

# Real Estate

(Regulation and Development) Act, 2016

(A Journal on Real Estate Bye Laws)

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## RERA TIMES

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# **RERA TIMES**

**REAL ESTATE  
(REGULATION AND DEVELOPMENT) ACT, 2016  
(A Journal on Real Estate Bye Laws)**

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## FROM THE EDITOR'S DESK.....



Dear Readers,

Welcoming with caution the National Monetization Pipeline Programme recently announced by government which worth an estimated Rs 6.00 lakh crore. It aims to unlock value in brownfield projects by engaging the private sector, transferring to them revenue rights and not title/ownership in the projects, and using the funds so generated for infrastructure creation across the country. This plan will also result in optimum utilization of resources. But the foremost thing to be kept in mind that all the process has to be transparent so that there is no political fallout.

The Taliban takeover in Afghanistan has adversely impacted the import-export trade in India, the largest beneficiary of Afghanistan's exports, a development that has left traders, especially those importing dry fruits, worried. Indian trade worth \$1.5 billion stops abruptly as Afghans stare at bleak future.

But despite of distress in international market, Indian economy is recovering at a fast pace from the recent lows of April and May on the back of declining new coronavirus cases, continued unlocking in various parts of the country and standardize economic reforms announced by the government. The GDP growth for the first quarter i.e. April to June 2021 has been more than 20% which is highest in the history of India

Further with the easing out of COVID restriction GST collection for July and August 2021 have again crossed ₹1 lakh crore, which clearly indicates that the economy is recovering at V shape recovery. Coupled with economic growth, anti-evasion activities, especially action against fake billers have also been contributing to the enhanced GST collections.

The real estate sector is one of the most transformed sectors today and has leapfrogged in numerous ways. The pre-RERA period saw lack of transparency, one-sided agreements with limited opportunity for customers to address their problems

and delayed project timelines without adequate protection for compensation. With the implementation of the RERA, the realty sector has been given a new lease of life.

Now, RERA has been implemented in almost all states and union territories and they have a fully operational web portal for enabling online registration of real estate projects and agents. As slowly and gradually RERA is also moving towards the transparency and single window clearance. RERA authorities are also taking proactive measures to ensure the accountability and transparency in real estate sector.

While RERA has established itself significantly in the last few years, continuous efforts are required for the progressive growth of the sector. RERA authorities should come up with new strategies such as grading of promoters, establish process to identify non-registered projects, verification of information's submitted by promoters, comparison with the actual development viz a viz projection given etc. Even now there are many instances of plotted schemes being done on agricultural land without any approvals from competent authority which is going to defeat main object of bringing RERA legislation. Also, it must be ensured that no exemptions are being given to the promoters for making compliances specified under RERA Act.

Stay safe stay healthy

Hoping for better and bright future.

With Regards

CA Sanjay Ghiya

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#### **Disclaimer:**

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**PART-I**  
**HIGH COURT JUDGEMENT**

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**WRIT PETITION NO. 1118 OF 2021**

**Date: 01.03.2021**

**MACROTECH DEVELOPERS LTD.: Petitioner**

**VERSUS.**

**THE STATE OF MAHARASHTRA : Respondent**

**CORAM: MR. JUSTICE K. K. TATED**

**Petitioner Representative: Adv. Mr. Sharan Jagtiani**

**Respondents Representative: Adv. Mr. MayurKhandeparkar**

**Gist of case: No registration of project required in which part occupancy certificate obtained. The authority once decided that project does not require registration then Adjudicating officer has no jurisdiction to entertain the complaint.**

This Petition filed under Article 226 of the Constitution of India, the Petitioners have sought quashing and setting aside of the order dated 31st December 2020 passed by the Adjudicating Officer, Maharashtra Real Estate Regulatory Authority (for short "MahaRERA") .

The Petitioners have further sought for declaration that the Petitioners are not required to register the Phase of its project "Lodha Dioro" upto 40<sup>th</sup> floors under the provisions of Section 3 of the Real Estate (Regulation and Development) Act, 2016 (for short "the Act"), in view of the part occupancy certificate in respect thereof having been obtained/issued by the Mumbai Metropolitan Region Development Authority (for short "MMRDA") prior to 1st August 2017.



The relevant provisions of the Act came into force on 1st May 2017. Under Section 3 of the Act, the Promoters were required to register their ongoing projects with the concerned Authority (in the present case, MahaRERA) within three months from the date on which the provisions of the Act came into force on 1st May, 2017 (i.e. by 31st July, 2017). It is to be noted that the 2016 Act received the presidential assent on 25th March 2016.

Under the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of interest and Disclosures on Website) Rules, 2017 (for short "the Registration Rules"), Rules were made by the Government of Maharashtra in exercise of its powers conferred by Clauses (a), (ab), (ac), (b) to (k), (oa), (p) and (zf) of Sub-section 2 of Section 84 of the Act. These Registration Rules were published in the Maharashtra Government Gazette on 8th February 2016. **One such Rule being Rule 4 provides for disclosure by promoter of ongoing real estate projects. The Rule 4 (1) of the Registration Rules clarifies that the three months window for mandatory registration for each such phase of the project shall commence from 1st May 2017 i.e. when Section 3 was brought into force.**

**On 8<sup>th</sup> June 2017, a part occupancy certificate was received in respect of ground plus 40 floors of the building "Lodha Dioro". The Complainants' Flat was located on the 25th floor of the building, for which the part occupancy certificate had been issued within the three months window for mandatory registration commencing from 1st May 2017 and ending on 31st July, 2017.**

The Complainants filed complaints before the MahaRERA (the Authority under the Act) in the year 2017 inter alia alleging delay on the part of the Petitioners in handing over possession of the Flat and accordingly, seeking compensation. Since the project had not been registered with MahaRERA, the Complainants also sought directions against the Petitioners to register the project.

The Full Bench of MahaRERA had occasion to determine the issue as to jurisdiction of MahaRERA in a matter where part occupancy certificate had been received within the three month window from the commencement of Section 3 of the Act i.e. 1st May 2017. This was in the matter of the ***Mr. Prasad Patkar Vs. M/s. Runwal Projects Pvt.Ltd.*** **The Full Bench of MahaRERA by order held that MahaRERA only gets the jurisdiction to entertain complaints in respect of registered projects and**



**cannot entertain complaints in respect of projects that are not subject to registration. Since in that case the part occupancy certificate had been received in respect of B & C Towers it was held that the developer therein had rightly not registered the two towers.** It was held that since the Complainants' flat was situated in Tower B which had not been registered under the Act, MahaRERA had no jurisdiction to entertain the complaints. They were held to be not maintainable.

Being aggrieved by the dismissal of their complaints, the Complainants filed Writ Petition against inter alias the Petitioners in this Court.

The submissions of the learned Counsel for the Respondents that registration of a project is not a condition precedent for maintaining or entertaining a complaint for refund or compensation or for interest cannot be applicable to a project or phase thereof not requiring registration on account of it being completed and being issued an occupation certificate. The provision under the Act i.e. Section 59 which provides that non-registration of a real estate project is an offence & punishable therein can only apply to projects which although requiring registration has not been registered in contravention of Section 3 of the Act. It is in this context that the Division Bench of this Court held that the provisions of the Act are retroactive.

Accordingly, Hon'ble Court hold the first issue viz. whether the Adjudicating Officer had no jurisdiction to entertain the complaint as the subject project did not require registration in terms of Section (3) of the Act, in the affirmative.

Now coming to the second issue which has been raised in the Petition viz. whether the procedure and scheme of the Act warrant that it is solely within the Authority's sphere of powers to pass necessary orders and directions pertaining to aspects of registration in terms of Section 3 read with Section 31 of the Act?

Hon'ble Court find that the impugned order is passed contrary to the provisions of the Act as well as the decisions of this Court and the Supreme Court which have clearly held that the Adjudicating Officer has only the power to adjudicate compensation under Sections 12, 14, 18 and 19. It is the function of the Authority under Section 34 for registering and regulating the Real Estate Projects. **Thus it was the Authority who had the jurisdiction to decide on registration of the project under the Act. The Authority has already done so in the order dated 18th December, 2017 disposing of First Complaint of the Respondents by holding that since the part occupation**

certificate had been granted upto 40th floor which included the fact of the complainants that phase of the project did not require registration with MahaRERA. Hence, the Authority having held that it had no jurisdiction to entertain the complaint; it was not open for the Adjudicating Officer to have decided otherwise in the impugned order.

Hon'ble Court are thus of the view that the Adjudicating Officer had no jurisdiction to determine the registration of the project or phase thereof under Section 3 (1) of the Act. This was solely within the sphere of powers of the Authority to pass the necessary orders and directions pertaining to aspects of registration of the project or part thereof in terms of Section 3 read with Section 31 of the Act, being one of its functions under Section 34 of the Act. Both the issues raised in the Petition are thus decided in the affirmative and the relief sought for in the Petition requires to be granted.

Accordingly, JUSTICE K. K. TATED pass the order that this Hon'ble Court be pleased to hold and declare that in view of the Petitioner is not required to register the phase of the project "Lodha Dioro" upto 40<sup>th</sup> Floor under the provisions of Section 3 of the Act in view of the part occupancy certificate in respect thereof having been obtained / issued by the MMRDA prior to 1.8.2017.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**R/RERA APPEAL NO. 2029 OF 2021**

**Date: 01.07.2021**

**PRASHANT RAMA SUVARNA & ORS.: Petitioner**

**VERSUS.**

**MAHARASHTRA RERA & ORS.: Respondent**

**CORAM: MR. JUSTICE K. K. TATED**

**Petitioner Representative: Adv. Mr. Amrut Joshi**

**Respondents Representative: Adv. Mr. Ashutosh M. Kulkarni**

**Gist of case:** Application for early hearing rejected.

The Petitioner is seeking direction against Maha RERA to hear their complaint along with Interim Application, as early as possible.

The learned counsel for the Petitioner submits that the Petitioner, time and again, made an Application for early hearing by their Applications dated 27.08.2020, 02.09.2020, 07.09.2020 and 19.10.2020. He submits that in spite of several Applications for early hearing the Respondent has not granted any circulation. Hence, the Writ Petition.

It is to be noted that, in the present proceedings, the Petitioners filed their complaint in the month of July 2020. **Considering the present COVID-19 situation and as Respondent is functioning through video conference, we do not find any reason to entertain such type of petition to direct Respondent to decide the application made by the Petitioner, immediately, but in any case, considering the urgency in the matter, we permit the Advocate for the Petitioner to make an appropriate Application before Respondent explaining their urgency and if such Application is made, Respondent to consider the same on its own merits.**

The Writ Petition stands rejected with liberty as stated hereinabove.

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/ SPECIAL CIVIL APPLICATION NO. 9649 OF 2021**

**Date: 08.07.2021**

**SHREE NARAYAN CORPORATION**

**: Petitioner**

**VERSUS.**

**GUJARAT REAL ESTATE REGULATORY AUTHORITY**

**: Respondent**

**CORAM: MR. JUSTICE ASHUTOSH J. SHASTRI**

**Petitioner Representative: Adv.Mr. JaiminR Dav**

**Respondents representative: Adv.Shivam D Parikh**

**Gist of case:** Appellant must file appeal before Appellate Tribunal and not to High Court.

Petitions are arising out of an order dated 11.02.2021 passed by the Gujarat Real Estate Regulatory Authority in respective complaints.

When the matters are taken up for hearing learned advocate appearing for the petitioners has submitted that against the impugned order, there is a specific remedy of an appeal provided under Section 43 and thereafter, Section 58 is the provision for preferring the appeal before the High Court, in case, the person aggrieved by the decision of the appellate authority and as such, with a view to approach the appellate authority prescribed under the statute, the petitioners would like to withdraw the present petitions. However, a request is made that petitioners may be permitted to raise all contentions which are permissible in law and the contentions which have been taken in present petitions as well.

In view of this limited submission, without expressing any opinion on merit with regard to any of the stand taken in the petitions, the petitioners are permitted to avail alternative remedy for preferring an appeal before the appellate forum under the statute. As and when such appeals are filed before the appellate authority, the same shall be considered on its own merit in accordance with law without being influenced by present withdrawal of the present petitions. It is made clear that this Court has not expressed any opinion on merit with regard to any contentions mentioned in the petitions. It is open for the appellate authority to consider the appeals on its own merit in accordance with law.

## **PART-II**

### **REPORTING OF CASE LAWS**

#### **MAHARASHTRA REAL ESTATE APPEALLATE TRIBUNAL**

**APPELLANT:KumarSinew Developers Pvt. Ltd.**

**RESPONDENT: Sunil Kumar Tiwari**

**ORDER DATE: 30.06.2021**

Complainant Representative:Adv.Nimaydave

Respondent Representative: None

**Gist of Case: Condition for pre deposit u/s43(5) of RERA Act to be complied before entertaining the appeal**

This application is filed seeking entertainment of Appeal without complying with mandatory requirement of pre-depositing the amount Appeal as per Proviso to Section 43(5) of RERA.

Promoter's plea is to not insist for compliance of pre-deposit before hearing of Appeal as the above proviso applies only in case Appellant is a promoter. Learned counsel contended that Appellant is not a Promoter as per definition under RERA.

Appellant pointed out that currently Sinew Developers Pvt. Ltd. is the promoter of project in which Respondent has purchased the flat. To substantiate the point, Appellant has submitted registration details from MahaRERA portal. Accordingly, Appellant urged the Tribunal to allow the Application.

Further, it is observed that proviso to Section 43(5) of RERA envisages that without prior compliance of pre-deposit by Promoter as per impugned order an appeal shall not be entertained. It is observed that grounds raised as above by Appellant to challenge the impugned order and to support its plea for waiver of pre-deposit i.e. Appellant was not a promoter and there was no notice of hearing to Appellant prior to hearing and passing of the impugned order, pertain to merits of the matter which cannot be considered and adjudicated until Appeal is entertained. As mentioned above, Proviso to Section 43(5) prescribes deposit before entertaining the Appeal. If so, adjudication of grounds of challenge at the stage of Application under consideration for waiver or

exemption would virtually amount to entertaining the Appeal without pre-deposit. This is not permissible and thus would be violative of Proviso 43(5) of RERA.

The above view is well supported by landmark judgments of the Division Bench of the Hon'ble Punjab and Haryana High Court on specific issue of compliance to Proviso to Section 43(5) of RERA in the cases (I) CWP Nos. 14263 and 14689 of 2020 (Mis. Landmark Apartments Pvt. Lt. Vs. Union of India dated 06.10.2020), (ii) CWP No. 38144 of 2018 and other connected matters (Experion Developers Pvt. Ltd. Vs. State of Haryana and others, dated 16.10.2020) and (iii) CWP No. 8548 of 2020 and other connected matters (3anta Land Promoters Pvt. Ltd. Vs. Union of India, dated 16.10.2020).

Appellate Tribunal is of the firm view that Appeal cannot be entertained to consider grounds of challenge on merit until Promoter complies with the requirement of pre-deposit as per impugned order in terms of Proviso to Section 43(5) of RERA.

## **BIHAR REAL ESTATE APPELLATE TRIBUNAL**

**APPELLANT: M/s R.D. Eco Developers Pvt. Ltd**

**RESPONDENT: Shri Upendra Nath Singh**

**ORDER DATE: 20.07.2021**

Complainant Representative: Mr. Ranjan Kr. Dubey

Respondent Representative: Mr. Atul Kumar Mehta

Member: Mr. Justice Arun Kumar

**Gist: Completion Certificate not received before 01-05-2017. Project liable for registration. Authority has no power to adjudicate dispute between land owner and promoter.**

The appeals have been preferred challenging the impugned order dated 04.01.2021 passed in Complaint case no. 63/18 by Real Estate Regulatory Authority, Bihar, Patna (hereinafter referred as the Authority). The Authority by the impugned order has rejected the complaint filed by Upendra Nath Singh-landlord holding therein that the dispute between the landlord and the promoter does not come within the purview of Real Estate Regulatory Authority so he may approach the competent civil/criminal

court for redressal of his grievances, however, directed M/s R.D. Eco Developers Pvt. Ltd. and others-promoter of the project to get the project registered with the Authority as it was an ongoing project on 01.05.2017 failing which the Authority may initiate proceeding under section 59(1) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) by imposing penalty extending upto 10% of estimated cost of the project.

Being aggrieved by and dissatisfied with the impugned order passed by the Authority, both sides have preferred appeal before the Tribunal under section 44(2) of the Act.

The facts of the complaint case filed by Upendra Nath Singh landlord is that a registered development agreement dated 23.07.2012 was executed between landlord and builder as first and second party respectively for constructing the multistoried building comprising 38 apartments titled Kaushalya Enclave and both parties get share of 50-50%.

The learned counsel appearing on behalf of promoter M/s R.D.Eco Developers Pvt. Ltd. submitted that Upendra Nath Singh landowner also comes under the definition of promoter as both were indulged in selling of apartments.

The appellant M/s R.D.Eco Developers Pvt. Ltd. has challenged the portion of the impugned order whereby the Authority has directed to get Kaushalya Enclave project registered with the Authority within 60 days holding the project as an ongoing when the Act came into force. Learned counsel appearing on behalf of the appellant in this case submitted that Kaushalya Enclave project was completed in the year 2014 itself whereas Real Estate (Regulation and Development) Act, 2016 was enacted in the year 2016 therefore in case of completed project, provisions of registration does not apply. He further submitted that several registration of sale deeds with respect to apartments of the project were executed in the year 2014, 2015 and 2016 after its completion so the registration of project is not required under Law.

**On perusal of records the Tribunal find that the completion certificate has not been issued by the competent Authority with respect to real estate project titled Kaushalya Enclave. In view of section 3 of the Act all such real estate projects are ongoing on the date of commencement of the Act for which completion certificate has not been issued by appropriate authority. The promoters of all such ongoing projects must file an application to the Authority for registration of such projects**



**that too within a period of three months from the date of commencement of the Act. The Tribunal find no reason for interfering with the impugned order directing the promoter to get the project registered with Authority.**

For the purpose of interpreting word promoter, a person who constructs and converts a building into apartments for sale and the person who sells apartment is other person in such situation both are considered as promoters.

Contention of learned counsel for the appellant is that the Authority has got power as of the civil court under section 35(2) of the Act appears misconceived. The power under section 35(2) of the Act lies with the Authority as of civil court under Code of Civil Procedure, 1908 only with matters relating to discovery and production of books of account and other documents, summoning and enforcing the attendance of persons and examining them on oath, issuing commissions for examination of witnesses or documents and in any matter which may be prescribed.

**A dispute relating to breach of any terms and conditions of the agreement executed between two promoters does not lie within the ambit of the Act for adjudication of such dispute rather appropriate forum is the civil court or any other forum of competent jurisdiction. Therefore, the dispute regarding development agreement between promoters and allegation of false signature in the application filed for sanction of building plan as well as dispute regarding payment of consideration money against sale of flats in between promoters does not come within the jurisdiction of the Authority.**

**APPELLANT: Green Homes Properties Private Ltd**

**RESPONDENT: Sri Rahul Kumar Dokania**

**ORDER DATE: 20.07.2021**

Complainant Representative: Mr. Sanjay Singh Thakur

Respondent Representative: Mr. Bhola Shankar

Member: Mr. Justice Arun Kumar

**Gist: Allottee must be fairly compensated for unscrupulous activities of builders.**

The appeal has been preferred by appellant, Green Homes Properties Private Ltd./promoter under section 44(2) of the Real Estate (Regulation and Development) Act, 2016 against the impugned order dated 2.11.2020 passed whereby Adjudicating

officer of the Real Estate Regulatory Authority has decided various issues first holding therein that the complaint filed by respondent/allottee is maintainable, second, that lacks jurisdiction in directing promoter for giving delivery of possession flat no. 404 in block A of the project Panchu Green Homes to the complainant. However, promoter has been directed to refund the major part of paid consideration amount of Rs. 31,35,550/- to the allottee Rahul Kumar Dokania along with compound interest @ 9.3% to be compounded every half yearly with respect till date of making payment to the allottee/complainant by the promoter. He has also directed the promoter to refund registration charge amounting to Rs. 75,450/- to the allottee but without any interest and awarded compensation of Rs. 5,50,000/- and lastly also awarded Rs. 25,000/- as cost of litigation.

**The present case is glaring example showing unfair action of an unscrupulous builder exploiting buyers of flat in his interest and to curtail such evil practices, the present Act has been passed by the Parliament.**

The appellant/allottee in the present case suffered huge financial as well as serious mental harassment for a long period on account of getting long delay in completion of the project and resale of the flat to other person by the promoter in lesser amount. In the case at hand the promoter promised to construct the building and to give possession of the flat by the end of one year since execution of agreement for sale but admittedly the project was not only completed within a year i.e. by end of 2014 even till date completion certificate has not been obtained meaning thereby the construction is not complete.

Transaction of resale of the flat by the promoter after illegally cancelling booked flat of the respondent is contrary to law. Adjudicating officer has rightly observed that as concerned flat has been sold to some other person so it cannot be set aside by the adjudicating officer i.e. beyond the scope and jurisdiction of the Real Estate Regulatory Authority rather in this regard remedy lies before competent civil court.

The Tribunal found that the compensation awarded by the Adjudicating officer is inadequate.

**It has been ascertained by adjudicating officer as reflected in the impugned order that respondent/allottee has paid Rs. 8, 51,412/- by way of interest accrued on the loan amount sanctioned by Bank of India for the purchase of flat. The second**

most important factor in this case is steep increase in price of flat in last six years. The price of flat in the year 2021 is much higher in comparison to 2013. At the time of booking of concerned flat, in year 2013 cost of the flat was charged Rs. 34 lacs which means at the rate of approximately Rs. 3400/- per square feet. At present after lapse of six years the price of flat must have increased substantially as a result of inflation. At present cost of an apartment at the rate of Rs. 5,000/- per sq. fit is notionally assessed so cost of flat of same dimension comes to Rs. 52 lacs. The difference of Rs. 52 lacs minus Rs. 34 lacs comes to Rs. 18 lacs. The Tribunal considering this factor of escalation in price of flat raises the compensation amount from Rs. 5,50,000/- to Rs. 18 lacs, hence the promoter/appellant is directed to pay back advanced principal amount Rs. 31,35,550/- to Rahul Kumar Dokania with 9.3% of compound interest as directed by Adjudicating officer i.e. at 2% above the prevalent Prime Lending Rate of State Bank of India prevailing on the date the amount becomes due and further to pay Rs. 18 lacs of compensation as directed by the Tribunal .

Hence the promoter is hereby directed to pay the said amount along with increased compensation, litigation cost and registration charges as awarded in the impugned order within two months otherwise Adjudicating officer shall proceed in accordance with law to realize the amount for paying back to the respondent. However, before parting with the judgment the Tribunal reiterate for taking action under section 59(1) of the Act against appellant/promoter for continuing with concerned real estate project without registration even after the Act coming into force or became operational.

**APPELLANT:Narendra Prasad Gupta**

**RESPONDENT: M/s Bihar Homes Developers and Builders and ors.**

**ORDER DATE: 20.07.2021**

Complainant Representative: Mr. Rakesh Roshan Singh

Respondent Representative: Mr. Upender Thakur

Member: Mr. Justice Arun kumar

**Gist:There is dispute between land owner and developer before registration of project. Consent of land owner is required. Direction given for revocation of project u/s 7 of RERA Act of the projects registered.**

The appeal has been preferred by the appellant under section 44(2) of the Real Estate (Regulation and Development) Act, 2016 for setting aside the registration by the Authority with respect to real estate project namely Vrindavan Garden on the application submitted by M/s Bihar Homes Builders & Developers Private Ltd (respondent no.1) of the appeal.

**Narendra Prasad Gupta is the land owner over which Vrindavan Garden, a real estate project is registered by the Authority. There is a development agreement in between Narendra Prasad Gupta and M/s Bihar Homes Builders & Developers Private Ltd. However, there is allegation leveled by land owner against the builder of committing fraud in the development agreement and has also filed civil suit for setting aside the development agreement as well as criminal complaint case registered under sections 406, 420, 467,468, 471 and 120(B) of the IPC and under section 138 of the N.I.Act. The appellant filed complaint case no. 107/18 dated 23.10.2018 before the Real Estate Regulatory Authority for rejecting registration application filed by the respondent/promoter with respect to Vrindavan Garden, a real estate project on the ground of breach of contract, forgery and fraud alleged to have been committed by the promoter.**

Learned counsel appearing for the appellant submitted that a complaint petition was filed by the appellant on 23.10.2018 for rejecting the registration application of the project was filed by the respondent before the Authority but the application was defective and not the order due to non-completion of provision laid down in Rule 3(f) of Bihar Real Estate (Regulation and Development) Rules, 2017. The land owner requested the Authority by filing a complaint for rejecting registration application of the concerned project Vrindavan Garden. Initially during course of hearing of the complaint by order dated 30.1.2019 the **Authority passed an interim order to keep the application for registration of the said project on hold till finalization of this case but surprisingly registration was granted by the Authority during the pendency of the complaint and this fact is admitted by the Authority** in the counter affidavit dated 25.2.2021 that due to negligence of then court master of the Authority, the interim order was not communicated to the registration wing of the Authority therefore, registration could not be stopped and registration was granted. Now the stand of Authority is that appellant may approach the Authority under section 7 of the Act for revocation of registration. **Learned counsel submits that the Authority failed to appreciate that development agreement becomes questionable as land owner has filed suit for setting aside development agreement** and also appeared

before the Authority prior to filing of registration application by promoter for not granting registration to the project due to such dispute.

**Learned counsel appearing for respondent first of all contends that this application is barred by limitation as dispute raised by appellant is devoid of merit and does not come under the purview of Real Estate(Regulation and Development) Act, 2016. Learned counsel further submitted that now the present appeal is in fact infructuous in view of final order dated 4.1.2021 passed by the Authority which is reasoned order passed after hearing both sides and any interim order passed earlier by the Authority now does not hold any merit as final order granting registration has already been passed. The appellant/land owner is harassing respondent only with intention to extort money. The criminal and civil dispute raised by the appellant does not lie within the jurisdiction of the Authority as the appellant has filed T.S.No. 397/19 and criminal case 1865/19 and the Authority has rightly held that such dispute between land owner and promoter relating to development agreement is outside its purview.**

As far as limitation in filing of appeal is concerned, there is delay of approximately seven months as the order granting registration is dated 25.10.2019 and the appeal was filed on 5.10.2020. In view of section 44(2) of the Act appeal shall be preferred within a period of 60 days from the date on which a copy of the direction or order or decision made by the Authority or the adjudicating officer is received by the aggrieved person. **However the appellate Tribunal may entertain any appeal after expiry of sixty days if there is sufficient cause for not filing it within that period. Considering outbreak of pandemic of Covid 19 followed by lockdown disrupting in normal work in offices and courts for the said reason the limitation period of this case is hereby condoned.**

Now only question to be determined in this case is whether granting of registration bearing no. BRERAP00630-1/710/R-799/2009 dated 25.10.2019 by the Authority with respect to Vrindavan Garden is in accordance with Real Estate (Regulation and Development) Act, 2016 and Bihar Real Estate (Regulation and Development) Rules, 2017?

So it is a matter of enquiry under what circumstances the order is missing with the LCR of the complaint case as well as why it was not placed in the record of registration proceeding. A promoter is required to file an application for registration of

real estate project enclosing format with requisite fee and several mandatory documents as well as informations required as per section 4 of Real Estate (Regulation and Development) Act, 2016 Act and Rule 3 of Bihar Real Estate (Regulation and Development) Rules, 2017.

Considering nature of dispute in the present case, rule 3(f) of Bihar Real Estate (Regulation and Development) Rules, 2017 is relevant.

**This rule requires a promoter to submit details of consent of owner of land along with copy of collaboration agreement, development agreement, joint development agreement or any other agreement besides copies of title and other documents reflecting the title of such owner on the land on which project is proposed to be developed. The consent is in addition to the development agreement.**

The Tribunal find that land owner prior to filing of registration application of the concerned project had filed a complaint application for not registering the project. The express consent of landlord is one of essential documents for registering the project in view of Rule 3(f) of Bihar Real Estate (Regulation and Development) Rules, 2017, however registration of the project was granted by the Authority in spite of objection filed, moreover final order in complaint proceeding was passed on 4.1.2021 while the matter was subjudiced before the Tribunal. The Authority has not appreciated the core issue involved in the case while deciding the matter by order dated 4.1.2021. Real estate project can only be registered if all documents mandatory in nature for registration purposes under the Act and Rules are submitted before the Authority and the Authority requires carefully examining or scrutinizing the application and all desired documents for registration purpose.

**Once registration of a real estate project is granted by the Authority, in appropriate case the registration earlier granted may be revoked only under section 7 of the Act subject to satisfaction of conditions enumerated therein. Revocation or cancellation of registration may be done only after giving notice of thirty days to the promoter stating grounds for revocation and considering the reply appropriate order is to be passed according to section 7 of the Act.**

**It is a fit case wherein the Authority is recommended for initiating a proceeding under section 7 of the Act for revocation of registration granted as the promoter defaulted in compliance to Rule 3(f) of Bihar Real Estate (Regulation and**

Development) Rules, 2017 and to pass appropriate order expeditiously in accordance with law.

## **RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL**

**APPELLANT: South Ex-Residents Welfare Society**

**RESPONDENT: Virgo Buildstate Pvt. Ltd. & Ors**

**ORDER DATE: 27.08.2021**

Complainant Representative: Mr. Ravi Bhojak

Respondent Representative: None present

Member: Mr. Justice Veerendr Singh Siradhana

In the present case the learned counsel for the appellant vehemently argued that the impugned order dated 18th June, 2021 passed by Rajasthan Real Estate Regulatory Authority (RERA), Jaipur is violative of the cardinal principles of natural justice for the complainant/counsel was not provided any link on the web portal of RERA, Jaipur, to join the proceedings/hearing on 18th June, 2021. It is further stated that the counsel for the complainant-society was informed only on cell phone. For there was no link provided to join the hearing through Video Conferencing; the impugned order made by RERA, Jaipur, ex-parte is bad in the eye of law.

Learned counsel referred to the mandate of Section 21 of the Rajasthan Real Estate (Regulation & Development) Act, 2016, contended that Section 21 in details out the 'Composition the Authority', which shall consist of a Chairperson and not less than two whole time Members to be appointed by the appropriate Government. Referring to an interim order made by a Division Bench of the Hon'ble High Court of Rajasthan, at Jaipur Bench, Jaipur; in D.B. Civil Writ Petition No.1456/2021 instituted on behalf of M/s. Avalon Projects, pointed out that validity of Regulation 9 of Rajasthan Real Estate Regulatory Authority Regulations, 2017 framed by RERA, Jaipur, is pending challenge in the proceedings aforesaid and vide interim order dated 28th April, 2021, the Division Bench has stayed the proceedings pending, qua the petitioner in that case, before the RERA, Jaipur.

Issue notice to the respondents returnable within six weeks. Learned counsel for the appellant would do the needful to deposit the pre-requisites within ten days from today.



In the meanwhile and till next date, the effect and operation of the impugned order dated 18th June, 2021 of RERA, Jaipur shall remain stayed.

**RAJASTHAN REAL ESTATE REGULATORY AUTHORITY**

**COMPLAINANT: NITIN KUMAR GOYAL**

**RESPONDENT: ELDECO INFRASTRUCTURE & PROPERTIES LTD.**

**MEMBER: SHRI NIHAL CHAND GOEL**

**ORDER DATE: 19.07.2021**

Complainant Representative: Adv Vaishali Goyal

Respondent Representative: Adv Arnav Singh

**Gist of Case: The respondent has failed to comply with this Authority's orders.**

The present complaint was decided by the Authority vide its order dated 25.04.2019, whereby the respondent was directed to refund to the complainant an amount of Rs.19,26,990/- along with interest at the rate of 10.70 per cent p.a., from the date of each deposit to the date of refund and 45 days were allowed for compliance of this direction.

Counsel of the complainant states that more than two years have passed since this Authority decided the complaint on 25.04.2019 and gave directions to the respondent to refund the deposited amount along with interest within 45 days from the date of order. But the respondent has not complied with the Authority's aforesaid order dated 25.04.2019 till date despite the subsequent order of this Authority dated 15.01.2020 passed in the present execution proceedings. The complainant cannot wait indefinitely for enforcement of the order.

Counsel of the respondent submits that the respondent has filed an appeal, against the aforesaid orders of the Authority, before the Hon'ble Rajasthan Real Estate Appellate Tribunal, Jaipur on 04.07.2019. As the Hon'ble Tribunal was not functioning at that time, they have also filed S.B. Civil Writ Petition No.16531/2019 before the Hon'ble Rajasthan High Court, Jaipur. As the Hon'ble Tribunal has now become functional, the respondent will soon be making the necessary pre-deposit as per the provisions of the Act, whereafter the appeal will be taken up for hearing. Therefore, he prays for some more time for the respondent to be able to obtain a stay order from the Hon'ble Tribunal.

Having heard counsels of the parties, we find that the respondent has failed to comply with this Authority's aforesaid orders dated 25.04.2019 and 15.01.2020, without any good reason. Under clause (f) of section 34 of the Act, the Authority is duty-bound to enforce its orders, unless there be any direction to the contrary from any superior forum. Since in the present matter, there is no such direction from any superior forum, we would like to proceed with the implementation of our orders dated 25.04.2019 and 15.01.2020 under section 40 of the Act, the appeal and the writ petition notwithstanding.

**Since the respondent has also failed to comply with the orders passed on 15.01.2020 in the present execution proceedings, there appears no other alternative but to order civil imprisonment of directors of the respondent company. In the first instance, a show cause notice shall be issued to Shri Pankaj Bajaj, Managing Director of the respondent company under Order 21 of the Code of Civil Procedure, 1908 and he shall be directed to remain present in person in court on the next date of hearing, i.e., 23.08.2021, failing which, warrant of arrest will be issued against him.**

**On that date, the respondent will also be required to explain why this Authority should not take over the project under section 8 of the Act, as registration of the project has lapsed on 31.03.2021.**

**COMPLAINANT: SUO MOTO**

**RESPONDENT: BHOOMISHIV BUILDERS LLP**

**MEMBER: SHRI SALVINDER SINGH SOHATA**

**ORDER DATE: 23.07.2021**

Complainant Representative: Mr. Gaurav Gidwani

Respondent Representative: None

**Gist: Penalty to be imposed on promoter for non submission of required information for change in bank account.**

The brief facts of the case are that project 'Miracle' is registered with the Authority by the respondent. On the basis of the application submitted by the respondent, change of Bank Account No. (Escrow account) was allowed on the following terms and conditions on 28.08.2020:-

1. Close the existing account and transfer/deposit its balance into new account.
2. Download Form-C and R-4D and get the signature by the concerned and then
3. Submit Form R-4B online, along with Form R-4C, R-4D and proof of closure of old RERA Account (i.e. Account statement, copy of pass book or letter of Bank) within 30 days.

Promoter is asked to submit requisite information after failing to submit compliance. But promoter is not paying any heed towards the directions of the Authority which attracts towards non-compliance of the directions.

The main thrust of the Act is upon transparency and accountability of the promoter. The Authority has expected promoter to transfer the funds deposited by him in the previous Bank Account. The promoter malafidely or unintentionally had not carried out directions of the Authority.

**Non-compliance of the directions issued by the Authority is proved, hence it attracts penalty provision by influx of the provisions of section 63 of the Act. Accordingly, Rs.5 lac penalty is imposed against the promoter.**

Promoter is expected to submit the requisite information within 30 days accordingly and deposit penalty amount within 30 days of the order published on the website of the Authority.

**COMPLAINANT: SUO MOTO**

**RESPONDENT: SUWALKA AND SUWALKA PROPERTIES AND BUILDERS PVT LTD.**

**MEMBER: SHRI SHAILENDRA AGARWAL**

**ORDER DATE: 27.07.2021**

Complainant Representative: AdvGarvit Agarwal

Respondent Representative: AdvShruti Rai

**Gist: Completion certificate not uploaded in time. Penalty imposed.**

In the present matter, a notice was issued under section 8, 35, 37, 38 and section 61 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act')

to the respondent promoter, whose project “SUWALKA RIDDHI SIDDHI RESIDENCY” bearing registration No. RAJ/P/2017/169 was valid upto 2019, but the said project was neither completed nor an extension of registration was obtained by the respondent beyond 14.10.2019.

Respondent representative appeared before this Authority and pleaded that a completion certificate was obtained from an empanelled architect, which is on record. According to the completion certificate, the project was completed in accordance with the approved plan for which a completion certificate was issued by him on 06.10.2019. She further stated that they could not upload the completion certificate in accordance with the Rules but have now uploaded the certificate yesterday, as a result, the project remained lapsed from 06.10.2019 to July, 2021, a period of about two years, during which the allottees or the Authority did not have any information about the status of the project. This Authority accepts the completion certificate on record. **However, since the completion certificate was not uploaded in time and the status of the project remained uncertain for over two years, a penalty of Rs. 25,000/- under section 61 of the Act is justifiable.**

Accordingly, we impose a penalty of Rs.25,000/- under section 61 of the Act on the respondent. The said penalty amount shall be deposited by the respondent with this Authority within forty five days and submit a compliance report within 15 days thereafter.

**COMPLAINANT: SUO MOTO**

**RESPONDENT: ARIHANT SUPERSTRUCTURE Ltd.**

**MEMBER: SHRI SALVINDER SINGH SOHATA**

**ORDER DATE: 29.07.2021**

Complainant Representative: Mr. Gaurav Gidwani

Respondent Representative: AdvShruti Rai

**Gist: Completion certificate not issued before 01-05-2017 as per Guidelines of Government Project liable for registration**

In present case respondent published an advertisement in edition dated 25.01.2020 in Rajasthan Patrika for the projects ‘ArihantAyati’ and ‘ArihantAgrima’. It is pertinent to mention here that both the projects are not registered with the Authority by the promoter.

A separate notice for the each projects was issued against the respondent under section 3, 11 (2) and read with section 59 of the Rajasthan Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the Act'). Respondent filed reply for both the projects and it is claimed that completion certificate by the empanelled architect was issued on 24.04.2017 for the ArihantAyati project and on 25.04.2017 for ArihantAgrima project.

**On the day issuance of completion certificate, the empanelled architect was not authorized to issue completion certificate at his own level under the directions issued by the Department of Urban Development and Housing vide order No.F.10(7)NVV/NAHP/2010 Pt.III dated 22.02.2017.**

Completion certificate were issued by the empanelled architect for both the projects prior to promulgation of the Act i.e. on 01.05.2017, but the application is submitted before the competent authority respectively on 20.06.2017 and 30.06.2017 for the projectsArihantAyati and ArihantAgrima respectively.

Keeping in view the provisions entailed at clause-IV of explanation attached to rule 4 of Rajasthan Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as 'the Rules'), the aforesaid act of respondent does not make entitlement for the exclusion from Registration of the aforesaid projects.

**Therefore, a penalty for Rs.50,000/- for each of the projects is imposed in addition to requisite fee or any other charges for the registration of the project.**

**The respondent is directed to register its projects with the Authority within 45 days of uploading of the orders on Website of RERA.**

**COMPLAINANT: SUO MOTO**  
**RESPONDENT: PRASHAVNATH BUILD HOME**  
**MEMBER: SHRI SALVINDER SINGH SOHATA**  
**ORDER DATE: 26.08.2021**

Complainant Representative: Mr. Gaurav Gidwani

Respondent Representative: CA PuruKhandelwal

**Gist: Lack of remittance of requisite fee with the Local Bodies; the certificate issued by the Architects/Chartered Engineers appears to be illegal or invalid.**

The brief facts of the case are that a notice under section 8 of the Rajasthan Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the Act') was issued against the respondent for project 'Parshavnath Pleasant' is lapsed on 31.07.2018. It was expected from the promoter either to submit the Completion Certificate of the project or apply for extension of validity of registration of project. Meanwhile, respondent was restrained for sale or booking of any unit with regard to the project.

Respondent stated that Completion Certificate and Occupation Certificate are obtained from Empanelled Architect and uploaded accordingly, and prayed for discharge the notices.

After examination of the Completion Certificate and Occupancy Certificate, it was noted that Empanelled Architect has issued the aforesaid Certificate and the following remarks are depicted therein:-

***“Any dues and fee for obtaining the completion certificate to be deposited in the concerned Urban Local Authority by the developer”.***

The aforesaid note mentioned in the certificates proves that requisite fee prescribed for the issuance is not remitted with the Competent Authority which is pre-requisite in reference to Local Bodies. In this regard, vide direction No. F.10(7)UDA/3/2009 Pt.III Dated 01.05.2017, empanelled architects were authorised to issue Completion Certificate or Occupancy Certificate with regard to residential projects under the provisions of Building Bye-laws and orders issued in this respect on 22.02.2017 by the Department of Urban Development and Housing. The item No.2 of the direction dated 01.05.2017 mandates that copy of the receipt of dues and fee for Completion Certificate to be deposited in the concerned Urban Local Authority by the developer. Accordingly, it is undoubtable that requisite fee by the promoter is to be deposited prior to issuance of the Completion Certificate or Occupation Certificate. It is obvious that Empanelled Architects or Chartered Engineers are not drawing their powers for issuance of these certificates through the statutes. The Architects/Chartered

**Engineers are exercising the delegated powers of the Local Bodies/Competent Authorities.**

Keeping in view the aforesaid guidelines dated 01.05.2017 in lack of remittance of requisite fee with the Local Bodies/Competent Authorities; the certificate issued by the Architects/Chartered Engineers appears to be illegal or invalid.

Authority does not have to adjudge the validity of the certificate issued by the Competent Authority, but it requires to be looked into if the aforesaid certificates are being issued by the delegated authorities, they are as per established procedure of law. In case the legal procedure is not being adopted for issuance of the aforesaid certificates by the delegated authority, legal title is not conferred through the documents issued by such delegated authority without following the procedure established by the mandatory guidelines.

**Once a specific depiction is made in the Completion Certificate/Occupancy Certificate that requisite fee payable to Local Body or Competent Authority is not paid, the certificate issued by the delegated authority i.e. Chartered Engineer/Empanelled Architect is not required to be considered accordingly, until and unless a proof for remittance of fee is produced along with the certificate. The proof may be in the form of copy of receipt issued by the Local Authority or invariably, there should be a mention in the certificate for the detailed particulars of the remittance i.e. name of the Local Body/Competent Authority, receipt no., amount and date of remittance or if paid through online the transaction ID No. etc.**

The Project Cell/Registry of the Authority is directed to examine the Completion Certificate/Occupancy Certificate submitted by the promoters as mentioned above. The case was adjourned as representative of the respondent prayed for submission of the requisite documents.

**BIHAR REAL ESTATE REGULATORY AUTHORITY**

**COMPLAINANT: SUMAN KUMARI &Ors**

**RESPONDENT: M/S AGRANI GROUP OF COMPANIS**

**ORDER DATE: 05/07/2021**



Complainant Representative: Adv. Mr. Bipin Bihari  
Respondent Representative: Mr. Alok Kumar, M.D.

**Gist: Strict instruction given to promoter due to various non-compliances.**

The Authority noticed that there are several cases wherein Section 59 (1) and (2) may be imposed and enough leverage till date has been given but onwards action under Section 3, 7 and 63 may be used against the respondent company.

**The Authority further finds that several projects have been abandoned and withdrawn by the builder and directed the MD of the respondent company to register all those projects in which they are interested to complete and in all such matters, RERA will examine whether their plan(s) has expired or not.**

**The Authority made it clear to the MD of the respondent company that in all those projects where work is in progress, RERA will definitely assist but where project(s) has not been taken up, money of the depositors must be refunded.**

**The Authority pointed out that out of 24 projects, the respondent has withdrawn 8 projects and prayed for time in remaining 16 cases which was given.**

#### Order

After hearing all shades of opinion from the Complainants and Respondent's request for a short time adjournment as his senior counsel was not available, the Bench directed the Respondent company to fulfill their long standing commitment of refunding the deposits of all complainants along with due interest without any further delay. The Bench recalled that the Respondent counsel has been committing since mid-February 2021 to make significant development in refund process but no refund has been made in last 4 months.

**The Bench noted that the respondent company has not yet realized the committed Rs 13.75 crore from the Plan 1 submitted by them in March, 2021. The Bench directed the Respondent MD to submit the contact address and number of landowners of all 17 projects, which he had agreed to cancel development agreement under Plan 1, within 24 hours of the completion of hearing. The Bench expressed its displeasure over submission of an unsigned and undated letter**

**purportedly sent by MrAlok Kumar in a late night email communication in which the mobile numbers of landowners of 7/8 projects were provided.**

The Bench also directed the respondent company to give a notice for the cancellation of the agreement of sale with Ruben Patliputra Hospital Pvt Ltd for their Patliputra property as they have not deposited the balance amount of Rs 1, 88, 54,098 to the Authority without anyfurther delay. The Bench reiterates that the first charge on the sale proceeds of the A-15, Patliputra Colony was that of allottees/consumers as the said property was purchased by MrAlok Kumar after taking a loan of Rs 6 Crores from M/s Agrani Home Pvt Ltd.

**The Full Bench also reiterated its earlier direction given In terms of powers conferred under Sec 35(1) of the RERA Act read with Rule 24 (1) (a) of the Bihar RERA Rules, to the promoter – the respondent company to submit the following documents:**

- 1. Bank statements showing the entire trail of transactions from the date of receipt of money from allottees since 2010 or date of incorporation of the respondent company, whichever is earlier along with their linkage with the audited annual accounts of the companies;**
- 2. Affidavits showing details of all assets, physical or financial, acquired by the Directors (Past/Present) of the company and their close relatives, either in individual capacity or as partners or Directors in various companies, year wise starting from 2010;**
- 3. Income tax returns of all individuals mentioned in ii) above, year wise starting from 2010;**
- 4. Details of salary drawn by the Directors and officers and the source of such operating surplus, year wise;**
- 5. Agenda papers and minutes of all meetings of the board of directors of all companies in which large transactions of Rs 5.00 lakh or more with Directors/related parties were either reported or approved;**

**6. Copies of financial statements for the FY 2018-19 & 2019-2020 filed before UP RERA and to Registrar of Companies.**

**and expressed its displeasure over non-submission of the relevant information within stipulated time period. The Bench once again directs the respondent company to submit the entire information/documents within a week failing which a penalty of Rs one lakh will levied for every day delay on the respondent company and a penalty of Rs 50000 per day on each directors (Past/Present) for everyday delay.**

The Bench also directs all the directors (Past/Present) to remain personally present on each date of hearing.

The complainant Akhileshwar Kumar Singh stated that he paid the total amount of Rs 24.74 lakh in 2013 in IOB Nagar E Block project which was to be handed over in December, 2016. However, the developer allotted the flat in November, 2017 which was under landlord's share and under pressure from the landlord, the said flat was vacated and he is now living on rent. He requested for allotment of flat and compensation for rent.

He further submitted that he and other allottees are ready to give money through RERA for completion of the project and have formed their association. They have talked to another agency M/s Sarveshwara Realtors Pvt Ltd who is ready to complete the project through the association of allottees.

Mrs Ruby Singh MD of M/s Sarveswara Realtors also appeared and submitted that they are ready to undertake the work and receive money through RERA via Mr Alok Kumar of M/s Agrani Homes Pvt Ltd.

The Authority made it clear that RERA will hand over cheque collected/ deposited through the promoter Agrani Homes Pvt Ltd and will not entertain M/s Sarveshwara Realtors Pvt Ltd for payment regarding project E Block.

**ORDER**

After hearing both the parties and going through the relevant records, the Full Bench working as Authority under the RERA Act gives the following directions:

- i) The remaining works in E-Block of IOB Nagar as per the agreement between the promoter and allottees would be completed within a period of three months of the date of issue of the order. In the event of failure of the promoter to comply with the direction of the Authority, a penalty of Rs.5, 000.00 (Rupees Five Thousand only) will be imposed for everyday of delay after this period.**
- ii) Every allottee will make necessary payment up to 90% of the Project cost as per Section 19(6) of the RERA Act.**
- iii) Considering the trust-deficit between the allottees and the promoters, the Authority allows the allottees in case they desire to send their Demand Draft/ Bankers cheque in the name of Promoter in RERA office. Mr. Rajesh Thadani, Officer on Special Duty will keep those Demand Drafts/ Bankers cheque, in safe custody.**
- iv) The promoter will prepare an assessment of the work till date, which will be verified by a team consisting of Civil Engineer, Architect and Chartered Accountant and submit the same to the Authority and to the association of allottees. After fresh construction work, the promoter will get it verified by an independent team consisting of Civil Engineer, Architect and Chartered Accountant, which will submit a report to OSD, RERA, who on perusal of the report would release Demand Draft/ Bankers cheque sent by the allottees to the promoter in proportion to the work done as certified by them. The promoter will place it on the website and web page of the RERA site.**
- v) The Authority will have a lien over all unsold flats, if any, in the E Block, IOB Nagar until further orders.**

**PART-III**  
**NOTIFICATION & CIRCULARS**

**KERALA REAL ESTATE REGULATORY AUTHORITY**

K-RERA/T3/102/2020 Date: 30<sup>th</sup> June,2021

**Sub: Date extension for uploading the details of Projects already registered to Web Portal:**

Ref: 1. Public notice K-RERA/T3/102/2020 dated 22-04-2021  
2. Public notice K-RERA/T3/102/2020 dated 30-05-2021  
3. Public notice K-RERA/T3/102/2020 dated 29-06-2021

The Authority, vide Public Notices referred above, had conveyed that the Authority had developed its Web based online system and directed the Promoters to upload the details of Projects already registered in the Web Portal by 30/06/2021, as provided under Section 11 of the Real Estate (Regulation & Development) Act, 2016 r/w Rule 17 of Kerala Real Estate (Regulation & Development) Rules, 2018.

Considering the second wave of Covid -19 pandemic related restrictions and lock downs imposed recently by the Government in different areas, the Authority hereby extends the timeline for uploading the details of already registered projects and quarterly progress report in the web page to 15/07/2021. The list of defaulters will be published in K-RERA web site on 16/7/2021.

In this connection, we hereby invite the attention of all the Promoters concerned that as per Section 11 of the Act, it is mandatory for the Promoters of Real Estate Projects to enter all the details of the project in the web page as provided under Section 4 of the Act. Section 34 (b) of the Act stipulates that it is the function of this Authority "to publish and maintain a website records, for public viewing, of all real estate projects for which registration has been given, with such details prescribed under Rule 17 of the Rules, 2018, including information provided in the application for which registration has been granted". Moreover Section 34 (c) of the Act specifies that, the Authority shall maintain a data base on its website, for public viewing, and enter the names and photographs of promoters as defaulters including the project details, registration for

which has been revoked or have been penalized under this Act, with reasons therefor, for access to the general public".

It is to be noted further that if the data pertaining to the real estate project and its quarterly progress updates are not uploaded in the web page, it will not be visible to the public and it will affect such projects as well as the Promoters most adversely.

Hence in exercise of the powers conferred under section 37 of the Act 2016, the Authority hereby directs all the Promoters to strictly adhere to the above instructions and informs that if the data regarding the registered projects and their quarterly progress updates are not uploaded as per above instruction, it will amount to contravention of Section 4 & 11 of the Act and such defaulters shall be liable to a penalty which may extend up to 5% of the estimated cost of the project, as provided under section 60 & 63 of the Act.

### **RAJASTHAN REAL ESTATE REGULATORY AUTHORITY**

No. F1(221)RAJ/RERA/2021/D-833

Date – 01<sup>st</sup> July, 2021

#### **Sub: Organizing camp for pending online applications of Extension and Map Revision.**

To facilitate the promoters, Authority is now fully functional with all its online services whereby promoters can modify/update/correct any of the details/ documents of their registered projects.

But it has to the notice of the Authority that some promoters are not filing properly, the online applications of Extension and Map Revision, i.e., either submitting incomplete applications or filling incorrect data. For this, number of times, the Authority has informed the concerned promoters to fulfill the pendencies/ deficiencies in the online applications, but these have not been addressed by them. Therefore, their applications have remained pending for long.

In order to dispose of these pending online applications of Extension and Map Revision, the Authority is organizing a camp on 12th - 13th July, 2021, list of pending applications is annexed herewith. Promoters are advised to complete the pendencies/ deficiencies in the online applications, on or before this scheduled date of camp or

otherwise, if there are any doubts/issues, Authority is facilitating to resolve it in the scheduled camp.

If pendencies/ deficiencies in the online applications are not complied with, by the concerned promoter on or before the scheduled date of camp, then, Authority will finally reject their applications and take necessary action against the concerned promoter under the provisions of the Real Estate (Regulation and Development) Act, 2016 and rules & regulations made thereunder.

This issues with the approval of Hon'ble Chairman.

### **BIHAR REAL ESTATE REGULATORY AUTHORITY**

Date: 15<sup>th</sup> July 2021

All promoters real estate projects (Residential, Commercial, Mixed, Plotted Developments) whose projects have been registered with the Real Estate Regulatory Authority (RERA), Bihar, are required to get their map revalidated/re-approved based on the date of sanction of the map by the competent authority as per Bihar Building Bye-laws 2014 as amended from time to time.

Section 9 of the Bihar Building Bye-laws 2014 states that "Every permission granted under these bye laws shall remain valid up to three years from the date such a permission is granted. The completion certificate shall have to be submitted within this period. However, in case of failure to submit the completion certificate within the prescribed period, the permission shall have to be revalidated before the expiry of the above period on payment of such fee as may be prescribed by the authority and such revalidation shall be valid for another two years."

Section 9 further reads: If the building/development work is not completed within the above mentioned five years period, the applicant shall make a fresh application for approval of the building /development plan. In the light of provision made in Section 9 of the bye-laws, it becomes necessary for the promoters to get their map revalidated by competent authority if work is not completed in three years.

In case five year period has lapsed since approval of the map, then the promoter needs to get fresh approval of the building /development plan from the competent authority.



The Patna Metropolitan Area Authority (PMAA) has brought to the attention of RERA Bihar recently that registration of the ongoing Projects or under construction buildings/new buildings or plotted developments falling under the jurisdiction of PMAA are not required to be done without approval of building map/layout plan by PMAA. In recent years, Government of Bihar, Urban Development and Housing Department have constituted and notified many planning areas in several districts of the state. In such planning areas, the approval of the building plans /development plans are required to be done by the concerned Planning Authority.

Keeping the above facts in mind, promoters, who have registered their ongoing projects located under the jurisdiction of PMAA/ other Planning areas with RERA Bihar are directed to get their building plans/development plans/layout plans revalidated/re-approved by PMAA/ other planning authorities as required under the relevant statutes/rules within three months of issue of this order.

RERA, Bihar will initiate the process of revoking the registration granted to the projects against defaulting promoters under relevant sections /rules of Real Estate (Regulation & Development) Act, 2016 and Bihar Real Estate (Regulation & Development) Rules, 2017 in case of non-compliance of this directive. This is being issued with the approval of the Competent Authority.

### **ODISHA REAL ESTATE REGULATORY AUTHORITY**

No.MISC-25/21/ORERA/No-2009

Date:15<sup>th</sup> July, 2021

**Sub- Direction on requirement of registration of the projects coming under section 3(2)(a) of the real estate (regulation & development) act, 2016.**

#### **ORDER**

A question is raised if registration is necessary for a project where the area of the land proposed to be developed does not exceed 500 square meters or the number of the Apartment proposed to be developed does not exceed 8 inclusive of all phases. There is no ambiguity in the provision that needs a clarification.

A project is exempted from registration within the scope of Section 3(2)(a) of Real Estate (Regulation & Development) Act, 2016 which reads:

*"(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required-*

*(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases".*

Both the clauses are to be read disjunctly and not conjointly.

If the land area does not exceed five hundred Square meters, but the apartment proposed to be developed exceeds eight inclusive of all phases, there is no requirement of registration.

Similarly, if land area is more than five hundred Square Meters, but the apartment proposed to be developed does not exceed eight inclusive of all phases, no registration is required to be taken from this Authority.

The order to the above effect is passed in exercise of power conferred on this Authority U/s 37 of Real Estate (Regulation & Development) Act, 2016.

### **KERALA REAL ESTATE REGULATORY AUTHORITY**

K-RERA/T3/102/2020 Date: 19<sup>th</sup> July, 2021

**Sub: Extension for date of completion & date of expiry of registration of Real Estate Projects due to 'Force Majeure' under provision of Real Estate (Regulation & Development) Act 2016-**

- Ref: 1. Resolution in the 13<sup>th</sup> meeting of the Kerala Real Estate Regulatory Authority held on 05/07/2021.  
2. K-RERA Order K-VERA/T3/102/2020, dated 15/05/2020

According to Section 6 RERA Act 2016," *The registration granted under section 5 may be extended by the Authority on an application made by the promoter, due to force majeure, in such form and on payment of such fee as may be prescribed:*

*Provided that the Authority may in reasonable circumstances, without default on the part of the promoter, based on the facts of each case, and for reasons to be recorded in writing, extend the registration granted to a project for such time as it considers necessary, which shall, in aggregate, not exceed a period of one year:*

*Provided further that no application for extension of registration shall be rejected unless the applicant has been given an opportunity of being heard in the matter.*

*Explanation. — For the purpose of this section, the expression “force majeure” shall mean a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project.”*

The authority has taken cognizance of the adverse effects of second wave of COVID-19 pandemic and the consequent lockdown declared in the State and resolved to treat this as an event of ‘force majeure’ as per the above provision of the Act. Similarly, during the first wave of COVID- 19 pandemic also the Authority, vide its Order referred 2"d above, had given an extension of 6 months to the date of completion and expiry of registration of the real estate projects.

In these circumstances, the Authority, invoking the provisions contemplated under Section 6 of the Act read with Rule 8 of the Kerala Real Estate (Regulation and Development) Rules, 2018, has decided to give a further extension, to the date of completion and expiry of registration of the real estate projects for which the date of completion as per registration certificate expires on or after 01/04/2021, up to a maximum period of 6 months and also decided to waive the fee for such extension, as prescribed under the Rules.

Hence the Promoters of the real estate projects who are in need of such an extension to the date of completion of any of their project, shall apply in Form E annexed to Kerala Real Estate (Regulation and Development) Rules. 2018 for which the Authority shall give the extension for the period sought by the Promoters (only up to a maximum of 6 months) in Form F, without charging any fee.

### **MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY**

No. MahaRERA/Secy / File No.27/140 /2021

Date:22<sup>th</sup> July, 2021

**Sub: Clarification regarding Formats for consent of allottees**

Whereas MahaRERA Circular No. 28/2021 dated 8th March 2021, provides for format for making application under section 7(3) for obtaining consents of at least 51 % of allottees.

Where the same MahaRERA Circular No. 28/2021 also provides for format for making application under section 14(2) by obtaining consent of at least two-thirds of allottees.

Whereas, few doubts have been raised by the promoters regarding these formats and therefore, the MahaRERA felt it necessary to issue the following clarification:

1. With respect to Format — B: Resolution / Consent for Extension and Format — C: Resolution / Consent for Correction U/S 14(2), incase the table providing allottee details and signatures does not fit in single page due to large number of allottees, then the table can be spread across multiple pages. In such case, every page should contain the MahaRERA Project Registration number, resolution to which allottees are agreeing to and cumulative table. (Sample Attached herewith).
2. Further, Approval of allottees can also be received over email/Individual Letter. In such case, the copy of email / Individual Letter should be annexed with the application.

**MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY**

No. MahaRERA/Secy/File No.27/144/2021 Date:23th July,2021

**Sub: Procedure for transferring or assigning promoter's rights and liabilities to a third party.**

Whereas, the Chairperson, MahaRERA is vested with the powers of general superintendence and directions in the conduct of affairs of the Authority under Section 25 of Real Estate (Regulation and Development) Act, 2016.

Whereas, in accordance with Section 15 of the Real Estate (Regulation and Development) Act, 2016, the promoter shall not transfer or assign his majority rights and liabilities in respect of a real estate project to a third party without obtaining prior

written consent from two-third allottees, except promoter, and without the prior written approval of the Authority.

Whereas a procedure was prescribed for the purpose of transfer or assigning Promoter rights vide MahaRERA Circular No. 11/2017 dated 08.11.2017.

Whereas considering various types of litigations, it is necessary to prescribe revised procedure for the purpose of transfer of promoter's rights and liabilities to third party in accordance with the provisions of Section 15 of Real Estate (Regulation and Development) Act, 2016.

Therefore, in supersession of Circular No. 11/2017 dated 08.11.2017 the revised procedure detailed herein shall be followed with immediate effect.

### **MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY**

No. MahaRERA / Secy / File No.27/148 /2021

Date:28<sup>th</sup> July,2021

#### **Sub: Quarterly Update for Registered Projects**

Whereas, as per provisions of Section 11 of the Real Estate (Regulation and Development) Act, 2016 read with Rule 20 of Maharashtra Real Estate (Regulation and Development) (Registration of real estate projects, Registration of real estate agents, rates of interest and disclosures on website) Rules, 2017, every promoter is required to update the details of their registered projects on quarterly basis.

Accordingly, MahaRERA had made available online facility to Promoters, for providing quarterly updates of their registered projects. However, there is a need for more systematic and methodical process of quarterly updates. Therefore, the following orders are being passed with immediate effect:

1. MahaRERA shall implement "Financial Quarter Based Project Progress Reporting System" for all MahaRERA registered real estate projects. Promoters shall file Quarterly Progress Reports (QPR) as per Financial Quarters within 7 days of the Quarter End ( Due Dates will be every 7th day of July, October, January and April respectively).

2. The first financial quarter based QPR will be due to be filled by 15th August, 2021 for all registered projects (for April May June Quarter) irrespective of the date of their last QPR filled.
3. Promoter shall provide Quarterly updates on the following:
  - a) Increment Changes in various building plan approvals.
  - b) Status of the Project: Physical and Financial Progress of the Project along with Form 1, Form 2, Form 2A and Form 3 for the quarter.
  - c) Form 5 shall be submitted in the concerned quarter i.e Quarter II.
  - d) Form 4 to be uploaded, if applicable.
  - e) Present status of Booking of Plots/Apartments/Units
  - f) Present status of Booking of Garages. Cover Parking.
  - g) Changes in Project Professionals including Architect, Engineer, Chartered Accountant, Real Estate Agents and so on.
  - h) Changes in Encumbrances Report o Status of Association of Al lottees, if applicable o Status of Conveyance, if applicable
  - i) Changes in any other detail of the project, as provided during Project Registration / Previous update.
4. Stringent action will be taken against promoters for not filing the Quarterly Progress Reports as follows:
  - a) On missing the Quarterly Progress Report Submission Deadlines, a web generated notice shall be immediately sent to the promoter for compliance within 10 days. Further, on the MahaRERAwebportal, it shall be made available for public view, the details of non-compliance by the promoters.
  - b) On failure of compliance by the Promoter within 15 days, Chief Planning Officer, MahaRERA shall call the promoter for hearing, to understand the reason for non-compliance and on basis of merit, put the case to Authority for determining penal action to be undertaken.
  - c) The promoter shall be restricted from availing any other service from MahaRERA including Project Extension, Correction etc. till the quarterly update has been filed.

**MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY**

MahaRERA/Secy/File No. 27/ 150/2021 Date: 28th July, 2021

**Sub: Execution of registered conveyance deed of a real estate project.**

Whereas, under Section 25 of the Real Estate (Regulation and Development) Act, 2016 (the Act), the Authority (MahaRERA) is duly empowered to issue directions for the purpose of discharging its functions under the provisions of the Act, the Rules or Regulations made thereunder.

And whereas, under Section 11 of the Act a promoter upon receiving Login Id and password under clause (a) of sub-section (1) or under sub-section (2) of Section 5, as the case may be, create a web page on the website of the Authority and enter all details of the proposed project as provided under sub-section (2) of Section 4 of the Act in all the fields as provided for public viewing, as more specifically set out in the said Section.

And whereas, sub-rule (2) of Rule 3 of the Maharashtra Real Estate (Regulation and Development) (Registration of real estate projects, Registration of real estate agents, Rates of interest and Disclosures on website) Rules, 2017 (the Rules), mandates a promoter to furnish the information and documents as more specifically set out therein, which the promoter has to submit without prejudice to the provisions of sub-rule (1) of Rule 3 of the Rules.

And whereas, clause (i) of sub-rule (2) of Rule 3 of the Rules inter alia provides that a promoter shall also furnish such other information and documents as may be required by the Authority under these rules or the regulations.

And whereas, in the matter of transfer of title, as per the mandate as contained in Section 17 of the Act as well as sub-rule 2 of Rule 9 of the Rules, promoter has to execute a registered conveyance deed in respect of the real estate project within a period of 3 months from the date of issue of the occupancy certificate.

And whereas, MahaRERA by and under its Resolution No 2/4/2017 dated 20.06.2017 published on its website as Order No. 4 on 27.07.2017 has clarified that Agreement for Sale executed between promoters and allottees post 1st May, 2017 shall be governed by

Section 17 of the Act and the registered conveyance deed in respect of such real estate project should be executed within 3 months from the date of issue of occupancy certificate.

In view of the above, every promoter henceforth shall: -

- a) Submit quarterly up-to-date status report regarding steps initiated by the promoter for execution of the registered conveyance deed. Such up-to-date status firstly shall be submitted along with the quarterly up-to-date status of the project, that the promoter shall be submitting immediately after application for obtaining occupancy certificate is submitted to the Competent Authority.
- b) Execute the registered conveyance deed as per mandate of Section 17 of the Act, within three months from the date of receipt of the occupancy certificate.

Failure on the part of the promoter to submit quarterly up-to-date status report as aforesaid as well as non-execution of the registered conveyance deed in terms of mandate contained in Section 17 of the Act shall be considered as violation of provisions of the Act, Rules and Regulations made thereunder and further action in terms of the provisions of the Act shall be taken as against the promoter.

The above directions shall come into effect from the date of this order. All concerned shall adhere and comply with the above directions. (As approved by order of the Authority)

**BIHAR REAL ESTATE REGULATORY AUTHORITY**

Date-28<sup>th</sup> July, 2021

**Important Notice**

It is observed that many promoters are not able to complete the real estate projects within time limit prescribed for completion of the real estate projects in Bihar Building Byelaws 2014, causing undue hardships to the consumers/allottees. In order to protect the interests of the consumers/allottees and encourage the promoters to complete their projects timely, the Authority has decided to charge additional fee from those



promoters who do not complete their projects in stipulated time and seek extension of registration of their registered real estate projects with effect from 1st August 2021.

The total fee inclusive of additional fee, payable from 1st August 2021, would be double the present fee with a minimum amount of Rs 1 (One) Lakh, whichever is higher. This issues with the approval of the Authority.

**MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY**

MahaRERA/Secy/File No. 27/152/2021

Date: 30th July, 2021

**Sub: In the matter of "Garage", "covered parking space" and "open parking areas"**

Whereas, under Section 25 of the Real Estate (Regulation and Development) Act, 2016 (the Act) the Chairperson, MahaRERA is vested with the powers of the general superintendence and directions in the conduct of the affairs of the Authority (MahaRERA).

And whereas, the word "garage" is defined under clause (y) of Section 2 of the Act.

And whereas, the word "covered parking space" is defined under clause (j) of sub-rule (1) of Rule 2 of the Maharashtra Real Estate (Regulation and Development) (Registration of real estate projects, Registration of real estate agents, rates of interests and disclosures on website) Rules, 2017 (the Rules).

And whereas, the word "common areas" is defined to mean and include all that is more specifically spelt out in sub-clauses (i) to (viii) of clause (n) of Section 2 of the Act.

And whereas "open parking areas" is more specifically included in sub-clause(iii) of clause (n) of Section 2 of the Act and forms part of the common areas of a real estate project.

And whereas, it has been brought to the notice of MahaRERA that promoters sell/ allot open parking area for monetary consideration. And whereas, that there have been disputes on the exact location of the parking space vis a vis the apartment.

In view of the above, it is therefore, felt necessary to issue this circular clarifying the following:

1. Open parking areas are provided free of FSI;
2. Promoters are not entitled to sell / allot open parking areas for monetary consideration;
3. Open parking areas, garage and covered parking space should be specifically marked and numbered at the real estate project site in accordance and as per approved / sanctioned plans and tagged to the apartment to which it is allotted; and
4. Garage and /or covered parking space when sold/allotted for monetary consideration, the type, numbers and size as well as the place where such garage or covered parking space is situated should be mentioned in the Agreement for Sale being entered into and the plan showing the exact location / allotment along with the particulars as aforesaid should be annexed to the Agreement for Sale.

The above directions shall come into effect from the date of issue of this circular. All concerned shall adhere and comply with the above directions, failure to comply with the above directions shall be considered as violations of the provisions of the Act, Rules and Regulations made thereunder and further action in terms of the provisions of the Act, shall be taken.

**KERALA REAL ESTATE REGULATORY AUTHORITY**

K-RERA/T3/102/2020

Date: 22<sup>th</sup> July, 2021

**PUBLIC NOTICE**

**Sub: Displaying K-RERA registration number and website address in advertisements and other publicity release by Promoter.**

- Ref: 1. Order of-K-RERA No: K-RERA/T3/102/2020, dated: 08-09-2020.  
2. Order of K-RERA No: K-RERA/T3/102/2021, dated: 18-11-2020.  
3. Order of K-RERA No: K-RERA/T3/102/2021, dated: 25-03-2021.

The Authority, vide orders referred 1st and 2nd above, directed the promoters to display the K-RERA project registration number and website address in all advertisements and prospectus. The Authority, vide orders referred 3rd above, further directed the promoters to make sure that the font size of registration number and website address of K-RERA, displayed in the advertisements or prospectus, shall be equal to or larger than the font of contact details and address of the project and it shall be placed in the right top quadrant of the advertisement and a color which is easily visible to all, in compliance of mandatory provisions under Section 11(2) of the Real Estate (Regulation and Development) Act, 2016 r/w Regulation 5(6) of Kerala Real Estate Regulatory Authority (General) Regulation, 2020.

It has come to the notice of the Authority that many promoters are violating the above said directions and K-RERA Registration number is not clearly visible in many of the advertisements and prospectus/brochures released by the promoters, because of the small size, pale/faded font color or the location of the registration number. Due to the above said negligent action of many of the promoters, the purpose of the above provision of law is seen defeated.

Hence in exercise of the powers conferred under section 37 of the Real Estate (Regulation and Development) Act, 2016, the Authority hereby gives final warning to all Promoters to strictly adhere to the above instructions and if the registration number is not displayed by promoters as instructed above, it will amount to contravention of Section 11(2) of the Act and such defaulters shall be liable to a penalty which may extend up to 5% of the estimated cost of the project, as provided under section 61 & 63 of the Act.

### **MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY**

No. MahaRERA / Secy / File No. 27 / 157 / 2021

Date: 06<sup>th</sup> August, 2021

**Sub: Invoking Force Majeure for Covid-19 Pandemic second wave for a period of extension of project registration by 6 months w.e.f. 15.04.2021.**

Whereas, in view of COVID-19 (Corona Virus) Pandemic and consequent nation-wide lockdown with effect from March, 2020, reverse migration of laborers to their native places and break in supply chain of construction material, the construction activities of real estate projects across the country had been severely impacted.

Whereas Ministry of Housing and Urban Affairs had issued Advisory regarding extension of registration of real estate projects and concurrently extending timelines of all statutory compliances due to 'Force Majeure' under the provisions of Real Estate (Regulation and Development) Act, 2016 (RERA), on 13th May 2020 and subsequently MahaRERA had revised project registration validity by 6 months.

***Whereas, MahaRERA accordingly had issued an order under no.14/2020 dated 18.05.2020 granting an extension of a period of six months, from 15.03.2020 to 14.09.2020, in compliance of the directives of GOI.***

***Whereas, second wave of Covid-19 pandemic started in April 2021 and construction work places came to stand still due to non-availability of labours and construction on movement of building material etc. and this wave especially was more predominant in Maharashtra.***

***Whereas, Government of Maharashtra took decision and issued orders vide no.DMU/2020/CR.92/DisM-1, dated 13/04/2021, imposing various restriction on construction activity amongst other including penalty for default,***

***Whereas, many promoter organization have represented to MahaRERA to extend timeline by at least another six months due to second wave crippling the entire construction industry.***

Whereas Second wave was much more devastating than first wave and has caused great loss to human lives as well as economy. And consequent lockdowns have caused disruption of supply chains for obtaining construction material, Labour work force migration and slowdown in pace of construction.

Therefore, in order to aid government efforts in controlling the damage caused due to COVID-19 and ensure that completion of MahaRERA registered projects does not get adversely affected, it has been decided to issue this order.

In exercise of the powers under section 37 read with Section 34(a), 34(f) and 34(g), a force majeure period of six months, from 15th April to 14th October, 2021 is being declared and the following directions are issued with immediate effect:

- For all MahaRERA Registered projects where completion date, revised completion date or extended completion date expires on or after 15<sup>th</sup> April 2021, the period of validity for registration of such projects shall be extended by six months. MahaRERA shall accordingly issue project registration certificates, with revised timelines for such projects, at the earliest. The above automatic extension shall not apply to projects that was to be completed before 15th April, 2021.
- The time limits for compliances under Section 11, which become due anytime during force majeure period, shall stand automatically extended for a period till the expiry of force majeure period.
- The above extensions shall not affect the rights of the allottees as may be available to the allottees under the provisions of the Real Estate (Regulation and Development) Act, 2016, the Rules and Regulation made thereunder.

### **RAJASTHAN REAL ESTATE REGULATORY AUTHORITY**

No. F.4(1)RJ/RERA/2017/Part/1196 Order Date:06<sup>th</sup> August, 2021

#### **Sub: Re-registration of a Registered Project or part thereof and Modification of Estimated Finish Date.**

1. In exercise of the powers conferred on the Authority under section 37 of the Real Estate (Regulation and Development) Act, 2016, and with a view to clarify certain matters, the following directions are hereby issued: 1. If a promoter wants to curtail the size of a registered project by deleting such part of the project in which no booking, allotment, sale or offer for sale has yet been made, the promoter shall apply for such curtailment through online module for Map Revision; and he may get the deleted part of the project re-registered at any time in future, as separate phase(s) of the project, before making any advertisement, marketing, booking, allotment, sale or offer for sale in such part of the project. In such cases of re-registration, promoter can propose a new estimated finish date for such phase(s) of the project.

2. If a promoter wants to split a registered project into two or more phases and booking, allotment, sale or offer for sale has been made in respect of unit(s) in both or all such phases, the promoter shall apply for curtailment of the existing project through online module for Map Revision; and simultaneously get the deleted part of the project re-registered as separate phase(s), by making a fresh application for registration thereof. In such cases of re-registration, status of the project (New/Ongoing) and estimated finish date of the project as declared at the time of registration of the parent project cannot be changed. But if any extension of registration had been granted for the parent project, same shall hold good for such re-registered phase(s) as well.
3. In all such cases of re-registration, a fee equal to the fee (registration fee and standard fee) as currently payable on registration of a new project shall be payable; but no penalty shall be payable on account of delayed registration of such ongoing phase or advertisement, marketing, booking, allotment, sale or offer for sale made before registration of such new project. This fee structure would also apply where re-registration may be allowed by the Authority in the case of lapsed or revoked projects or in the event of change of promoter.
4. If the promoter has not made any booking, allotment, sale or offer for sale in a registered project, and wants to change the estimated finish date of the project, he may apply for modification of estimated finish date (not amounting to extension) under online module for Project Modification. For this, under the same online module, he shall have to simultaneously also apply for updation of Form-B and the draft Agreement for Sale so as to update therein the modified estimated finish date. Where the promoter proposes to prepone the estimated finish date, he may apply for such modification even if booking, allotment, sale or offer for sale has been made in the project.
5. This issues with the approval of Hon'ble Chairman.

**MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY**

No. MahaRERA/ Secy / File No. 27 / 173/2021

Date: 24<sup>th</sup> August, 2021

**Subject: Launch of MahaRERA Citizen Call Centre / Helpdesk**

Whereas Section 4(3) of the Act mandates the authority to operationalize a web based online system for submitting applications for registration of projects. Accordingly, MahaRERA has digitized all its services including Project Registration, Agent Registration, Complaints Management, Project Extensions, Project Corrections etc.

Whereas MahaRERA had established in-house Helpdesk to handhold citizens and resolve queries related to various services. However, there was a need to enhance the capacity and systems of the Help Desk System.

Therefore, MahaRERA has established a Toll-Free and a fully equipped Citizen Helpline as follows:

- Citizen Helpline shall function from 07:00 am to 11:00 pm — except on Government Holidays & Sundays.
- Citizens can call on following numbers:
  - Toll Free: 1800 210 3770
  - PRI Line: 022 - 69157100
- Citizen are requested to take advantage of this facility provided by MahaRERA.

## **RAJASTHAN REAL ESTATE REGULATORY AUTHORITY**

### **Minutes of the 8th Meeting of the Authority-24.08.2021**

The 8th meeting of the Rajasthan Real Estate Regulatory Authority was held on 24.08.2021 under the Chairmanship of Shri Nihal Chand Goel, Hon'ble Chairman of the Authority.

#### **Present:**

1. Shri Nihal Chand Goel, Hon'ble Chairman (in Chair)
2. Shri Shailendra K. Agarwal, Hon'ble Member
3. Shri Salvinder Singh Sohata, Hon'ble Member

#### **Agenda-wise discussion held and decisions taken:**

**Agenda-1** - Confirmation of the minutes of 7<sup>th</sup> Meeting of the Authority held on 10th August, 2021

**Decision**

**8.1** The Minutes of 7<sup>th</sup> meeting of the Authority were confirmed.

**Agenda-2** - To consider the matter of the powers of Adjudicating Officer as raised in Writ Petition No. 7916/2021 and connected matters, and take a considered view to be conveyed to the Hon'ble High Court as response of the Authority.

**Decision**

8.2.1 In the context of the doubts expressed and the anomalies noticed in the filing of complaints with the Authority and the adjudicating officer, respectively, under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'), the Authority had clarified the matter and issued detailed directions vide its order dated 23.04.2019 passed in Complaint No. RAJ-RERA-C-2018-2193 "Amit Kumar Lamba versus Shekhar Homes Developers". Subsequently, vide Authority's order dated 29.01.2021 passed in complaint No. RAJ-RERA-C-2019-3313 "P L Malhotra Versus M/s Emerald Earth Pvt. Ltd.", the aforesaid directions stood partially amended insofar as these related to complaints filed under section 12 of the Act. Later, in the context of a representation dated 13.07.2021 submitted by CREDAI, NCR Bhiwadi Nimrana, the Authority, in its 7th meeting held on 10.08.2021, issued some further directions in the matter.

8.2.2 Now, in the context of a writ petition (Writ Petition No. 7916/2021 and connected matters) before the Hon'ble Rajasthan High Court, it has become expedient for the Authority to take a comprehensive view of the matter and accordingly file a reply to the writ petition.

8.2.3 In this context, the matter was discussed at length and the considered view of the Authority in the matter of respective powers of the Authority and the



adjudicating officer to hear and decide complaints filed under section 31 of the Act, that has emerged unanimously, is as under:

- (1) The Act has created two adjudicating forums – (i) the Authority, established under section 20(1) of the Act; and (ii) the adjudicating officer, appointed under section 71(1) of the Act.
- (2) Section 31 of the Act provides for filing of complaints with these two forums, in the following terms:

"31. (1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be [emphasis supplied], for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be.

Explanation.—For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

The form, manner and fees for filing complaint under sub-section (1) shall be such as may be prescribed."

- (3) A bare reading of the above-quoted section 31 and the use therein of the term "as the case may be" after "the Authority or the adjudicating officer" shows that the complainant cannot choose the forum. He has to file his complaint with the Authority in respect of matters that the Authority is competent to hear and decide under the Act and he has to file his complaint with the adjudicating officer in respect of matters that the adjudicating officer is competent to hear and decide under the Act.
- (4) Section 71(1) of the Act defines the substantive powers of the adjudicating officer as "adjudging compensation under sections 12, 14, 18 and section 19". Relevant part of section 71(1) reads as under:

"71. (1) For the purpose of adjudging compensation [emphasis supplied] under sections 12, 14, 18 and section 19, the Authority shall appoint in consultation with the appropriate Government one or more judicial officer as deemed necessary, who is or has been a District Judge to be an adjudicating officer for holding an inquiry in the prescribed manner, after giving any person concerned a reasonable opportunity of being heard:.."

Sub-section (2) and sub-section (3) of section 71 of the Act provide for the procedural powers of the adjudicating officer in dealing with the "application for adjudging compensation" and provide that, after holding the inquiry, "he may direct to pay such compensation or interest, as the case may be, as he thinks fit...". Section 72 of the Act then enumerates the factors the adjudicating officer must take into account while "adjudging the quantum of compensation or interest, as the case may be, under section 71".

- (5) Section 37 and section 38(1) of the Act define the substantive powers of the Authority as the powers "to issue directions" and "to impose penalty or interest". Relevant sections read as under:

"37. The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such directions shall be binding on all concerned."

"38 (1) The Authority shall have powers to impose penalty interest, in regard to any contravention of obligations cast upon the promoters, the allottees and the real estate agents, under this Act or the rules and the regulations made thereunder."

Sections 35, 36, 38(2) & (3) and section 39 of the Act provide for the procedural powers of the Authority in dealing with complaints or suo moto matters.

- (6) Rule 36 of the Rajasthan Real Estate (Regulation and Development) Rules, 2017 (hereinafter called 'the Rules') prescribes that "Any aggrieved person

may file a complaint with the adjudicating officer for interest and compensation under section 12, 14, 18 and 19 in Form-O"...

- (7) Rule 35 of the Rules prescribes that "Any aggrieved person may file a complaint with the Authority for any violation under the Act or the rules and regulations made thereunder, save as those provided to be adjudicated by the adjudicating officer [emphasis supplied], in Form-N"...
- (8) Thus, in conclusion, while the Authority has wide-ranging powers under the Act, the adjudicating officer is appointed by the Authority, in consultation with State Government, under section 71(1) of the Act, for the limited purpose of adjudging compensation under sections 12, 14, 18 and section 19 of the Act. This necessarily implies that, in the matter of complaints filed under section 31 of the Act, all powers under the Act, excepting the power of adjudging compensation, are to be exercised by the Authority. In more specific terms, the position of the Act is as under:
  - (a) The power to adjudge compensation has been specifically conferred on the adjudicating officer under sub-section (1) of section 71 of the Act, and, therefore, compensation will be awarded only by the adjudicating officer, and never by the Authority.
  - (b) The power to order interest has been specifically conferred on the Authority under sub-section (1) of section 38 of the Act, and, therefore, interest will be ordered only by the Authority, and never by the adjudicating officer.

Though the term 'interest' also occurs in sub-section (3) of section 71 and section 72 of the Act and Rule 36 of the Rules relating to the adjudicating officer, these provisions of the Act and the Rules are only procedural in nature, and, therefore, cannot override the provisions of sub-section (1) of section 71 of the Act, which is a substantive provision dealing with the purpose of appointment and the powers of the

adjudicating officer and does not mention 'interest'. Nor can these provisions override the provisions of section 38(1) of the Act, which specifically assigns the power of imposing interest to the Authority.

As a whole, section 71 of the Act means that the adjudicating officer is to be appointed by the Authority solely for the purpose of "adjudging compensation"; "application for adjudging compensation" shall be decided by him after holding an inquiry; and, after such inquiry, "he may direct to pay such compensation or interest, as the case may be [emphasis supplied], as he thinks fit". Here, the use of the term 'as the case may be' after 'compensation or interest' implies that the adjudicating officer can order either compensation or interest, and not both, in any particular matter. The application before the adjudicating officer will be solely for adjudging compensation (it cannot be for interest), though the adjudicating officer can, in his discretion, order interest in lieu of compensation. A look at Form-'0' prescribed for making an application to the adjudicating officer also makes it clear that the prayer before the adjudicating officer can be of compensation alone, and not of interest, even though the adjudicating officer has the discretion to award interest in lieu of compensation. Thus, the term 'interest' occurring in section 71(3) and section 72 of the Act and corresponding Rule 36 of the Rules is nothing but 'compensation in the form of interest' as against 'compensation as a lump sum amount'. And, that is why, just like compensation, the quantum of such interest is required to be adjudged by the adjudicating officer under section 72 of the Act, on a case to case basis, and this also shows that 'interest' adjudged by the adjudicating officer is distinct from 'interest' that the Authority has powers to order 'at such rate as may be prescribed' under section 12, 18 and 19 read with section 38(1) of the Act.

- (c) The power to impose penalty has been specifically conferred on the Authority under sub-section (1) of section 38 of the Act, and, therefore, any penalty will be ordered only by the Authority, and never by the adjudicating officer.

- (d) The power to order refund of the amount deposited by the allottees or the power to direct the promoter to deliver possession of an allotted unit to the allottee has not been specifically conferred on either forum under any provision of the Act. Therefore, the direction to refund the deposited amount or to deliver possession of an allotted unit to the allottee can only be issued by the Authority in exercise of the general powers of issuing directions as specifically conferred on the Authority under section 37 of the Act, and there is no way the adjudicating officer can direct refund of the deposited amount or delivery of the possession of an allotted unit to the allottee.

In this manner, one particular power is expected to be exercised by one particular forum. None of these powers under the Act is expected to be exercised by both the forums, so that forum shopping and conflicting orders are avoided.

8.2.4 Ideally, the Authority should be issuing a regulation to clarify matters as per this decision of the Authority. But, since the matter is presently sub-judice in the Hon'ble High Court, regulations may not be issued until the matter pending in the Hon'ble High Court is decided. Meanwhile, the Authority's reply to the aforesaid writ petition may be submitted to the Hon'ble High Court, based on this decision of the Authority.

There being no other business, the meeting ended with a vote of thanks to the Chair.

### **RAJASTHAN REAL ESTATE REGULATORY AUTHORITY**

No. F.1(229) RJ/RERA/2021/1478 Date : 27<sup>th</sup> August, 2021

**Sub: Submission of Hardcopy of Application for Registration of Project (to be submitted in future only after the project is registered)**

As per the Authority's order no. 1196 dated 12.04.2018 as amended vide order no. 3080 dated 16.08.2019, hardcopy of registration application, along with all the documents uploaded therein, is required to be submitted within 7 days from the date of online

submission of application for registration of the project, otherwise delay processing charges are applicable @ Rs. 1,000/- per day, with a maximum cap of 5% of the registration fee.

As the applications for registration and all post-registration modifications are now submitted online and processed by the Authority on desk flow system, hardcopy of application is no more required before registration of the project. Therefore, now onwards, hard copy is to be submitted post-registration that too after Registration Certificate (RC) has been issued by the Authority, for purposes of future reference and record.

In this context, the Authority, in exercise of its powers under section 37 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'), hereby issues the following directions for compliance by the promoters of registered projects:

1. While submitting online application for registration, promoter shall also upload Form A in Project Profile (in "Other approvals as may be required and obtained for the project" tab).
2. Hardcopy of the online application, which includes all the uploaded documents, shall be submitted to the Authority within 30 days from the date of issue of RC.
3. Hardcopy submitted shall contain all the documents which are uploaded in the registered project, besides print-out of (1) RC, (2) online summary sheet (Project Profile), (3) Promoter Profile and (4) fee receipts. No uploaded documents may be left out and no other documents may be included in the hard copy. Printout should be taken only after (and not before) the project is registered so that the changes made in the online application form or documents uploaded therein during the scrutiny process are captured in the hardcopy submitted. Similarly, if any document got revised during the process of scrutiny, hardcopy of the document should reflect the document as it finally stood uploaded on the date of registration of the project. That is to say that the hardcopy submitted should be an exact replica of the online application displayed on RERA web portal for public viewing.

4. Hardcopy shall be submitted in hardbound file, with Promoter Name, Project Name and Registration No. written on the cover, with sketch pen or DVD writer.
5. All the documents shall be properly indexed and placed in sequence as per the attached Index template. This Index shall be placed in the file at the top and below that will be RC, Project Profile, Promoter Profile, fee receipts and then other documents in the order shown in the Index
6. Numbering of pages shall be done on top right corner of all pages, starting from last page of file to top of file; and then page numbers will accordingly be shown in the Index.
7. In case the promoter fails to submit the hardcopy, with complete set of documents, in accordance with these directions, within 30 days from the date of issue of RC, delay processing charges of 1,000/- per day (with no maximum cap) shall be payable before or the time of depositing the hardcopy. In addition, the Authority may also impose a penalty under section 63 and suspend/revoke registration of the project under section 7 of the Act, for the violation of these directions.
8. Promoter shall keep with him a parallel set of the hardcopy as deposited with the Authority and keep adding to it 2 hardcopies of each application/document filed with the Authority online, post-registration, until the completion of project. A hardcopy of all such post-registration documents shall be submitted to the Authority if and when asked for by the Authority, otherwise with the copy of the CC/OC uploaded on RERA web portal, within 30 days of such uploading.
9. In the case of projects registered or pending for registration, where the hardcopy of application would have been deposited before 01.09.2021, two hardcopies of all post-registration applications/ documents filed online shall be similarly maintained by the promoter and one of the two sets of these documents shall be

submitted to the Authority if and when asked for by the Authority, otherwise with the copy of CC/OC uploaded on RERA web portal, within 30 days of such uploading.

This issues with the approval of Hon'ble Chairman and shall come into effect on 01.09.2021.



## **PART-IV**

### **RERA NEWS**

**ECONOMIC TIMES**

**14/07/2021**

#### **DELHI DEVELOPMENT AUTHORITY APPROVES AFFORDABLE RENTAL HOUSING COMPLEXES SCHEME**

The Delhi Development Authority (DDA) has given final approval to the Affordable Rental Housing Complexes (ARHC) scheme, paving the way for development of budget rental housing in the national capital. In a board meeting, the authority discussed the objections and suggestions that it received. The proposal paves the way for ARHCs on privately owned land and land owned by government agencies. This will also include plots auctioned by DDA where the developer wishes to utilize the purchased plot for ARHC.

NiranjanHiranandani, National President, NAREDCO said that, the ARHCs will ensure affordable and easily accessible rental housing in vicinity of the work places for urban poor and migrant workers in the Capital, which will have a major impact on the proliferation of slums as also enable new projects under ARHC.

As per the approved norms, the housing complex will consist of a mix of single and double bedroom units and dormitory of 4-6 beds including all common facilities. A maximum overall Floor Area Ratio (FAR) of 50% over and above the permissible FAR is also being provisioned, free of charges, to incentivise the concept of ARHCs in Delhi. The occupancy of the ARHCs will be granted on the basis of license deed with a minimum tenure of three months and a maximum tenure of three years, ensuring accessibility to all the eligible beneficiaries for ARHCs.

**ECONOMIC TIMES**

**25/07/2021**

#### **RAJASTHAN HOUSING BOARD DEFIES REAL ESTATE SLUMP BY EARNING MASSIVE REVENUE**

After changing its strategy, the Rajasthan Housing Board (RHB) is incessantly selling apartments in its existing projects even during the pandemic times. The board fetched revenue of approximately Rs 55 crore after selling 315 apartments in a week. The maximum number of flats, 245 was sold in Jaipur division.

Buoyed by the response, the board is deciding to put a list of more apartments under e-auction. The RHB is targeting the lower income group (LIG) and (MIG) as their demand for houses increased after the pandemic.

The minimum per capita built-up area should be of 9.5 square metres, but it ranges from 2sqm to 8sqm per built-up area in many families. This is the reason people are moving out and looking for affordable housing. In the past, RHB had made several attempts to sell its flats. However, all efforts turned futile as not many buyers showed interest to purchase the properties.

**TNN**  
**25/07/2021**

### **TAMIL NADU GOVERNMENT LOOKS TO BOOST REVENUE VIA PROPERTY REGISTRATIONS**

Tamil Nadu minister for commercial taxes and registration conducted a review meeting with the registration officials to discuss the avenues to boost revenue through property registrations after the second wave of Covid-19.

Land registrations had been affected for four months during the first wave of Covid-19 last year. During the meeting, stress was laid on steps to be taken for increasing the revenue as revival for registration offices was faster than in 2020.

According to sources, officials were directed to ensure that properties of temples under the jurisdictional control of the Hindu religious and charitable endowments department, water bodies and poramboke land are not being registered under Section 22-A of the Registration (Tamil Nadu Amendment) Act. The Act facilitates re-registration of plots, if the earlier land transaction refers to it as 'house site'. Returning the documents on the same day to arrest any delay, measures to curb staff reporting late to office and progress of the recently launched grievance control room were also reviewed.

**CNBC**  
**04/08/2021**

**AFFORDABLE HOUSING PRICES SET TO RISE IN 6 MONTHS; WORK-FROM-HOME BOOSTING DEMAND**

India's economic indicators are pointing towards recovery with many states starting to ease restrictions. The manufacturing PMI has come in at 55.3 in July, witnessing a sharp jump after contracting to 48.1 in June.

GST collections also rebounded to Rs 1.16 lakh crore in July, after a brief downturn due to the COVID second wave. Real estate sales too are looking up with property registrations in Mumbai at a 10-year high for July.

In an interview with CNBC-TV18, Niranjan Hiranandani, MD & Co-Founder of Hiranandani Group said that he expects to see consolidation and a price hike in real estate in six months from now.

As a reason, he pointed out that steel, cement and metal prices have gone up, all the segments of inputs have gone up, labour costs have gone up, so we are definitely going to see a price rise in the affordable housing segment as well as in the other segments in the next 6 months.

**TNN**  
**10/08/2021**

**RESIDENTS OF EMAAR GURGAON GREENS PROTEST AGAINST BUILDER**

Upset over the indifferent attitude of the developer towards their concern, the residents of Emaar Gurgaon Greens began an indefinite sit-in protest. They claimed that the society is facing several issues, including poor security, lack of horticulture and housekeeping maintenance, despite paying hefty charges at Rs 3.65 per sqft.

Several complaints have been made to the concerned authorities, including at the CM Window, in the last two years, but all pleas have fallen on deaf ears, they alleged. The

residents said that they are left with no option but to hold a peaceful sit-in protest to highlight their grievances. They will be sitting in two shifts (morning and evening) for three hours daily.

The residents alleged that the builder formed a nominated condominium association in August 2018, which has been misappropriating the funds collected from the residents as common area maintenance and electricity charges. They pointed out that no annual general meeting has been called by the condominium association and no financial audit reports have been shared with residents.

**PTI**  
**10/08/2021**

**BILL TO PROTECT INTERESTS OF LANDLORDS, TENANTS**  
**INTRODUCED IN ASSAM ASSEMBLY**

The Assam government brought a Bill to establish a Rent Authority to regulate renting of premises in a bid to protect interests of both landlords and tenants and to provide a speedy dispute resolution mechanism.

The Assam Tenancy Bill, 2021, which was introduced in the House by Parliamentary Affairs Minister Pijush Hazarika on behalf of the Housing and Urban Development Minister Ashok Singhal, seeks to ensure that there will be no artificial cap in fixing of rent of a premise.

The new Bill has been formulated on the basis of a Model Tenancy Act which was approved by the Union Cabinet on June 2, 2021, for adoption across all states and Union Territories.

With the enactment of this new Bill, the Assam Urban Areas Rent Control Act, 1972, will stand repealed. There will be no financial burden on the state exchequer on account of the Bill.

**THE INDIAN EXPRESS**  
**18/08/2021**

## **KEY REFORMS TO BOOST REAL ESTATE SECTOR IN MAHARASHTRA ON THE CARDS, SAY MINISTERS**

The Maharashtra government is set to usher in key reforms to boost the real estate sector, leading with online registration of properties from October 1, mobilizing funds worth Rs 25,000 crore to undertake redevelopment of old dilapidated housing structures and restructuring houses in flood-affected districts.

The revenue ministry has emphasized on e-registration of properties. The digital registration process will enable sale and purchase of housing projects. All housing projects listed under MAHARERA can be registered online. The buyer and seller will no longer have to visit registration offices to complete the process. The online registration process will become operational across the state from October 1.

Considering the hardship faced by the real estate sector due to the lockdown, there was a demand from developers to provide some incentive. Accordingly, the government gave concession in stamp duty registration to help both developers and people buying properties.

An acquiring land in Mumbai was the biggest challenge in taking up new housing projects. As a result, the housing department is focusing on redevelopment of old and dilapidated structures, he added.

PTI  
21/08/2021

## **NHB DISBURSES OVER RS 30,000 CRORE IN INTEREST SUBSIDY UNDER PMAY**

The National Housing Bank said it has disbursed over Rs 30,000 crore so far in interest subsidy to affordable home loan borrowers under the Prime Minister Housing Scheme (PMAY) since the launch of the scheme in June 2016.

The PMAY offers up to 3 percentage points in interest subsidy on low-cost housing loans (at 6.5 per cent) but caps the one-time subsidy at Rs 2.35 lakh per eligible borrower. It was effective from June 2016 and was launched as part of the national housing mission that seeks to ensure a roof over every household by 2030.

Underlining the need for better and uniform valuation in the realty market in general and the housing market in particular, the lack of it which is more often the case, is a major reason for the crisis in the sector. The chairman of the Insolvency & Bankruptcy Board of India underlined the need for better and uniform valuation in the credit market and also warned against the over-dependence of lenders on the technology to arrive at valuation.

ET BUREAU

21/08/2021

### **AAR RULING MAKING OFFICE REFURBISHING COSTS ELIGIBLE FOR TAX CREDIT MAY LEAD TO LITIGATIONS**

A ruling by Authority for Advance Rulings (AAR) that costs incurred for refurbishment of offices can be available towards input tax credit is set to create some confusion around availability of tax credit under the goods and services tax (GST) framework. Tax credit can be used to set off future tax liabilities. As of now, only the cost that contributes towards the output of company-raw materials, input services, machinery, etc. -are eligible for input tax credit.

The new ruling comes at a time when several companies across the country have moved their offices, and have incurred expenditure on renovation, repair, temporary fittings, etc. amid the Covid-19 pandemic. Tax experts said that these firms can now take this ruling to claim tax credits.

A similar tax ruling in a recent case had put a question mark on the repair funds of housing societies. Several housing societies that create a 'sinking fund' or future repair fund are set to face additional taxes in the form of GST on this amount following an AAR advance ruling.

GST at 18% is applicable on repair and maintenance funds and sinking funds collected by residents' welfare association (RWA) or housing society if the total value of charges exceeds the threshold limit of Rs 7,500 per month per member. In most cases, housing societies collect money from residents for future contingencies.



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