the biggest reason. Funding by the NBFCs slowed down significantly with the IL&FS crisis. Private equity funding into the sector also

slowed down to a trickle back then. Grade B and C developers were the most impacted as lending to them was minimal. However, Government-backed funds are identifying some projects that are near completion to bring them to completion with last-mile funding, and some of the larger developers are taking over and reviving some other projects.

ECONOMIC TIMES**06.09.2021****OTHER CHARGES' COLLECTED BY BUILDER TO ATTRACT 18% GST**

A recent ruling given to Puranik Builders by the GST-Authority for Advance Rulings (AAR) is likely to adversely impact both the builders and buyers as it may escalate costs. The AAR has held that “other charges” collected by a builder under a sale agreement will not be a composite supply and will attract goods and services tax (GST) at 18%.

It submitted that the services underlying the “other charges” should be treated as a composite supply (bundled with the supply of the main construction activity). Thus, GST rate on the main supply (currently 5% for new projects) should apply.

The builder submitted that the other charges were part of the main construction activity. The AAR held that GST at 18% will apply on services underlying the other charges. The builder will have to pay GST on the entire amount received as “other charges” without any rebate.

An advocate specialising in indirect taxes said that no one will buy a flat without an electricity or water connection. Buyers expect common amenities to be maintained by the builder till a society is formed. Thus, treating such charges as non-composite will add to complexities and costs for real estate sector.

PTI**16.09.2021****SBI ANNOUNCES VARIOUS OFFERS FOR HOME LOAN BORROWERS**

The country's largest lender State Bank of India announced various festive offers for prospective home loan customers, including a credit score-linked home loans starting at 6.70 per cent, irrespective of the loan amount. Earlier a borrower availing a home loan above Rs 75 lakh, had to pay an interest rate of 7.15 per cent. With the introduction of the new offer, a borrower can now avail home loan for any amount at a rate as low as 6.70 per cent.

This will result in a saving of 45 basis points (bps) which translates to a interest saving of more than Rs 8 lakh, for a Rs 75 lakh loan with a 30-year tenure. Further, the rate of interest applicable for a non-salaried home borrower was 15 bps higher than the interest rate applicable to a salaried borrower. The lender has removed this distinction between a salaried and a non-salaried borrower.

Zero processing fees and concessional interest rates in the festive season will make homeownership more affordable.

TNN
17.09.2021

PAY PROPERTY TAX DUES VIA MOBILE, ONLINE MODES NOW

To avoid crowding at its Citizen Facilitation Centers, the BMC is now allowing Mumbaikars to pay property tax bills through mobile payment wallets like Paytm, Google Pay, Amazon Pay as well as credit card, debit card and UPI.

Property tax bills have been made live on BMC Property Tax Portal. Payment may be done online using the payment gateway method. While Bank of Baroda is providing free service with Net Banking, Credit Card, Debit Card, UPI and Payment Wallet.

ET BUREAU
29.09.2021

DELIVERY OF STUCK REALTY PROJECTS MAY BE DELAYED FURTHER OVER PROCEDURAL SNAGS

Home buyers are staring at further delay in delivery of stuck projects as procedural complexities, lack of consensus among stakeholders and absence of time-bound clearances from authorities hobble the push toward completion.

However, despite the Supreme Court appointing new boards or designated authorities to complete construction of pending projects, they are yet to see much progress due to disagreements amongst various stakeholders, such as government authorities and secured lenders.

Appointment of resolution professional and moratorium need to start from reference of application by financial creditors. Once the committee of creditors approves a plan, then NCLT may focus on compliance of IBC and rely on commercial wisdom of CoC. Delay in implementation of admission and resolution is leading to deterioration of assets in the company. Time taken in CIRP can be shortened dramatically and bring our code further in line with developed jurisdictions.

The delay in implementation of the plan also deters bidders who are interested in working on resolution. Average resolution timelines in NCLT have gone to nearly 600 days from the mandatory outer limit of 270 days. This changes the assumptions, costs, value of assets and liabilities and regulatory regime for projects, which makes resolution applicants wary of taking it forward.

DAINIK BHASKAR
30.09.2021

HOME PURCHASES DOUBLED THAN PRE-COVID LEVELS

The positive effect of low home loan interest rates and increasing jobs in the IT and allied services sector has started showing the positive effect on home purchases. In the July-September quarter this year, there has been a doubling in home purchases in 7 major cities of the country and 62,800 homes have been sold. This sales is higher than the pre-Covid level.

The increased demand due to growth in IT and allied services sector is largely driving the housing demand, job security, home loan rates at record low levels, the sentiment to buy own house has strengthened and the increasing trend of work from home, people are preferring to take big flats or big houses.

And the prices of houses have also increased by 3%. In the July-September 2021 quarter, house prices were reached Rs 5,760 square feet which were Rs. 5,600 square feet in the same quarter in last year.

TNN
02.10.2021

HC SEEKS REPLY FROM RAJASTHAN GOVERNMENT ON PLANNED LAND DEED CAMPAIGN

A division bench of Rajasthan high court on Thursday issued notices to the state government and sought its reply by October 18 for making provisions for granting lakhs of lease deeds by ignoring the master plan under 'Prashasan Sheharon Ke Sang'.

The bench comprising Justice Sabina and Justice Manoj Vyas gave the order while hearing public interest litigation (PIL) filed by Gitesh Khanna.

Counsel told the court that the campaign was being organised by the state government in all districts of the state from October 2. Under the campaign, a target had been set to give land leases to lakhs of people.

The petition mentioned that the master plan had been ignored. A drafted parallel master plan had been prepared by the state government to do away with the provisions of the initial master plan. Under the campaign, there was a plan to regularise the encroachers, who had illegally occupied kutchha settlements, by giving them lease deeds.

PTI
03.10.2021

MUMBAI: TOWNSHIPS MUST PAY LATE FEES FOR NOT SEEKING NOC FOR COMMERCIAL USE OF GROUNDWATER

In a move to curb illegal extraction of groundwater through borewells and tankers, the Central Groundwater Board (CGWA) has issued a public notice directing the

townships, commercial and industrial users of groundwater (extracting through water pumps) to pay Rs 1 lakh as late fees for not seeking its NOC for such use before the given deadline that expired on September 24, 2020.

Since early this year, the CGWA has already made mandatory the installation of telemetric or digital flow meters on the motor pumps installed on groundwater wells. The move is aimed at tightening its regulatory grip over the illegal water tanker suppliers who are using the groundwater stock for commercial use without any regulatory control. Due to lack of groundwater recharge mechanism a larger portion of soil covered with concrete or asphalt. Neither residential nor commercial townships are incorporating the recharging systems.

This late fee is to be paid besides the groundwater abstraction or restoration charges that they have to pay as applicable for various categories of users mandated by CGWA. However, they are being exempted from paying environmental compensation till March 30, 2022. But, if they again fail to apply for NOC even by the set deadline of March 2022, then they will be liable for not only a strong legal action but also hefty environmental compensation.

CGWA has also appealed to those whose NOC applications have been rejected earlier, to resubmit them so as to reconsider for further processing. All the applications are being processed through CGWA's online portal.

THE ECONOMIC TIMES
05.10.2021

BRICK BY BRICK, INDIAN REAL ESTATE MARKET IS CLIMBING OUT OF THE COVID HOLE

The Indian real estate market is showing signs of steady recovery with both residential and commercial property segments recording robust performance in the July-September quarter. Real estate activity gained momentum during the quarter as the country began to cautiously return to normal economic tempo supported by aggressive vaccination drives.

Record-low home loan interest rates and sops offered by realty developers helped top

Indian property markets move upward after a lull in the April-June quarter marked by the pandemic's resurgence and restrictions imposed by various state governments. The market seems to have factored in the very low likelihood of a complete lockdown as was seen last year due to the ample availability of the Covid vaccine. Comparatively lower residential prices, attractive interest rates and higher household savings rate over the past year should support housing demand going forward. The growing need for home ownership and stable employment scenarios led by sectors like information technology and healthcare drove housing demand during the quarter.

In terms of pricing and rentals, the market is heading towards stability in both residential and commercial segments. In the residential segment, to push sales, developers had earlier pursued an aggressive pricing strategy over the year with spot discounts, finance deals, stamp duty waivers and other freebies to entice buyers. This has been observed to have reduced in the September quarter as the price decline in most markets has been arrested. Residential markets such as Chennai, Hyderabad and Kolkata have seen prices increase marginally during the quarter.

THE TIMES OF INDIA
06.10.2021

RERA TAKES CUSTODY OF ALWAR HOME PROJECT FROM DEVELOPER

In a first, the Rajasthan Real Estate Regulatory Authority (RERA) has taken possession of a residential project from a developer in Alwar after a promoter failed to meet the completion deadline. The project was registered on November 27, 2013 and the deadline to construct the project was October 25, 2020.

RERA registrar said as per the proposal, a total of 905 flats were proposed to be constructed in six blocks out of which 650 residents had booked the apartments. And only the first floor has been constructed in so many years.

Notices were issued after receiving complaints of those who booked. Action was taken after promoter failed to file a reply. RERA will either auction the property to repay the investors or complete the project after hiring a third party as per the clause. And directed the developer to return the booking amount of the investors after adding 10.75

% interest. But, the developer failed to adhere to the directions. Following this, the RERA had written a letter to the district collector.

On close monitoring of projects, RERA has also issued notices to approximately 415 developers in the state for not submitting quarterly progress reports.

BUSINESS STANDARD

21.10.2021

ONLINE BUILDING PERMISSION SYSTEM IN ALL CITIES BY MARCH NEXT YEAR

The online building permission system will be implemented across all cities by March next year from about 2,500 cities currently to facilitate ease of doing business in the real estate sector. And the government has already sanctioned 1.14 crore homes under the Pradhan Mantri Awas Yojana - Urban (PMAY-U) to achieve 'housing for all' in the country.

The online system has been fully implemented in 19 states and Union Territories (UTs) and will soon be operationalised across all 36 states and UTs and this has resulted in reduction in compliance cost and time.

Now builders have to adopt technology in the construction of projects as well as sales operations. Due to this there is a huge scope for e-commerce in the real estate sector and complemented industry bodies CREDAI and NAREDCO for starting their online portals.



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