

# RERA TIMES

## **Real Estate** **(Regulation and Development) Act, 2016** **(A Journal on Real Estate Bye Laws)**

**Volume-IV | Part - VI | Nov.-Dec. 2020**



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**“For Private Circulation”**

# **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,

A very Happy New Year to all the readers. May this year bring new happiness, new goals, new achievements, and a lot of new inspirations in your life.

The pandemic as we all know, was a crisis like no other which forced economists to throw the playbook out of the window due to an unparalleled scenario gripping the economy. In the first quarter of Year 2020, the entire global economy went into a tailspin as several countries including India announced total or partial lockdowns and imposed stay at home restrictions. The Indian economy was put in a deep freezer for almost two months leading to an unprecedented contraction and one of the greatest mass migrations in history. The pace of GDP contraction came down to 7.5 per cent in the July-September quarter after a steep 24 per cent decline in the April-June quarter.

But, with a never-say-die attitude of India, the pace of contraction reduced drastically. Growth suffered, but the pace of recovery has been better and now economy is showing decisive signs of a 'V-shaped' recovery in 2021 with the return of consumer confidence, robust financial markets, an uptick in manufacturing and exporters braving it out in the global market. Estimates suggest that the Indian economy could well be the fastest growing Asian economy in the calendar year 2021.

Real Estate (Regulation and Development) Act, 2016 is now established more or less. Most of the legal disputes has been settled by the Hon'ble Supreme Court and various High Court bringing more clarity regarding the provisions of the Act.

Grading of projects and promoters on various parameters has been started. The grading of promoters will involve checking its track record of executing projects on time. Other key aspects of grading will include financial strength, adherence to compliance-related matters and customer feedback. Also, most of the Real Estate Regulatory Authority has introduced a new facility wherein the Real estate developers are now be able to file Quarterly Progress Report (QPR). These steps will ensure transparency and better regulation in the real estate sector.

Rajasthan RERA is taking a lead in implementing RERA Act, 2016. The disposal of cases are taking at a faster pace. QPR has been implemented recently ensuring better control over the projects. All most all the compliances have been made online to ensure transparency and ease of doing business.

The expectations from the budget is notably higher. For the big year after the pandemic, the common man would undoubtedly look up to the Government for various incentives, tax cuts, subsidies, easier credit access and other benefits to cope up with the Covid-19 pandemic. The common man has been struggling with disruptions in income and cash flow, since the time of lockdown due to Covid-19, because of which they have been looking to the banking sector for access to credit.

I hope that RERA TIMES magazine is of immense use for all the stakeholders related to real estate sector. I urge all the readers for their valuable suggestions for the betterment of the magazine.

With Regards  
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## **TABLE OF CONTENTS**

### **PART I**

<b>REPORTING OF SUPREME COURT CASES.....</b>	<b>1</b>
--	----------

### **PART II**

<b>REPORTING OF CASES LAWS.....</b>	<b>9</b>
-------------------------------------	----------

### **PART III**

<b>NOTIFICATION &amp; CIRCULARS.....</b>	<b>39</b>
--	-----------

### **PART IV**

<b>REAL ESTATE NEWS.....</b>	<b>53</b>
------------------------------	-----------

#### **Disclaimer:**

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**PART-I**  
**SUPREME COURT JUDGEMENTS**

**IN THE HIGH COURT OF PUNJAB AND HARYANA**

**CIVIL APPEAL NO. 3581-3590 OF 2020**

**Date: 02.11.2020**

**M/S. IMPERIA STRUCTURES LTD.**

**:Petitioners**

**VERSUS.**

**ANIL PATNI AND ANOTHER**

**:Respondents**

**Petitioner Representative:** Mr. Simranjeet Singh

**Respondents Representative:** Ms. Priyanjali Singh

*Gist of Case : The issue in this case was whether in the face of Section 156 of the Tamil Nadu Cooperative Societies Act, 1983 the concerned persons could avail remedies under the CP Act. Interpreting Section 3 of the CP Act, it was held that the remedy provided under the CP Act would be in addition to the remedies provided under the other Acts. On the strength of the law so declared, Section 79 of the RERA Act does not in any way bar the Commission or Forum under the provisions of the CP Act to entertain any complaint.*

A Housing Scheme called "The ESFERA" in Sector 13C, Gurgaon, Haryana (hereinafter referred to as 'the Project') was launched by the Appellant sometime in 2011 and all the original Complainants booked their respective apartments by paying the booking amounts and thereafter each of them executed Builder Buyer Agreement (hereinafter referred to as "the Agreement") with the Appellant.

Over a period of time the Respondents had paid Rs.63,53,625/- out of the agreed sum of Rs.76,43,000/-. However, even after four years there were no signs of the Project getting completed. In the circumstances Consumer Case No.3011 of 2017 was preferred by the Respondents on 11.10.2017 before the Commission submitting, inter alia,:-

*"11. That the complainants regularly visited the site but were surprised to see that the construction was never in progress. No one was present on the site to address the queries of the buyers/allotees/purchasers including the present complainant. The O.P despite taking a substantial amount towards the consideration deliberately did not construct the towers in which house of the complainant was situated. The entire site seems to be an abandoned piece of land with semi constructed structure. Despite a delay of many months, the construction of the apartment has not been completed. It can hence be seen that the O.P is deficient in renderings services and after extracting most of the money from the buyers/allotees/purchasers have deliberately stopped the construction of the houses.*

*12. That it could be seen that the construction of the residential unit 'THE ESFERA' in which the buyers/allotees/purchasers flats were booked many months back, with a promise by the O.P. to deliver the same within 42 months were never completed for the reasons best known to the O.P., which clearly shows the ulterior motive of the O.P. to extract money from the innocent buyers fraudulently and also demonstrates the unfair trade practices and restrictive trade practices under the ambit of consumer protection act 1986.*

*16. That as per the clause 11.4 of the Buyer's Agreement, it was agreed by the O.P. that in case of any delay, the O.P. shall pay to the buyers/allotees/purchasers, a compensation at the rate of Rs.5/- per sq. ft. per month for the period of the delay. It could be seen here that the O.P has incorporated the Clause 11.4 in the one sided buyer's agreement and has offered to pay a meagre sum of Rs.5/- per square feet for every month of delay if we calculate the amount in terms of financial charges, it comes to approximate @ 1.4% per annum rate of interest. Even these charges are to be paid after 42 months of period that is taken by the O.P to construct the houses as per the buyer's agreement. This shows that the O.P. has found a cheap source of funding the commercial projects from the hard earned savings and borrowed money of innocent residential apartments/house buyers like the present complainants. The O.P is raising funds at the interest rate of mere 1.4% per annum and that too with initial 42 months of interest free duration.*

***30. That the value of goods/services along with compensation claimed in the present complaint is above one crore rupees hence the complainants are entitled to invoke the pecuniary jurisdiction of this Hon'ble Commission. The present complaint has been assessed for a sum of Rs.1,16,94,579/- and requisite fee i.e. Rs.5000/- by way of a demand draft payable to "THE REGISTRAR, NCDRC New Delhi" is being paid with this complaint.***



VALUE OF GOODS AND SERVICES	Rs. 76,43,000/-
COMPENSATION CLAIMED	Rs. 40,51,579/-

32. In view of the above, it is, therefore, most respectfully prayed that this Hon'ble Commission may kindly be pleased to:

- a. Direct the O.P. to refund the entire amount collected from the complainants towards the consideration of the Flat along with interest @ 18% p.a. on the amount paid by them from the date of each deposit of the amount till it is actually returned to the complainants.
- b. Direct the O.P. to pay a sum of Rs.50,000/- (rupees fifty thousand only) to the complainants toward the cost of litigation.
- c. Any other order(s) as may be deemed fit and appropriate may also kindly be passed."

The Appellant challenged the jurisdiction of the Commission inter alia, on the ground that the apartment having been booked for commercial purposes, the Respondents would not come within the definition of "the consumer" under Section 2(d) of the CP Act.

**Concluding that the Appellant was deficient in rendering service, the Commission granted relief to the Respondents in following terms:-**

*"14. Keeping in view the admitted incomplete construction, the fact that some of the Complainants have also taken bank loans and are paying EMIs and considering the stipulation provided in Clause 11.4, this Complaint is partly allowed directing the Developer to refund the amounts deposited with simple interest @ 9% p.a. from the respective dates of deposits till the date of realization together with costs of Rs.50,000/- to be paid to each of the Complainants. The directions are to be complied withing four weeks from the date of receipt of a copy of the order, failing which, the amount shall attract interest @ 12% p.a. for the said period."*

**At the outset, we must deal with two factual issues. It was concluded by the Commission that; (i) all the Complainants were 'Consumers' within the**

meaning of the Act and that; (ii) there was delay on part of the Appellant in completing the construction within time. The stand taken by the Appellant at various stages, itself acknowledged that there was delay but the Appellant tried to rely on certain events. **In our view, the conclusions drawn by the National Commission in relation to these issues are absolutely correct and do not call for any interference.**

**The question whether the remedies available to the consumers under the provisions of the CP Act would be additional remedies, was considered by this Court in some cases, the notable cases being:-**

In Secretary, Thirumurugan Cooperative Agricultural Credit Society v. M. Lalitha (dead) through LRs. and others (2004) 1 SCC 305, this Court observed:-

*"11. From the Statement of Objects and Reasons and the scheme of the 1986 Act, it is apparent that the main objective of the Act is to provide for better protection of the interest of the consumer and for that purpose to provide for better redressal, mechanism through which cheaper, easier, expeditious and effective redressal is made available to consumers. To serve the purpose of the Act, various quasi-judicial forums are set up at the district, State and national level with wide range of powers vested in them. These quasi-judicial forums, observing the principles of natural justice, are empowered to give relief of a specific nature and to award, wherever appropriate, compensation to the consumers and to impose penalties for non-compliance with their orders.*

*12. As per Section 3 of the Act, as already stated above, the provisions of the Act shall be in addition to and not in derogation of any other provisions of any other law for the time being in force. Having due regard to the scheme of the Act and purpose sought to be achieved to protect the interest of the consumers better, the provisions are to be interpreted broadly, positively and purposefully in the context of the present case to give meaning to additional/extended jurisdiction, particularly when Section 3 seeks to provide remedy under the Act in addition to other remedies provided under other Acts unless there is a clear bar."*

The issue in this case was whether in the face of Section 156 of the Tamil Nadu Cooperative Societies Act, 1983 the concerned persons could avail remedies under the CP Act. **Interpreting Section 3 of the CP Act, it was held that the remedy provided under the CP Act would be in addition to the remedies provided under the other Acts.**

**It has consistently been held by this Court that the remedies available under the provisions of the CP Act are additional remedies over and above the other remedies including those made available under any special statutes; and that the availability of an alternate remedy is no bar in entertaining a complaint under the CP Act.**

Before we consider whether the provisions of the RERA Act have made any change in the legal position stated in the preceding paragraph, we may note that an allottee placed in circumstances similar to that of the Complainants, could have initiated following proceedings before the RERA Act came into force.

- A. If he satisfied the requirements of being a "consumer" under the CP Act, he could have initiated proceedings under the CP Act in addition to normal civil remedies.
- B. However, if he did not fulfil the requirements of being a "consumer", he could initiate and avail only normal civil remedies.
- C. If the agreement with the developer or the builder provided for arbitration:-
  - i. in cases covered under Clause 'B' herein above, he could initiate or could be called upon to invoke the remedies in arbitration.
  - ii. in cases covered under Clause 'A' herein above, in accordance with law laid down in Emaar MGF Ltd and anr. v. Aftab Singh (2019) 12 SCC 751, he could still choose to proceed under the CP Act.

In terms of Section 18 of the RERA Act, if a promoter fails to complete or is unable to give possession of an apartment duly completed by the date specified in the agreement, the Promoter would be liable, on demand, to return the amount received by him in respect of that apartment if the allottee wishes to withdraw from the Project. Such right of an allottee is specifically made "without prejudice to any other remedy available to him". The right so given to the allottee is unqualified and if availed, the money deposited by the allottee has to be refunded with interest at such rate as may be prescribed. **The proviso to Section 18(1) contemplates a situation where the allottee does not intend to withdraw from the Project. In that case he is entitled to and must be paid interest for every month of delay till the handing over of the possession. It is upto the allottee to proceed either under Section 18(1) or under proviso to Section 18(1). The case of Himanshu Giri came under**

the latter category. The RERA Act thus definitely provides a remedy to an allottee who wishes to withdraw from the Project or claim return on his investment.

**It is, therefore, required to be considered whether the remedy so provided under the RERA Act to an allottee is the only and exclusive modality to raise a grievance and whether the provisions of the RERA Act bar consideration of the grievance of an allottee by other fora.**

On plain reading of Section 79 of the RERA Act, an allottee, would stand barred from invoking the jurisdiction of a Civil Court. However, as regards the allottees who can be called "consumers" within the meaning of the CP Act, two questions would arise; a) whether the bar specified under Section 79 of the RERA Act would apply to proceedings initiated under the provisions of the CP Act; and b) whether there is anything inconsistent in the provisions of the CP Act with that of the RERA Act.

**In Malay Kumar Ganguli v. Dr. Sukumar Mukherjee (2009) 9 SCC 221, it was held by this Court:-**

*"The proceedings before the National Commission are although judicial proceedings, but at the same time it is not a civil court within the meaning of the provisions of the Code of Civil Procedure. It may have all the trappings of the civil court but yet it cannot be called a civil court. (See Bharat Bank Ltd. v. Employees AIR 1950 SC 188 : 1950 SCR 459 and Nahar Industrial Enterprises Ltd. v. Hong Kong & Shanghai Banking Corpn (2009) 6 SCC 635.*

**On the strength of the law so declared, Section 79 of the RERA Act does not in any way bar the Commission or Forum under the provisions of the CP Act to entertain any complaint.**

Proviso to Section 71(1) of the RERA Act entitles a complainant who had initiated proceedings under the CP Act before the RERA Act came into force, to withdraw the proceedings under the CP Act with the permission of the Forum or Commission and file an appropriate application before the adjudicating officer under the RERA Act. The proviso thus gives a right or an option to the concerned complainant but does not statutorily force him to withdraw such complaint nor do the provisions of the RERA Act create any mechanism for transfer of such pending proceedings to

authorities under the RERA Act. As against that the mandate in Section 12(4) of the CP Act to the contrary is quite significant.

Again, insofar as cases where such proceedings under the CP Act are initiated after the provisions of the RERA Act came into force, there is nothing in the RERA Act which bars such initiation. **The absence of bar under Section 79 to the initiation of proceedings before a fora which cannot be called a Civil Court and express saving under Section 88 of the RERA Act, make the position quite clear. Further, Section 18 itself specifies that the remedy under said Section is "without prejudice to any other remedy available". Thus, the parliamentary intent is clear that a choice or discretion is given to the allottee whether he wishes to initiate appropriate proceedings under the CP Act or file an application under the RERA Act.**

It is true that some special authorities are created under the RERA Act for the regulation and promotion of the real estate sector and the issues concerning a registered project are specifically entrusted to functionaries under the RERA Act. But for the present purposes, we must go by the purport of Section 18 of the RERA Act. **Since it gives a right "without prejudice to any other remedy available", in effect, such other remedy is acknowledged and saved subject always to the applicability of Section 79.**

At this stage, we may profitably refer to the decision in Pioneer Urban Land and Infrastructure Limited and another v. Union of India and another (2019) 8 SCC 416, where a bench of three Judges of this Court was called upon to consider the provisions of Insolvency and Bankruptcy Code, 2016, RERA Act and other legislations including the provisions of the CP Act. One of the conclusions arrived at by this Court was:-

*"100. RERA is to be read harmoniously with the Code, as amended by the Amendment Act. It is only in the event of conflict that the Code will prevail over RERA. Remedies that are given to allottees of flats/apartments are therefore concurrent remedies, such allottees of flats/apartments being in a position to avail of remedies under the Consumer Protection Act, 1986, RERA as well as the triggering of the Code."*

**We, therefore, reject the submissions advanced by the Appellant and answer the questions raised herein above against the Appellant.**

We may now consider the effect of the registration of the Project under the RERA Act. In the present case the apartments were booked by the Complainants in 2011-2012 and the Builder Buyer Agreements were entered into in November, 2013. As promised, the construction should have been completed in 42 months. The period had expired well before the Project was registered under the provisions of the RERA Act. Merely because the registration under the RERA Act is valid till 31.12.2020 does not mean that the entitlement of the concerned allottees to maintain an action stands deferred. It is relevant to note that even for the purposes of Section 18, the period has to be reckoned in terms of the agreement and not the registration. Condition no. (x) of the letter dated 17.11.2017 also entitles an allottee in same fashion. **Therefore, the entitlement of the Complainants must be considered in the light of the terms of the Builder Buyer Agreements and was rightly dealt with by the Commission.**



## PART-II

### REPORTING OF CASE LAWS

#### **MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL**

**APPELLANT: M/s Mahanagar Reality & Ors**

**RESPONDENT: Ajit Jain & Anr.**

**ORDER DATE: 02.11.2020**

Appellant Representative: Mr. Rahul Gandhi

Respondent Representative: Mr. Nilesh Borate, Adv

***Gist of Case: Appeal made for waiver of pre deposit mandate as per Act. Not accepted.***

In the appeals preferred by the Promoters, applications have been filed for waiver of pre-deposit mandated as per proviso of Section 43(5) of Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as RERA). Promoters strongly argued that impugned order is a nullity and non-est in law as it is passed by Adjudicating Officer lacking subject matter jurisdiction to determine validity of termination of agreement for sale. According to him, mandate of compliance of pre-deposit as contemplated under Section 43(5) of RERA is not binding on the Promoters since impugned order challenged in the Appeal is nullity. He relied on some case law to which I will refer in due course.

Allottees argued that promoters never raised challenge regarding jurisdiction of Adjudicating Officer at any time before MahaRERA. According to him, promoters may challenge impugned order by initiating action under Writ jurisdiction. He further argued that the case law referred by the Promoters are not applicable to this matter.

Perused the impugned order and Proviso of Section 43(5) of RERA, following points arise for determination:

#### **POINTS FINDINGS**

- |   |                        |
|---|------------------------|
| <p><b>i. Whether the Promoters are entitled for exemption to make compliance of</b></p> | <p><b>Negative</b></p> |
|---|------------------------|

## **Proviso of Section 43 sub-Section 5 of RERA?**

### **ii. What order?**

### **As per final order**

It is mandate of statute that when the Promoter prefers an Appeal it is mandatory to deposit the amount and comply the proviso of Section 43(5) of RERA for entertaining and hearing the Appeal. Deposit is pre-requisite. No litigant possesses any natural or inherent right to Appeal unless statute confers it. Right of Appeal can be conditional and quantified. Where law authorizes filing of Appeal it can impose condition as well. Mandatory condition is binding and must be followed.

Now at the stage of deciding issue of pre-deposit, Applicants have preferred this application and prayed for entertaining the Appeal without passing order of pre-deposit as per proviso to Section 43(5) of RERA. It is mainly alleged that the order under challenge in Appeal is nullity, lacking subject matter jurisdiction to determine validity of termination of agreement for sale.

Applicants have strongly contended that impugned order is nullity and passed by Adjudicating Officer without jurisdiction over the subject matter. This contention itself is the legal issue involved in these Appeals, it is required to be decided on merit by Appellate Tribunal. Since Appeals are preferred by Applicants for declaring the impugned order as nullity, it is mandatory to the Applicants to make the compliance of pre-condition for entertaining the Appeals by adhering to the Proviso of Section 43(5) of RERA. So, answer issued in the negative.

Having gone through the draft order Tribunal agreed with conclusions recorded for declining plea of Applicants for waiver of deposit under Proviso to Section 43(5) of RERA. Considering the averments of parties, it is seen that learned Counsel for

**Applicants has three legs of arguments for seeking obviation of deposit as mandated under Proviso of Section 43(5). First, it is contended by Applicants that the impugned order, invalidating the termination of agreement for sale by Applicants, is a nullity as it has been passed without jurisdiction by the Adjudicating Officer (AO). So, it is void ab Initio and this Tribunal ought to prima fade hold it so for want of jurisdiction. Accordingly, Tribunal should not insist for deposit as per the aforesaid Section of RERA. Second contention is that relevant provisions of Section 43(5) of RERA for pre-deposit of amount are directory and not mandatory in nature. Learned Counsel supported his contention with case law of Maruti Suzuki India Ltd. Vs. Union of India and**

**Ors. and M/s. Mahesh Kumar Singla & Anr. Vs. Union of India & Ors wherein relevant provisions of:**

- 1) The Employees State Insurance Act, 1948 and
- 2) The Micro, Small and Medium Enterprises Development Act, 2006 respectively,

**Prescribing requirement of pre-deposit for entertaining appeal, are held to be directory and not mandatory by the Hon'ble Punjab and Haryana High Court.** Therefore, it is argued that in view thereof pre-deposit cannot and should not be insisted upon by the Tribunal.

**Thirdly, once the flat, the subject matter of the agreement for sale, was already taken away under SARFAESI, nothing survived for AO to determine or decide validity of termination of agreement by Applicants.**

After giving serious thought to the aforesaid contentions raised by Applicants, Tribunal found that the issues relating inter alia to nullity raised in the first and third contentions above are integral to examining the propriety and legality of the impugned order in the light of provisions of RERA. As far as the issue as to whether condition of pre-deposit under Proviso of Section 43(5) is mandatory or directory is concerned, tribunal is in the humble view that the situation existing in the case law (supra) referred by Applicants is not akin to the one on hand in this Appeal

Viewed from this perspective and keeping in view the overall objectives as envisaged in the relevant provisions of RERA, **Tribunal firmly feel that there is no valid ground to completely waive the condition of pre-deposit and therefore contentions of Applicants in this regard cannot be accepted.**

In view of above discussion, Applicants are not entitled for exemption from pre-deposit and shall comply Proviso of Section 43 sub-Section 5 of RERA for entertaining and hearing of these Appeals. Hence, Tribunal passed the order in each Appeal to pay 60% of the amount directed to be paid as per impugned order on or before 1st December, 2020 failing which the Appeals will be listed for dismissal.

**APPELLANT: M/s. Adarsh Industrial Estate Pvt. Ltd.**

**RESPONDENT: Maltiashok Gupta**

**ORDER DATE: 04.11.2020**

Appellant Representative: Adv. Akash Menon and Gauri Tyagi

Respondent Representative: Adv. Syed Ahmed for Respondents/Allottees

***Gist of Case: A.O. lacks jurisdiction to pass order for refund.***

These Appeals have been filed to challenge the orders dated 08.05.2019 passed by the learned Adjudicating Officer (In short, the 'AO') in the captioned complaints preferred by Respondents/Allottees to seek refund of their amount with interest and compensation.

As per factual matrix of these Appeals, Allottees booked respective flats in the project being executed by Promoter. Allottees paid the requisite amounts for booking the flats against which Promoters issued letters of allotment (LOA) dated 10.04.2013 to Allottees in two appeals out of the total three appeals and an MOU dated 10.05.2013 was executed by Promoters with Allottee in remaining one Appeal. As per the terms in LOA/MOU Promoters undertook to commence construction of project within 12 months from date of execution of LOA/MOU failing which Promoters agreed to pay interest to Allottees @18% from the expiry of 12 months till the commencement of construction on the project.

**Alleging that Promoters failed to start the initial development work of the said project and to execute the formal agreements for sale with them even after expiry of 5 years, Allottees filed the above complaints seeking return of the amount paid by them with interest and compensation.**

After hearing the parties learned AO vide impugned orders dated 08.05.2019 allowed the Allottees to withdraw from the project and consequentially directed Promoters to return amount paid by Allottees with interest @ 10.75% per annum from the date of payment till final realisation. Promoters are further directed to pay Rs. 20,000/- to each Allottee towards costs of complaints. The said orders passed by the AO are assailed in the present Appeals by Promoters.

**Promoters argued that the orders are erroneous, unlawful and unsustainable broadly for the following reasons:**

- i. Provisions of Section 18 of Real Estate (Regulation and Development) Act, 2016 (for short, the 'RERA') are not applicable as Allottees did not execute any agreement for sale.**
- ii. No specific date of possession was mentioned in the MOU/LOA executed with Allottees so as to claim any delay in possession. Since there was no delay in completion, the AO erroneously granted reliefs as per complaints under Section 18 of RERA.**

- iii. Allottees are investors, who engaged in commercial transaction and deserve no sympathy that is expected to be extended to genuine home buyers under RERA.**
- iv. Allottees were aware that project being of slum rehabilitation would take long time and they now cannot claim reliefs for delay. Now construction of new building is in full swing.**
- v. Impugned orders are invalid as the interim reliefs sought by Allottees in their complaints are granted as main reliefs.**
- vi. Without prejudice to above, if at all Allottees are to be granted interest for delay in possession, it should be granted after expiry of 54 months as per agreed date of possession in the MOU executed with Allottee in Appeal at Sr. No. 3.**

Allottees countered the arguments put forth by Promoters by contending that:

- i) Promoters did not admit that even after receiving more than 70% amount of the total consideration, they failed to commence construction as agreed at the time of booking.
- ii) Promoters do not have enough financial capability to complete construction and to hide that failure to execute agreement for sale is ascribed to Allottees for causing delay in possession.
- iii) Promoters made unilateral and substantial changes to layout/plan of the project after five years without consent of Allottees.
- iv) It is erroneous to claim by Promoters that no date of possession was agreed even though as per aforementioned MOU executed on 10.05.2013, possession was agreed to be handed over within 54 months from execution thereof. The AO has rightly considered the same and passed the impugned orders granting reliefs to Allottees as prayed for in their complaints.

**Promoters submitted that as per Sections 71 and 72 of RERA the AO has jurisdiction only to grant compensation and not refund and interest as held in the recent judgment dated 31.08.2020 by this Tribunal in the case of Pankaj Kishore Agarwal and Anr. He therefore prayed for setting aside the impugned orders and remanding the matters for fresh adjudication.**

**Allottees submitted that they never approached to the AO on their own and their complaints were referred to the AO at the MahaRERA level. He fairly**

submitted that if the Tribunal decides to remand the matters, their disposal after remand be made time-bound. Considered submissions of the parties, perused the impugned orders and other documents on record, As per Section 31(1) an aggrieved person may file complaint with the Authority or the AO, as the case may be, AO is appointed under Section 71 and 72

## **POINTS FINDINGS**

- i. **Whether Adjudicating Officer lacks inherent jurisdiction to adjudicate Affirmative dispute of refund with interest ?**
- ii. **Whether impugned order sustainable under law ? Negative**
- iii. **What order? Allowed and complaints are remanded back to MahaRERA**

Impugned order is not sustainable in law because it is passed by Adjudicating Officer, who lacks inherent jurisdiction to adjudicate the issue of refund with interest. **As stated in above, this Tribunal held in an Appeal Manoj Vatovat V/s. Sea Princess Realty & Ors. decided on 14th February 2019, that Adjudicating Officer is entrusted with the jurisdiction to decide the point of dispute of compensation between Promoter and Allottee under RERA and except determination of compensation MahaRERA Authority including Chairperson & Members are having jurisdiction over all types of disputes between Promoter and Allottee as per provisions of RERA.**

**In view of above discussion impugned order passed by Adjudicating Officer is not sustainable under the law as Adjudicating Officer lacks inherent jurisdiction to pass such order of refund with interest.**

For the reasons stated, above Appeals are partly allowed and impugned order is set-aside and matters are remanded back to MahaRERA, Authority for allotting the same to such adjudicating mechanism established under RERA having jurisdiction to decide the dispute of refund with interest.



**APPELLANT: Neelam Gupta & others****RESPONDENT: T. Bhimjyani Realty Pvt. Ltd.****ORDER DATE: 14.12.2020**

Appellant Representative: Adv. Mr. TanujLodha

Respondent Representative: Adv. MrHarshadBhadbhade

***Gist of Case: Allottee made appeal for awarding interest for delay in possession due to construction of additional flats without their consent but as per respondent delay caused on account of restraint order in the PIL by the Hon'ble Bombay High Court. Appeal partly allowed.***

Appellants and Respondents will be referred as Allottees and Promoter respectively as per their status in these matters. Allottees purchased apartments in the Promoter's project 'Neelkanth Woods Olivia' situated at Majiwade, District Thane. As per registered agreements for sale (AFS) executed between the years 2014-16 Promoter agreed to deliver possession by 31.05.2018 in respect of Appellant and by 30.11.2017 in respect of Appellants in the remaining Appeals. Alleging delay in possession by the agreed date, Allottees filed the above complaints for awarding interest for the delayed period. After hearing the parties, the Authority passed order dated 03.05.2018. Feeling aggrieved by the aforesaid order these Appeals are filed by Allottees.

Learned counsel for Allottees submitted that the project consists of three separate 'A', 'B' and 'C' buildings having 26 floors each along with a terrace on the top floor i.e., 26th floor. This was also reflected in payment schedule provided in AFS for making slab-wise payments. It is submitted that Allottees had already paid 90% of the total consideration and the building was complete with slab already cast for terrace (27th slab) by November 2016 itself. Just when the completion was about to take place Promoter revised the plan to add 6 additional floors to construct total 33 floors in each of the three wings to build 60-70 additional flats with an intention to earn unjust enrichment of Rs. 60-70 crores.

To emphasis the above point, learned counsel submits that as admitted in its own reply, Promoter delayed the project to take benefit of the TDR policy revised on 16.11.2016. Thus, Promoter cannot benefit from the delay caused in possession due to its own wrong doing. Thus, **promoter without obtaining prior consent of Allottees as required, changed the original plan to 33 floors and consequently failed to deliver possession by the agreed date. In view thereof, Promoter was**

**required to pay interest for delayed possession under Sections 12 and 18 of RERA.**

Learned counsel for Allottees further submits that to avoid the interest liabilities for the delay as above, Promoter unilaterally revised the date of possession to October 2018 and vide letter 24.11.2017 has unjustifiably sought to ascribe the delay to pendency of approval to the revised plans in view of change in TDR policy new CC and order dated 05.05.2017 of the Hon'ble High Court for the reason of water scarcity in the project area. It is contended that the aforesaid events/grounds being stated as force majeure factors to justify the delay by Promoter are false and fake as the aforesaid order in the PIL stood revoked on 11.10.2017 and nothing prevented the Promoter from handing over possession by the agreed date of 30.11.2017.

**Learned counsel accordingly submitted that the aforesaid facts show that delay in possession is not caused due to the aforesaid order in the PIL or on account of force majeure factors as defined under Section 6 of RERA but primarily due to greed of Promoter to maximize its profits by adding additional 6 floors.** It is contended that instead of penalizing the Promoter for delay in possession, the Authority by making observations in para 5 of the order has sought to take a harmonious view of the provisions of RERA to defeat entitlement of Allottees for interest under Section 18. He contended that this is not permissible as under **Section 18 no concession in delay is envisaged on account of force majeure factors.** He also submitted that only act of God, floods, earthquake etc. fall under the category of force majeure and not the reasons cited by Promoter for considering any concession/extension in the agreed timelines. He reasoned that even under Section 8 of MOFA a grace period beyond six months is not allowed. **It is further submitted that the Authority cannot rewrite the agreement by altering the agreed date of possession considering the view taken by this Tribunal in the cases of Rohit Chawla and Ors. vs. M/s Bombay Dyeing.**

He contended that after inspecting the buildings, Allottees could not take possession as the flats were found to be not in a habitable condition. He submitted that as held by **the Hon'ble Bombay High Court in Mis. Sion Kamgar Co-operative Housing Society Ltd. Vs Municipal Corporation of Greater Mumbai**, the OC is must for possession and therefore possession cannot be offered/taken on the basis of part OC.

Allottees urged the Tribunal to set aside the impugned order and grant interest as prayed for in their complaints as the Promoter has failed to hand over possession by the agreed date without any sufficient and convincing reasons.

Promoter submitted that primarily **on account of policy paralysis at the level of Government/TMC and order dated 05.05.2017 in the PIL and revocation thereof on 11.10.2017, the delay in completion has occurred for the reasons and force majeure factors beyond control of Promoter.** Further he also contended that Allottees never made any demand for interest for delayed possession as envisaged in the first part of Section 18 and therefore, Allottees are not entitled for interest under the said Section. He further submitted that Allottees were offered possession on the basis of OC obtained in September, 2019. However, they neither took possession nor paid the balance 10% amount so far. He accordingly pleaded to dismiss the appeal.

In rejoinder, learned Counsel for Allottees submitted that consent of Allottees for construction upto 29 floors based on disclosure in the AFS as alleged by Promoter cannot be accepted as the said consent has to be specific and generic. Therefore, any construction beyond 26 floors and amendment therefor in the plan cannot be undertaken without express consent of Allottees.

Considering the rival submissions, we must at the outset observe that there is no denying the fact that there is definite delay in handing over possession and the Promoter could not adhere to the date agreed in the AFS. As per impugned order, the Authority has extended date of possession to 31.05.2019 in respect of Allottees.

From submissions of the parties, delayed approvals by the concerned authorities to the amended plan and new CC is cited to be one of the major causes for delay by Promoter. As observed in the preceding para, the Promoter may be entitled to go for additional floors as disclosed in AFS. **However, pursuant thereto or to avail benefits under new TDR policy, any delay in obtaining necessary approvals to amended plans and new CC, new guidelines about HRC's approvals etc. in the run up to the deadline for possession will not work in favour of the Promoter for granting any concession in the agreed period of possession. In result, Promoter is not entitled for any relief for the delay caused on account of the aforesaid factors.**

Allottees have sought to argue that ban in the said order relates to issuance of new CC/OC and therefore would not affect the work relating to CC already in place. We cannot accept this argument.

In the above circumstances, it is noted that ban imposed vide order dated 05.05.2017 being revoked on 11.10.2017 remained effective for about 5 months. As this ban was imposed before the agreed period for possession, its adverse effect on completion of project cannot be denied. **Taking into account overall period of ban and some period required thereafter for mobilization of resources for recommencing the work, we consider it reasonable to extend the agreed period of possession by 6 months while holding Promoter responsible for paying interest for delay in possession.** This would also take care of grace period of 6 months, if any, contemplated under the AFS in terms of MOFA provisions.

Tribunal do not entirely agree with the period extended by the Authority without assigning any particular reasons in the impugned order, but as observed above, we find it reasonable to grant extension of 6 months in the respective periods of possession as agreed in the AFS executed by the parties. Accordingly, we find that the impugned order in its present form cannot be sustained and therefore deserves to be set aside.

**APPELLANT: M/s. Sea Princess Realty**

**RESPONDENT: Mr. Manoj Votavot and Others**

**ORDER DATE: 22.12.2020**

Appellant Representative: Adv. Aditya Deolekar

Respondent Representative: Adv. Mustafa Safiyuddin & Hassan Safiyuddin

***Gist of Case: Promoters filed review petition for amendment as sole member of appellant Tribunal has no jurisdiction to decide Appeal and application under RERA. Appeal allowed.***

Promoter has filed four Review Petitions against Allottees. Promoter has prayed for modification of the order dated 14th February, 2019 passed in the execution petitions by this Appellate Tribunal.

Promoter has sought amendment is narrated in the schedule (draft) annexed with applications for amendment, in the aforesaid review petitions and has filed applications for amendment in each of Review Petition. Review petitions and applications for amendment being similar and identical, we decide the applications for amendment by this common order.

**Promoter intends to add pleading in respect of recent decision of the Hon'ble Bombay High Court in Man Global Limited Vs. Bharat Prakash Joukani on**

**the point that Appellate Tribunal shall consist of one Judicial Member and one Technical Member and sole Member of the Tribunal does not have jurisdiction to decide Appeal or any application.**

**Review Petitions are filed against the order of sole member of Appellate Tribunal. He submits that the order sought to be reviewed is vitiated in law. He submits that Promoter intends to amend the pleadings of Review Petition by adding abovementioned settled position of law.**

**Allottees strongly objected to amendment and argued that as the order dated 14.02.2019 has already attained finality, the Review Petitions themselves are time barred.** According to him, therefore no amendment as such can be legally allowed in the time barred Review Petitions. By referring to judgment in the case of M/s. Man Global relied upon by Promoter, **he submits that subsequent judgment cannot be used to seek the review of the order or for considering amendment.** He also submits that amendment sought by Promoter is not necessary for determining controversy between the parties. He submits to reject the applications for amendment.

Both parties have filed written submissions and relied on case law.

**Following points arise for our determination.**

- i) Whether Applications for amendment of Review Petitions are time barred?**
- ii) Whether Promoter is entitled to amend the Review Petitions as per the Applications for amendment?**
- iii) What order?**

**Our findings on the above points for the reasons stated below are as under.**

- i) No.**
- ii) Yes.**
- iii) As per final order.**

## **REASONS**

Allottees had filed execution petitions against Promoter. Allottees had prayed for execution of common order dated 4th April, 2018 passed by this Appellate Tribunal whereby, Promoter is directed to pay interest from 1st January, 2017 till actual handing over the individual flat to each of the Allottees and Promoter was directed

to constitute Housing Society and secretary of MahaRERA was requested to independently initiate action under proviso of RERA against Architect Mr. ManojDubal for issuing factually incorrect certificate.

**Execution petitions were disposed of after considering objections raised by Promoter on merit and matter was transmitted to "Principal Judge" of "City Civil Court" for execution. Promoter has prayed for modification to the extent of adverse observations made regarding occupancy certificate as well as architect and the date from which interest is awarded.**

With Applications for Amendment, Promoter intends to add one more ground in the review petition which is based upon the recent decision of the **Hon'ble Bombay High Court in Man Global Ltd. Vs. Bharat PrakashJoukani**. According to him, the order sought to be reviewed stands vitiated on the application of principle laid down in the above case law.

It is contended that amendment sought by Promoter in review petitions is necessary to decide real controversy between the parties and the amendment sought is consistence with the original pleading in the review petition and it does not change the nature and character of the case. Validity and legality of the order sought to be reviewed depends upon the application and consideration of the amendment sought in the review petition.

**Promoter has promptly filed applications for amendment of Review Petitions within short time from pronouncement of the order by the Hon'ble Bombay High Court in Man Global Ltd. Vs. Bharat Prakash Joukani. There is no delay on the part of Promoter in filing the applications for amendment.**

Considering the principles laid down in the above referred case law by both the sides, **we are of the opinion that amendment is sought on the point of law based on the decision of the Hon'ble Bombay High Court that sole Member of Appellate Tribunal has no jurisdiction to decide Appeal and application under RERA. Amendment sought by Promoter involves point of law relating to jurisdiction of the Member of Tribunal sitting singularly, which goes to the root of the matter. Therefore, the same needs due consideration for allowing amendment as prayed for.** In our view no prejudice is likely to be caused to the other side if amendment is allowed. In the interest of justice, other side can be compensated adequately in terms of costs. If amendment is not allowed, it may give rise to multiplicity of litigations. **Whether Review Petitions are time barred or not can be decided at the time of final hearing.**



For the reasons stated as above, we feel it necessary in the interest of justice to allow applications to amend Review Petitions as prayed for by Promoter. Hence order is passed accordingly

- i) **Promoter shall amend each review petition as per the amendment sought in the application subject to payment of costs of Rs. 10,000/- to Allottee in each of the Review petition on or before 04.01.2021.**
- ii) **On payment of the costs as directed above and after carrying out amendment in each of the review petition, Promoter shall file amended copy in each of review petition and shall serve it to Allottee in each matter.**

## **TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL**

**APPELLANT: M/s. Sare Realty Projects Pvt. Ltd.**

**RESPONDENT: Mr.P.B,Ajith Kumar**

**ORDER DATE: 09/12/2020**

**Appellant Representative: - None**

**Respondent Representative:-None**

***Gist of Case: The appellant made application to condone the delay of 304 days. Order passed in the favour of appellant***

The appellant came forward with an application u/s 5 of the Limitation Act, to condone the delay of 304 days and in support of his application the applicant filed an affidavit and stated that from 21.11.2019 to 31.03.2020 there was a settlement discussion communication between them to arrive at an amicable settlement of the dispute. **After 31.03.2020 there was no improvement in the settlement discussion hence the applicant preferred to file appeal but the filing process could not be pursued effectively on account of continuous lockdown, shut down of offices and courts, e-pass and other travel restrictions, etc., due to corona pandemic situation throughout the country till 31.08.2020.** Immediately after the lock down rules were released as on 01.09.2020, they started the filing process and preferred appeal before this Tribunal on 21.09.2020 with delay of 304 days. Hence the applicant sought for the relief to condone the delay since it is neither willful nor wanton but due to bonafide and force majeure reasons.

The respondent came to a conclusion that the instant appeal has been preferred with an ulterior and malicious intention of legitimizing the fraud played by the applicants. Hence, the respondent sought for the dismissal of the delay condonation application.

**Point for consideration: Whether the application deserves to be allowed or not?**

Heard both contentions, on perusal of documents it revealed that the respondent preferred a petition before the Adjudication Officer and after contest order was passed in favour of the respondent on 23.09.2019. To execute the said order the respondent preferred EP on 18.11.2019 before the Adjudicating Officer. On 17.02.2020 the respondent sent a legal notice to the applicant for compliance of the order of Adjudicating Officer. The communications between them, even after the filing of EP and legal notice clearly shows that both the applicant and the respondent were seriously trying to settle the dispute amicably. But unfortunately there is a legal hurdle with regard to title of the property. The applicant expressed his inability due to financial burden to complete the project. The respondent expresses his inability to complete the settlement due to clearance of title as free from encumbrance. **Both the parties have taken earnest efforts for amicable settlement. Hence to allow them to redress their grievances legally, this Tribunal comes to a conclusion that it is just and fair to allow the petition to condone the delay of 304 days by imposing cost of Rs.10000/- to be paid by the applicant to deposit into the account of Chief Minister's Relief Fund for 'Corona' on or before 15.12.2020 failing which this application stands dismissed.**The application is allowed on condition of payment of cost. The point is answered accordingly.

**BIHAR REAL ESTATE REGULATORY AUTHORITY (RERA)**

**APPELLANT: Yadunandan Prasad Singh & Others**

**RESPONDENT: M/s Adharshila Housing Buildcon Pvt Ltd**

**ORDER DATE: 13/10/2020**

**Appellant Representative: - MrShyamNandan Thakur Adv**

**Respondent Representative:-MrAkhileswarPd Singh Adv**

***Gist of Case: Complainant seeking the arrear of rent with interest @ 18% p.a. from the day of agreed hand over possession as construction work not completed on time. On the contrary, respondent stated complainants not paid due balances***

***on time and dispute among management cause to delay in the project. Part relief to complainant. Contractual work not covered under RERA.***

Complainants have filed complaint petition under Section 31 of the Real Estate (Regulation and Development) Act 2016 against M/s Adharshila Housing Buildcon Pvt Ltd, Yadunandan Complex, Ahiyapur, Muzaffarpur for handing over possession of 2 BHK Simplex Bungalows with all facilities as per assignment agreement and payment of arrears of the rent of bungalow at market rate with interest at the rate of 18 percent per annum from the day of agreed hand over of the possession i.e. since 18th January 2016.

Both complainants have submitted the copies of money receipts of the amount paid by them along with copy of the assignment agreement executed by them with the Developer/Contractor.

#### **CASE OF THE COMPLAINANTS:**

In identical Petitions, the complainants have stated that they each had booked a bungalow (2 BHK simplex) measuring super built up area of 1000 sq ft under “Central City” project run by M/s Adharshila Housing Buildcon Pvt Ltd, for which the complainants handed over their plots of land through sale deed dated 26/11/2013 and entered into an “Assignment Agreement” on 13/12/2013 for construction of simplex bungalow on a total cost of Rs 14,99,000/- (Rupees fourteen lakhs ninety nine thousand only) excluding Service Tax and legal expenses to be completed within 18 to 24 months from the date of execution of the Agreement for Sale Deed. The developer was to hand over the bungalow on 18/01/2016. The complainants further submitted that even after five years, the developer has only constructed the concrete structure of the said simplex bungalow. The complainants have claimed that they have paid sum of Rs 12,76,264/- in five installments through cheques including the service tax and legal expenses.

Since the respondent company did not fulfill its commitment within the stipulated period, the complainants sent legal notice to all Directors of the respondent company which was replied by the respondent company stating therein that the construction work would be completed and bungalows would be handed over to them within 120 days.

#### **RESPONSE OF THE RESPONDENT COMPANY:**

A reply was filed on behalf of the respondent company in which the respondent company stated that they were committed to complete the construction of the

bungalow but due to some land disputes and obstructions created by anti-social elements, the project could not be completed on time. Moreover, some disputes cropped up among the management of the respondent company leading to criminal cases causing heavy financial losses to the company. Further, the complainants have not paid the due balance amount in time which resulted into delay in the project. The Respondent claimed that their management was in touch with the customers and they have been requested to see for themselves the completed structure and suggest any changes/modification in the finishing work for which they sought time which resulted in giving possession to them.

The respondent company has further submitted that almost 34 customers have booked 2 BHK bungalow but none of them have paid in full, the cost of the bungalow due to which the delay was caused in completion of this big project and the outer finishing may take some time. The respondent company was ready to submit all documents relating to picture and possession.

#### **REJOINDER OF THE COMPLAINANTS:**

The complainants in their rejoinder filed that they were always ready to take possession but the respondent company was not able to give possession till date due to the fact that the construction was not complete and bungalow was not ready for possession since they have not yet done any work relating to road, drainage, boundary, common area, electricity etc. They further submitted that they have paid the principal amount i.e. Rs 11,60,408/- in five installments from 21/08/2013 to 11/05/2014. Additionally, Rs 35,856/- as Service Tax and Rs 80,000/- being the legal cost were also paid. The complainants claimed interest on their deposited money and arrears of rent from 18/01/2016 till date @ Rs 10,000/- per month.

In course of hearing, the promoter was directed to submit the application for registration of the Project with the Authority, which was done by them in May 2019. The Bench further directed the promoter to complete the construction of the building at the earliest and hand over the bungalows to the complainants without any further delay.

The complainants filed supplementary affidavit stating therein that they have taken possession of the bungalow on 14/12/2019 but respondent company has not handed over them the original document of the sale deed, mutation and revenue receipt to them. They have further claimed that as per agreement, they were entitled to get

arrears of rent and interest of Rs 10,23,712/- and legal expenses of Rs 45,000/- from the respondent company.

### **ISSUES FOR CONSIDERATION:**

There are two issues now for consideration i.e. Firstly whether there was a registered Development agreement between both parties or only an unregistered assignment agreement done on Rs 1000 non-judicial stamp paper as a contractor/vendor. Secondly, it was to be examined whether the complainants were entitled to get compensation of arrear rent, interest and legal expenses as claimed by the complainants.

**Records show that these are not cases of registered development agreement between a developer and land-owner but only an assignment of work between contractor/vendor or vendee based on unregistered agreement on Rs 1000 non-judicial stamp paper.** As each such assignment agreement was in respect of construction of a separate building on a plot of land of 1000sqft with flexible building plans as per suitability of individual requirements, **the Bench is of considered view that such individual contractual work was not covered under the ambit of the Real Estate (Regulation and development) act 2016.**

The Developer has cited various reasons for delay including conflict amongst top management of the company. As the work has been primarily completed by the Developer and possession of the bungalow has been handed over to the complainants in December 2019, the complainants have already availed the benefits of keeping Rs 3 lakhs with them for nearly four years as this money was to be given in 2015-16 to the developer to enable him to complete the Building by January 2016. This requirement of money has been funded by the Developer from their own funds to complete the building.

### **ORDER**

The Bench noted that the possession of 2 BHK Bungalow has already been handed over to the complainants. The Bench also notes that the registration of the conveyance deed of the land to the complainants was done in November 2013 itself prior to the execution of Assignment agreement. Hence the complainants are directed to make payment of the balance amount of the cost to the developer/contractor within thirty days of the issue of this letter and the

Developer/contractor is directed to hand over all land related documents, sanctioned /lay out plans etc. to the complainants at the time of receiving the balance amount.

As regards the claims of interest, arrears of rent at market rate etc. from the Developer/contractor arising out of unregistered assignment agreement for the delay in handing over the bungalow, the complainants may approach the competent civil authorities/courts for relief.

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

**APPELLANT: Sri. O.C. Thomas & ors.**

**RESPONDENT: M/s. Jain Housing & Construction Limited**

**ORDER DATE: 16.10.2020**

Representative Complainant: Smt. Aysha Abraham

Representative Respondent: Sri. George Cherian Karippaparambil

***Gist of Case: Complainant urge refund as they bear heavy loss due to demolition of apartments in contrary respondent contended that complaint is not maintainable as possession given before 2012. Held : case not covered under RERA.***

In the present complaint, the complainants entered into separate agreement for sale and memorandum of agreement with respondents and original land owners as early as in the year 2007 or a period just afterwards to purchase the respective residential apartments as shown and described therein. **Thereupon, they took possession of their respective apartments for their occupation, after paying the entire sale consideration as agreed by both parties as stated in the respective sale deeds executed in the year 2012. While so, the Hon'ble Supreme Court directed the State of Kerala to demolish the entire building holding that the entire building was built in the prohibited area within the C.R.Z. Zone and construction was wholly impermissible and unauthorized.** Pursuant to it, the building was demolished by the State Government on 12.01.2020. The petitioners, therefore, approached the Adjudicating Officer of Kerala Real Estate Regulatory Authority with the present claim petitions for compensation under section 31 read with section 71 of the claiming that they are entitled to recover the amount paid by them with interest and compensation under section 18 of Kerala Real Estate (Regulation and Development) Act 2016 **from the respondents alleging that the building so demolished was never given occupancy certificate by the Municipality and the project can nowhere become a reality.**



The respondents filed separate objection in each case contending, inter alia, that the petitions are not maintainable either in law or on facts and Real Estate (Regulation and Development) Act and Rules have no application in the present cases and the Adjudicating Officer constituted under the Act has no jurisdiction to entertain and deal with the petitions and the petitioners took possession of their respective residential apartments in the year 2012, long before the commencement of the Real Estate Regulatory Authority Act and Rules, in accordance with the terms and conditions contained in the separate agreement for sale and **memorandum of agreement executed at an earlier point of time and the completed building so conveyed and delivered to the petitioners, long before the commencement of the Act and Rules, is neither a registerable nor a registered project coming under the purview of the Act and the State Government already disbursed a sum of Rs. 25 lakhs towards** the interim compensation and a three-member committee appointed by the Hon'ble Supreme Court already engaged in the process of quantifying and deciding the remaining amount due to the flat owners of demolished building and the petitions are devoid of any merits and bonafides and the same are liable to be dismissed with costs.

**The only point that arises for consideration is as to whether the complaints are maintainable or not?**

**The petitioners vehemently urged that the present petitions are maintainable for the simple reason that 'completion certificate' relied on by the respondents is not in conformity with the 'completion certificate' as defined in Section 2(q) of the Real Estate Regulatory Authority Act and it is liable to be discarded on account of it. According to the learned counsel for the petitioners, the project still remains as an 'on going project' irrespective of the fact that the entire building was demolished as per the order of the Hon'ble Supreme Court**

The respondents, contended that the petitions are not maintainable on the ground that all the petitioners took possession of their respective completed apartments as early as in the year 2012 or in the succeeding years for their occupation, by virtue of respective sale deeds, in accordance with the agreements for sale and memorandum of agreement executed in an interior point of time and the Real Estate Regulatory Authority Act and Rules came into force long afterwards it. According to the respondents, the real estate project in question is neither a registered nor a registrable project coming under the ambit and purview of the Act and the provisions of Act and Rules are not applicable to the present cases. The respondents highlighted the fact that the entire completed building consisting of the respective apartments so owned and occupied by them were demolished as per the order of the

Hon'ble Supreme Court and the State Government already disbursed Rs, 25 lakhs towards the interim compensation and an enquiry is being conducted by a three-member committee for quantifying and deciding remaining amount due to the flat owners including the petitioners for the purpose of its disbursement. According to the respondents, all the petitions are liable to be dismissed.

**It is significant to note that all the above acts of execution of agreements for sale, memorandum of agreements, payment of sale consideration, completion of apartments, conveyance of apartments by executing the sale deeds and delivery of possession of apartments thereunder were much before the commencement of the Act.** In view of the above facts and circumstances, it has to be held that the real estate project in question is neither a registered nor a registerable project coming under the purview of the Act and Rules and the provisions of Act and Rules are, therefore, not applicable to the present cases.

It is to be considered that completion certificate relied on by the respondents is not a 'completion certificate' issued by the competent authority in terms of section 2(p) of the Act and as contemplated u/s 2(q) of the Act. **Since, the completion certificate was so issued long prior to the commencement of the Act and provisions of the Act are not applicable to the present cases, an adjudication regarding validly of the same in the light of the provisions contained in the Act is not at all warranted.**

It is true that the petitioners have a legitimate grievance that the apartments conveyed to them by the respondents were constructed in the prohibited area within the C.R.Z. zone, and is not the legal or juridical possession in the eye of law and therefore, the project can be considered only as an on going project' especially after the demolition of building. Their apartments were later demolished solely on the basis of it and it caused heavy loss and damage to them and the respondents are bound to compensate the same **Since the provisions of the Act and Rules are not applicable to the present cases for the reasons aforesaid, the question of exercise of power available to adjudicating officer thereunder does not arise in the present cases.** authority is convinced that the present petitions are not maintainable either in law or on facts for the various reasons aforesaid and it is liable to be dismissed in exercise of the powers available under Rule 37(d) of Kerala Real Estate (Regulation and Development) Rules 2018. This point is found against the petitioners.

In the result, all the present petitions are dismissed. On considering the peculiar facts and circumstances of each petition, both parties are directed to suffer their respective costs.

## **MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY**

**COMPLAINANT: Chetan Kaushal**

**RESPONDENT: Dream World Landmarks Llp and Others**

**ORDER DATE: 27.11.2020**

Appellant Representative: Adv.Harshad Nanaware

Respondent Representative: Adv. Manjiri Joshi

***Gist of Case: Complainant seeking refund of entire amount under provision of section 18 as he canceled the booking due to personal difficulties. No agreement to sale/letter of allotment does not mention possession date. Case not covered u/s 18.***

The complainant has filed this complaint seeking directions from MahaRERA to the respondent to refund the entire amount paid by him under the provisions of section 18 the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as RERA) with respect of booking of a flat, in the respondent's registered project known as "Godrej Greens".

It is the case of the complainant that he has booked the said flat in the respondent's project by signing the booking application. The said flat was booked for total consideration amount of Rs. 51,64,000/-. The allotment letter was issued by the respondent on 1-11-2017. Accordingly, he has paid an amount of Rs. 5, 42,158/- towards the earnest money in three instalments. **Thereafter he could not arrange the funds for further payment due to his personal difficulty and hence, he cancelled the said booking on 11-06-2018 and sought refund of the booking amount.** The respondent agreed to cancel the said allotment of the said flat subject to forfeiting of the entire amount. Thereafter on his request, the respondent asked to look for some other buyer, for the said flat to be transferred in the new buyer's name. However, he could not find any new buyer. **However, the respondent on 10-09-2018 issued the cancellation form duly signed by it stating that on cancellation it has forfeited the entire earnest money paid by him.** The complainant stated that the said clause is unilateral clause and hence not acceptable to him. The respondent kept his money since booking of the flat and neither refunded the same by finding any new buyer. Hence the complainant stated that the present complaint is filed before MahaRERA. Further during the course of hearing, the Ld. advocate for the complainant clarified that the present complaint is filed under section 18 of the RERA.

The MahaRERA has examined the arguments advanced by the complainant and also perused the record. **The complainant is seeking refund of the earnest money paid by him to the respondent towards the booking of the flat in the present project.**

In this regard, the MahaRERA is of the view that section 18 of the RERA would come into force, if the promoter failed to handover possession of the flat to the allottee on the agreed date of possession mentioned in the agreement for sale or as the case may be. Likewise in the present case, **admittedly, there is no registered agreement for sale entered into between the parties showing any agreed date of possession. Even, the allotment letter dated 1-11-2017 issued by the respondent does not mention any date of possession. Hence, the MahaRERA is of the view that the provision of section 18 would not apply to the case of the complainant.** Moreover, the MahaRERA has also observed that the complainant himself has admitted that the said cancellation is done due to his personal difficulties. Hence, there is no violation of section 18 of the RERA by the respondent. **Therefore, the relief sought by the complainant under section 18 stands rejected.**

However, in compliance of principles of natural justice, the MahaRERA advised both the parties to settle their dispute amicably.

## **RAJASTHAN REAL ESTATE REGULATORY AUTHORITY**

**COMPLAINANT: Prem Prakash Saini**

**RESPONDENT: M/s Naman Shreegovindam Realestate Pvt. Ltd**

**PRONOUNCED BY: Shri Salvinder Singh Sohata**

**ORDER DATE: 17.12.2020**

Appellant Representative: Adv. R.B.Sharma

Respondent Representative: C.A. Ashish Ghiya

***Gist of Case: The Complainant filed the complaint against Respondent for wrong allocation of flat. The respondent stated that the flat which is opted by complainant was cancelled due to default in payment and the different unit was allotted as per his choice. Complaint dismissed.***

The applicant averred that he booked Unit No.L-142-102 in the project “Green Park Township” developed by respondent. The respondent without consent of the complainant changed the location of the Unit No.L-100-101. After getting signatures on blank agreement, respondent allotted Unit No.L-58-103 and ultimately he is being shifted to flat No.L-5-103. The complainant also mentioned that project is not registered with Rajasthan Real Estate Regulatory Authority. The complainant requested for refund for Rs.3.85 lac with interest and to penalize promoter for non-registration of the project and other activities.

The respondent filed his reply and stated that complainant himself has opted to allot unit No.L-5-103 and remitted the amount accordingly. Although, agreement for sale was executed for the different unit but due to default, the said flat was cancelled and as per the choice of the applicant, the aforesaid unit is allotted. **All the allegations made against the respondent are baseless and false.** The allotted unit L-5-103 Green Park is ready for possession as completion certificate is already issued by the Competent Authority. Therefore, requested to dismiss the application.

Heard both the parties at length and perused the record of the case. The document dated 26th October, 2018 explicitly proves that the applicant himself agreed to allot unit No.L-5-103 and remittance for Rs.3.08 lac were made against the said flat on the very day. Therefore, it is not a case for forcibly change of unit by the developer. The agreement for the original unit No.L-142-102 was executed on 15.01.2016 by the parties. Remittance dated 26th October, 2018 substantiates the claim of the respondent that the applicant failed to deposit the instalments. Therefore, previous allotted units were cancelled due to default in payment.

**Hence, the unit L-5-103 latest one is allotted to the applicant as per his choice. Therefore, there is no legal ground to challenge that original units L-142-102 is to be allotted to him. The complainant submitted other narration which are not relevant here to mention that Authority is not having jurisdiction to decide upon those issues. The applicant is having liberty to approach before Competent Forum to resolve those issues.**

For the allocated unit related with Green Park Project, the completion Certificate is issued authorized Architect. **Therefore, the applicant may obtain the possession of latest unit allocated to him. Keeping in view the aforesaid observations, the application is dismissed.** The respondent may hand over the possession of the flat to the applicant in terms of agreement for sale.

**COMPLAINANT: Vijay Kumar Garg**

**RESPONDENT: Majestic Properties Pvt. Ltd.**

**PRONOUNCED BY: Shri Salvinder Singh Sohata**

**ORDER DATE: 17.12.2020**

Appellant Representative: Adv. Ravi Bhojak

Respondent Representative: Ms. Sheetal Agarwal

It was proposed to erect 18 towers and started booking from intended buyers. The complainant was one of them who booked a 3 BHK flat in tower 4. Rs.10,41,750/-

paid by him against consideration of Rs.11,46,650/-in pursuance to agreement for sale dated 14<sup>th</sup> July, 2011. The possession was not handed over to the complainant within 30 months i.e. 13<sup>th</sup> January, 2014 as mentioned in agreement for sale. He requested for appropriate relief under the provisions of the Rajasthan Real Estate (Regulation and Development) Act, 2016. After hearing the parties, the then “Designated Authority” passed an order on 9<sup>th</sup> July, 2018, allowing payment of interest on the deposited amount with arrear of interest. The subsequent orders dated 21<sup>st</sup> August, 2019, 15<sup>th</sup> October, 2019 and 10<sup>th</sup> December, 2019 were passed by the Authority for compliance of the original order.

The respondent executed various collaboration agreements. The following collaboration agreements were executed by the respondent No.1 for 18 towers being erected by him. Respondent No.1 transferred absolute rights, title and interest over the various area.

The respondent submitted that tower No.8, 9, 16 and 17 are complete. After visiting of the said tower, the Advocate on behalf of complainant stated that other than tower No.8 are having 2 BHK flats vis-à-vis the complainant has booked 3 BHK flat. Tower No.8 is the only one which is comprising 3 BHK flats which is also not ready for possession. Therefore, until and unless in all respect, construction work is completed and completion certification and occupancy certificate is issued by the Competent Authority, the complainant is not inclined to take over the possession.

During the course of hearing, respondent offered to refund the amount which was declined by the complainant and insisted that he required only the delivery of possession for the flat and submitted that as per collaboration agreement, proposed switch over tower No.8 is related with IHome and Infrastructure Pvt. Ltd., it is not clarified how the arrangements for handing over the possession are to be made by the respondent, it is to be explained.

Respondent contended that informed to the complainant on 16.03.2020 that he may shift booking towards any flat from the tower being developed by IHome and Infrastructure Pvt. Ltd. and which is near complete to hand over. In response complainant enquired details for letter (E-Mail) dated 16.03.2020 on 30.04.2020. Respondent claims that unnecessary details are being enquired, but the apprehension of applicant is justified on the basis of status report dated 11.12.2020.

After hearing both the parties authority is on the conclusion that, the respondents are liable to pay the interest on the deposited amount. The respondent pleaded during the course of hearing that Rs.3.54 lac has been refunded to the complainant, but for

want of record the argument of respondent's counsel is not tenable. They may adjust their accounts after consulting the record available with them and transmit the receipt to the applicant if available with the respondent.

The offer by the respondent to shift over for possession of flat in another tower is accepted by the complainant, but without completion of work and completion certificate/occupancy certificate issued by the Competent Authority, complainant may not take over the possession. Accordingly, respondent should make all the arrangement for handing over the possession to complainant from available flats as per his choice as soon as with completion certificate is issued for tower No.8 and all the legal formalities are to be completed by respondent to transfer the flats from tower No.8 on their own cost.

**COMPLAINANT: G.G.Mundra HUF**

**RESPONDENT: Shree Ram Kripa Build Home Pvt. Ltd.**

**PRONOUNCED BY: Shri Shailendra Agarwal**

**ORDER DATE: 23.12.2020**

Appellant Representative: CA Amit Kumar Kedia

Respondent Representative: None

*Gist of Case: The said complaint is for non-execution of sale agreement for which complainant had already paid the full amount. The decision was in favour of complainant which was forwarded to District Collector for further proceeding as arrear of land revenue.*

The present case pertains to a residential project "South Court" promoted by the respondent promoter Shree Ram KripaBuildHome Pvt. Ltd., wherein the complainant G.G.Mundra, contended **that even though the entire amount of Rs. 30,00,000/- towards the sale proceeds of the flat booked by him in the said project has been paid by him to the respondent, no agreement for sale has been executed by the respondent promoter, despite several requests by the complainant.** And has also not given possession of the flat booked by the complainant. The respondent did not present himself despite service of summons.

**After hearing both the parties, an order was passed by this Bench on 03.11.2020 directing the respondent to refund Rs. 30, 00,000/- paid by the complainant to the respondent, within a period of 45 days from the date of issue of this order and submit a compliance report to the Authority within 15 days thereafter.** The said order dated 03.11.2020 made it further clear that if the



respondent promoter fails in complying with this order, the Authority would be constrained to take further action as per the provisions of the Real Estate (Regulation and Development) Act, 2016 and the Rules made thereunder.

Complainant pleaded that the respondent has neither refunded the said amount to the complainant nor has responded to any **requests made by the complainant for the execution of the order dated 03.11.2020 passed by this Authority**. The respondent has also not chosen to appear before this Authority today, despite the fact that the order has been sent to the respondent promoter by registered post and has also been uploaded on the website of the Authority. It is, therefore, clear that despite being well informed about the order of this Authority and its obligation towards the complainant, the respondent has chosen neither to fulfil the aforementioned financial obligation to comply with the order of this Authority nor has he appeared before this Authority today.

Under the circumstances, this Authority is left with no other alternative but to initiate proceedings under section 40 (1) of the Act which states that **“If a promoter or an allottee or a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the adjudicating officer or the Regulatory Authority or the Appellate Authority, as the case may be, under this Act or the rules and regulations made thereunder, it shall be recoverable from such promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue”**

Accordingly, the Registrar of this Authority is directed to take requisite action and forward the recovery proceedings to the District Collector for the recovery of the amount as ordered by this Authority in its judgment dated 04.11.2020 as arrears of land revenue.

**COMPLAINANT: Suo Moto**

**RESPONDENT: G.K. Builders, Dholpur (Raj.)**

**PRONOUNCED BY: Shri Salvinder Singh Sohata**

**ORDER DATE: 13.11.2020**

Appellant Representative: Mr. Gaurav Gidwani

Respondent Representative: None

***Gist of Case: The authority suo moto issued notice to the respondent for undervaluation of project cost of construction. The decision was given against the respondent and a penalty of Rs.2 lacs was imposed.***

A Notice was issued to the respondent under section 35, 37, 38 and 60 read with the section 4 of the Real Estate (Regulation and Development) Act, 2016 (in brief 'Act') **that the project cost mentioned in the registration application is undervalued. The respondent/builder submitted his reply on 22.09.2020 mentioning that the development cost is to be treated as 12 Crore instead of 1.2 Crore.** He has made averment in the reply that the aforesaid mistake is unintentionally. Therefore, the proceedings may be dropped without any penalty.

Heard the parties, present in court. It is evident on the face of the record that respondent/builder has mentioned in column no. 12 i.e. project cost details that the development cost for the project is 1.2 crore. The proposed cost 1.2 crore does not match with the construction cost therefore, respondent/builder was asked to clarify the status in this regard. The respondent through his reply has agreed upon that the proposed development / construction cost of the project is approximately 12 Crore. **Therefore, it is proved that the developer had falsely informed to the authority for the registration of the said project.** The registration fee is charged against the proposed area for development of the specific project. Hence, it is proved that the builder tried to conceal the cost of project.

Keeping in view the aforesaid discussions the Authority is of the view that it is a fit case to impose penalty under the section 60 of the Act against the builder/respondent.

Exercising the powers provided under the provisions of the Act:

- (i) **A penalty up to the tune of Rs. 2 Lakh is imposed against the builder/respondent.**
- (ii) The amount for penalty is to be remitted within 45 days of issuance of order i.e. from today itself.

If the penalty is not deposited within stipulated time penal action under section 59(2) of the Act be initiated.

**COMPLAINANT: Suo Moto**

**RESPONDENT: Shubham Landcon LLP**

**PRONOUNCED BY: Shri Salvinder Singh Sohata**

**ORDER DATE: 14.10.2020**

Appellant Representative: - N.A.

Respondent Representative: - CA Himashu Vijay

**Gist of Case: Respondent made advertisement without mentioning the registration no. and website of RERA. Authority issued orders to follow the set direction.**

A Notice was issued to the non-complainant alleging that **they had issued an advertisement in Rajasthan Patrika on 25.01.2020 edition for their project bearing Registration No. RAJ/P/2019/1145 'SUBH VILLA' without mentioning the Registration no. and website of RERA** Rajasthan under section 37, 38, 61 read with 11 (2) of Real Estate (Regulation and Development) Act, 2016 (in brief 'Act'). **The respondent submitted through his reply that for the project SHUBH VILLA situated at Bhankrota Kalan, Tehsil Sanganer, Jaipur-302026 (Raj.) the registration no. and website address was published in the aforesaid newspaper.** Therefore, he is not conducted any violation of the provisions of the Act therefore, requested to drop the proceedings.

**Non-applicant has also submitted the original copy of the Rajasthan Patrika, Jaipur edition dated 25.01.2020 which bears the registration no. of the project along with website of RERA Rajasthan marked 'A' in the said document. Therefore, it appears on the apparent on the face of the record the violation of the provision of the Act are not proved therefore, proceedings for instance case are required to be dropped.**

**Keeping in view the foregoing discussion, the bench is coerced to issue guidelines to avoid such kind of eventuality for the benefit of builders and avoid their hardship to unnecessary face litigation without no fault of their.** These directions may also facilitate the staff of the authority. On the issue as we are having lack of specific arrangements for mentioning of registration no. of project and website of RERA during publication of advertisement of relevant documents (whether in print or social media) to intend for sale/book etc. activities for Real Estate project. **The bench on behalf of the authority is obligated to regulate mentioning of a registration no. of project and website of RERA in the advertisements/contents published aforesaid in any of media or otherwise and directs as under:-**

- 1. The registration no. of the Project registered with RERA and its website be depicted in advertisement/contents intended to sale/book any of the Real Estate property being developed by the developers/builder.**
- 2. A minimum size (3x2 cm.) for aforesaid depiction/mention be ensured and ascertained by the builders/developers.**

- 3. The depiction aforesaid in the advertisement or otherwise in print media lessor against the half of the space utilized for mention for the name of the project as published by the builder.**
- 4. The background for depiction for aforesaid registration no. and website shall be in yellow color for print and social media or otherwise document. 14 Font Size for print media be used. For the use of social media Fonts size of letter of registration no. and website be accordingly to the font size used for depiction for the name of the project i.e. "SHUBH ASHISH, IMPERIAL or EXCLUSIVE-123".**
- 5. Name of the builder/promoter or Real Estate Agent with their mobile/phone no., e-mail or postal address as mentioned in the application for registration of the project with RERA be mentioned. Any change in this regard be updated as prescribed by the authority.**
- 6. The content on social media - Facebook, what'sapp, Instagram, you tube or any platform without aforesaid requirement be viewed seriously. The contents already be uploaded on social media are allowed to be modified upto 31.12.2020 positively. Any lack city for updation or none mentioning as stated above for new contents upon social media be treated violative against the directions and liable to be penalty under relevant provisions of the statutes.**
- 7. The builders shall inform to the Authority for appointment/authorization of their Real Estate Agents. These agents also require to be registered with Authority under the provisions of section-9 of the Act. The advertisement/published documents/contents print/social media intendant for sale/book the unit by Real Estate Agent or promoter/builder without their registration no., e-mail, postal address (as applicable) etc. shall attract penal provisions of the Act if not complied.**
- 8. The promoters/builders are required for timely updation of the status of their Real Estate Agent on quarterly basis or otherwise as directed by the Authority on this issue.**

- 9. Any deviation or leniency for compliance of directions, be monitored by the office of the Registrar to take cognizance for any violative and contumacious Act against the provisions of the statute or any directions of the Authority.**

Accordingly the proceedings initiated against the developer respondents are hereby dropped. The Registrar of the Authority is directed to follow the above directions i.e. obiter dictum. The case file is consigned to record of office after compliance.

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

**HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM**

Dated 20<sup>th</sup> October, 2020

**NOTICE**

It is for the information of the litigants/their counsel that in view of judgment of the Hon'ble High Court of Punjab and Haryana at Chandigarh on 16.10.2020 in Civil Writ Petition no. 38144 of 2018 and other connected Writ Petitions, it has been held that the hon'ble Authority has only jurisdiction to deal with matters w.r.t. Refund being sought by the allottees in the different projects. A large number of cases in this regard are pending before this forum. **So, in view of the orders passed by Hon'ble High Court Punjab and Haryana, the cases pending before this forum w.r.t. Refund etc. are directed to be send to the Registry of the Authority for putting up before the learned Authority for passing appropriate orders and the next date of hearing would be notified later on.**

**RAJASTHAN REAL ESTATE REGULATORY AUTHORITY**

No. F-7(23)RJ/RERA/Gen.Corsp./2020/D -7676 Jaipur Dated: 27<sup>th</sup> October, 2020

Secretary,  
Ajmer Development Authority, Ajmer  
Todarmal Lane, Civil Lines, Ajmer (Raj.)  
Email:ajmerada@gmail.com

Sub.: Your request for clarification under the Real Estate (Regulation and Development) Act, 2016 read with the Rajasthan Real Estate (Regulation and Development) Rules, 2017.

Ref.: Your letter No. ADA/RERA/2020-21/4406, dated 19.10.2020.

**Under above cited subject and reference, it is clarified that as per section 2 (zn) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'), the meaning of expression "real estate project" includes the**

**development of land into plots for sale. Dividing a piece of land into two or more plots and providing or widening an access road for the plot to be sold fall within the meaning of 'development' provided in section 2 (s) of the Act.**

Therefore, in the light of above provisions of the Act and the discussion held with you today, both your new schemes of Foos Vali Kothi residential group housing scheme and Professional Institute Scheme mentioned in your letter under reference are liable to be registered under the Act.

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

K-RERA/T3/102/2020

Dated: 30<sup>th</sup> October, 2020

#### **ORDER**

**Sub: Redetermination of Penalty for delayed submission of Applications for Registration of ongoing projects.**

Ref: (1) Order and Public Notice No: K-RERA/T3/102/2020 dated 29/09/2020 of Kerala Real Estate Regulatory Authority  
(2) Orders No K-RERA/T3/102/2020 dated 30/09/2020 of Kerala Real Estate Regulatory Authority

The Authority vide references cited (1) and (2) above determined the penalty as per section 59 of the Real Estate (Regulation and Development) Act, 2016 for non-submission of applications for registration of ongoing projects in Form A1 on or before 30th September 2020.

At the meeting held on 23<sup>rd</sup> October 2020 with the Chairman in the Office of K-RERA, the representatives of CREDAI has requested to dispense with the penalty prescribed upto 31<sup>st</sup> December 2020, They pointed out that the fee for registration of projects in Kerala is very high compared to many other states and hence the penalty for initial months of delayed submission also works out to be relatively high. They also invited attention of the authority on the adverse situation created due to Covid 19 pandemic, staff shortage in their respective offices thereof and the amount of details to be collected and enclosed with the application for registration of projects and requested for a further considerate approach in determining penalty for late submission of application for registration of such projects.



The matter was examined and the penalty as per section 59 of the Act, 2016 is redetermined as follows:

The penalty for non-submission of applications on or before 30-09-2020 for registration of ongoing projects in Form A1 shall be as follows:

Sr.No	Date of submission of application for registration of project	Penalty
1.	From 01 <sup>st</sup> day of October 2020 upto 31 <sup>st</sup> day of October 2020	10% of the Application fee as per rule 3(4) of the Kerala Real Estate (Regulation & Development) Rules, 2018
2.	From 01 <sup>st</sup> day of November 2020 upto 30 <sup>th</sup> day of November 2020	20% of the Application fee as per rule 3(4) of the Kerala Real Estate (Regulation & Development) Rules, 2018
3.	From 01 <sup>st</sup> day of December 2020 upto 31 <sup>st</sup> day of December 2020	40% of the Application fee as per rule 3(4) of the Kerala Real Estate (Regulation & Development) Rules, 2018
4.	From 01 <sup>st</sup> day of January 2021 onwards	As decided by the authority on a case to case basis, which may extend upto 10% of the project cost as per section 59 of the Real Estate (Regulation & Development) Act, 2016.

Also, the penalty for non-submission of application on or before 30<sup>th</sup> day of September 2020 for registration of ongoing projects in Form A1, **for which occupancy and/or development certificate have already been issued on or before 30<sup>th</sup> day of September 2020 is redetermined as Nil for the period from 01<sup>st</sup> day of October 2020 to 31<sup>st</sup> day of December 2020.** In such cases, the applicant shall also enclose a self-attested copy of such occupancy certificate and/or Development Certificate (as applicable) issued by the competent authority.

The Registration fee and the penalty, shall be remitted as **separate demand drafts** drawn in favour of 'Kerala Real Estate Regulatory Authority' payable at Thiruvananthapuram.

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

MahaRERA Order No.15/2020    Dated: 24<sup>th</sup>November,2020

**Sub: Delegation of Powers under Section 40 of the Real Estate (Regulation and Development) Act,2016 (hereinafter referred to as the aforesaid Act) to the Secretary, MahaRERA, in case of failure to comply with Orders of interest or penalty or compensation imposed by MahaRERA and f or Adjudicating Officers.**

Whereas, under section 81 of the aforesaid Act, MahaRERA is duly empowered to delegate its power to any member or officers of the Authority or to any other Person;

Whereas, many application has been filed in MahaRERA on the ground of noncompliance of the orders passed by MahaRERA and Adjudicating officers; Whereas, in order to devote quality time for final disposal of a large number of pending complaints, the MahaRERA Authority felt it necessary to delegate the powers to deal with noncompliance applications under section 40 (1) of the aforesaid Act, additionally, to the Secretary, MahaRERA;

And therefore, in exercise of the powers under section 81 of the RERA Act,2016 MahaRERA has resolved, vide Resolution No. 17/1 dated 23-11-2020 to delegate its powers under section 40(1) of the aforesaid Act so that the secretary, MahaRERA can additionally deal with non-compliance applications, in accordance with law.

This order shall come into force with immediate effect.

### **KARNATAKA REAL ESTATE REGULATORY AUTHORITY**

No:K-RERA/US/CR/37 /2020-21(P)    Dated: 16th December, 2020

Notification

**Sub: Delegation of powers under Section 81 of the Real Estate (Regulation and Development) Act, 2016, to the Secretary, K-RERA to conduct enquiry proceedings with respect to unregistered projects.**

It is seen that around 2232 complaints against the Registered and Unregistered projects are still pending for disposal.

Earlier efforts were made by the Chairman, K-RERA to expedite disposal of these cases by allocating them to the Members, but still many complaints are pending for disposal.

The Chairman and the Members are already burdened with the enquiry proceedings in a number of cases for which Court sittings are being held.

It is further seen that amongst 2232 complaints filed against the Registered and Unregistered projects, many promoters are seeking exemption from registration under the provisions of the Act and the Rules. These cases have to be first segregated on the basis of merits of each case. Thereafter a decision has been taken to permit the Secretary, K-RERA either to refuse the exemptions or to grant the same. After this exercise, the cases have to be forwarded to the Adjudicating Officers and the Authority as the case may be.

Accordingly, The Authority decided to delegate powers of the Authority under Section 81 of the Act to conduct enquiry proceedings to the Secretary, K-RERA in case of unregistered projects and the Secretary, K-RERA shall take the following steps to segregate and take necessary steps as under:-

1. To issue notices in all the complaints against unregistered projects, if already not done.
2. There will be many cases where the promoters must have filed applications seeking exemption from the registration. On scrutiny of such documents filed by the eligible promoters, exemption from registration could be granted by the Secretary, K-RERA by means of issuing a speaking order.
3. After the segregation of projects, wherever the projects require registration, the same may be sent to the Authority for further necessary action.
4. Wherever the complainants are seeking individual reliefs in the nature of compensation / levy of interest, such cases could be referred to the Adjudicating Officers.

5. Wherever the complainants are seeking reliefs of common nature like non-availability of civic amenities, issuing directions to the promoter to complete the project, request for other common reliefs, such cases could be referred to the Authority.
6. After a decision with respect to registration of a project is taken, wherever both set of reliefs are claimed by the complainant like individual relief's along with the common reliefs, a copy of the complaint shall be marked to both the Adjudicating Officer or the Authority to take necessary action in accordance with law.

The Authority is already overburdened with conduct of hearing of complaints against registered and unregistered projects, by taking up enquiry of all the unregistered projects, the Authority will not be in a position to dispose quickly the huge number of pending cases.

In view of the above issues, the Authority, in the interest of justice and equity, by the Proceedings dated 14/12/2020 has delegated such powers under Section 81 of the Real Estate (Regulation and Development) Act, 2016.

As per the Proceedings of the Authority dated 14/12/2020, considering the pendency of around 2232 complaints, the powers of the Authority has been delegated under Section 81 of the Real Estate (Regulation and Development) Act, 2016, to the Secretary, K-RERA to conduct enquiry proceedings with respect to unregistered projects.



Rajasthan RERA

## राजस्थान रीयल एस्टेट रेग्युलेटरी ऑथोरिटी

द्वितीय एवं तृतीय तल, आरएसआईसी बिल्डिंग, उद्योग भवन,  
तिलक मार्ग, सी-स्कीम, जयपुर - 302005

फोन नं. - 0141-2661900 वेबसाइट & <http://rera.rajasthan.gov.in>

क्रमांक एफ.4(1)आरजे/रेरा/2017/पार्ट/डी-2052

दिनांक :- 17.12.2020

### आदेश

दी रीयल एस्टेट (रेग्युलेशन एण्ड डवलपमेंट) एक्ट, 2016 की धारा 37 एवं दी राजस्थान रीयल एस्टेट रेग्युलेटरी ऑथोरिटी रेग्युलेशन 2017 के अनुच्छेद 23(3) के अन्तर्गत ऑथोरिटी को प्रदत्त शक्तियों के क्रम में निम्न निर्देश जारी किये जाते हैं :

- दिनांक 25.08.2020 को जारी 'आदेश क्रमांक 1429 (Special Campaign for delayed applications for extension)' जिसके अन्तर्गत विलम्बित एक्सटेंशन ऑफ रजिस्ट्रेशन के आवेदनों पर दिनांक 31.12.2020 तक के लिए फीस की रियायती दरे लागू की गई थी, यह अब 31.03.2021 तक प्रभावी रहेगा।
- दिनांक 25.08.2020 को जारी उक्त आदेश, दिनांक 10.08.2020 को जारी आदेश क्रमांक 5900 के पैरा 3 व दिनांक 16.08.2019 को जारी आदेश क्रमांक 3080 के पैरा 4 के आंशिक संशोधन में, यह निर्धारित किया जाता है कि जिन प्रकरणों में प्रोजेक्ट को पूरा कर उसका पूर्णता प्रमाण पत्र प्राप्त करने तक के लिए रजिस्ट्रेशन के समथ निर्धारित पूर्णता तिथि (estimated finish date) में केवल छार माह या उससे कम अवधि के एक्सटेंशन की आवश्यकता हो, उन प्रकरणों में एक्सटेंशन ऑफ रजिस्ट्रेशन (Extension of Registration) हेतु आवेदन करने पर कोई स्टैण्डर्ड फीस देय नहीं होगी। तदनुसार अब ऐसे प्रकरणों में केवल निम्नानुसार राशि जमा करवाई जानी होगी :-
  - एक्सटेंशन शुल्क के रूप में, पंजीकरण शुल्क की 50% राशि।
  - केवल विलम्ब के मामलों में, शास्ति के रूप में, दिनांक 31.03.2021 तक पंजीकरण शुल्क की 50% राशि और उसके पश्चात् पंजीकरण शुल्क के बराबर राशि।

यह आदेश ऑथोरिटी के अध्यक्ष महोदय के अनुमोदन से जारी किया जाता है।

(JAMES CHANDRA SHARMA)  
रमेश चंद्र शर्मा  
रजिस्ट्रार  
राजस्थान रीयल एस्टेट रेग्युलेटरी ऑथोरिटी, जयपुर

**KARNATAKA REAL ESTATE REGULATORY AUTHORITY**

No: RERA/SEC/CR-04/2019-20

Dated: 18<sup>th</sup>December, 2020

**Notification**

**Sub: Further Extension by three months for completion of Real Estate Projects in view of prevailing COVID-19 situation.**

Ref: 1. Proceedings of the K-RERA Authority dated 3/03/2020.

2. Circular bearing No. K-RERA/Sec.CR.04/2019-2020 dated 04.04.2020.

3. Circular bearing No. K-RERA/Secy/04/2019-20 dated. 19/5/2020 regarding extension by six months for completion of K-RERA registered projects by invoking "Force Majeure" clause.

4. Advisory bearing No. 0-17024/230/2018-Housing-UDIEFS-9056405 and No. K- 14011/ 12/2020 AMRUT-II-A. dated 13-5-2020 and 28/05/2020 respectively issued by the Government of India, Ministry of Housing and Urban Affairs.

5. Letter bearing No.PDS 19 HDD 2020 dated.25.09.2020 issued by Chief Secretary to Government.

6. Proceedings of the K-RERA Authority dated 17/10/2020.

With reference to the above subject, vide proceedings of the Authority referred at (1) above, in order to aid Government's efforts in controlling the damage of COVID-19 and to ensure that completion of K-RERA registered projects does not get adversely affected, it was decided to extend by three months the period of validity for registration of all K-RERA Registered projects where completion date, revised completion date or extended completion date expiring on or after 15th March 2020, in accordance with the Real Estate (Regulation and Development) Act, 2016 and the rules and regulations made there under.

Vide Circular of the Authority referred at (2) above, for all K-RERA registered projects the period of validity for registration of such projects was extended by three months.

Vide Circular referred at (3) above, for all K-RERA registered projects where completion date, revised completion date for extended completion date expires on or after 15.03.2020, the period of validity of registration of such projects was extended by six months by invoking "Force Majeure" clause.

Vide Advisory referred at (4) above issued by Ministry of Housing & Urban Affairs (Housing Section), Government of India, at para 5 it has been advised as follows:-

***"5. This Ministry has also issued advisory dated 13 May, 2020 (copy enclosed) for extension of registration of real estate projects for which completion date or revised completion date or extended completion date as per registration expires on or after 25 March, 2020 and to extend the said date automatically by 6 months by invoking 'Force Majeure' clause under the provisions of Real Estate (Regulation and Development) Act, 2015 (RERA). Also, regulatory authorities, may on their own discretion, consider to further extend the date of completion as per registration for another period upto 3 months if situation needs special consideration for whole or part of the State of invoking 'Force Majeure' in view of current pandemic. Such extension is to be granted suo moto by revising the date of completion through new letter of registration to be issued by RERA."***

Presently, in view of the pandemic COVID-19 not abating, as per the Government of India's instructions contained in Advisory in reference (4) above and communication of the Government of the Karnataka vide reference (5) above, by the Proceedings of the Authority dated 17/10/2020 the Authority decided to further extend the validity of the K-RERA registered projects for which completion date or revised completion date or extended completion date expires on or after 15th March, 2020 is automatically continued for a further period of another three months by invoking 'Force Majeure' Clause.

**In view of the circumstances explained above, as per the decision of the Authority referred at (6) above, the validity of the K-RERA registered projects for which completion date or revised completion date or extended completion date expires on or after 15th March, 2020 is automatically continued for a further period of another three months by invoking 'Force Majeure' clause.**



## **GUJARAT REAL ESTATE REGULATORY AUTHORITY**

No: GujRERA/Order - 44

Date: 24th December, 2020

### **Extension of Due Date for Submission of Form-5 for FY 2019-20**

As per the provision of section 4(2)(l)(D) of The Real Estate (Regulation and Development) Act, 2016 read with Regulation 4 of the Gujarat Real Estate Regulatory Authority (General) Regulation, 2017, every promoter is required to submit the annual report on statement of accounts in Form-5 within six months after the end of every financial year for every registered project.

Gujarat RERA Authority has made available the online facility of filing of Form-5 by Chartered Accountants on the Guj-RERA portal for promoters of Registered Projects. It is pertinent to note that COVID 19 pandemic and country-wide lockdown has affected all activities in the Real Estate Sector as in all other sectors in the economy. Owing to that currently, Guj-RERA has extended due date for submission of Form-5 for FY 2019-20 up to 31st December, 2020. To provide further relaxation in submission time for compliance of Form-5 Gujarat RERA has decided to publish the following order:

**Order – 44 The extended date for the submission of Form 5 for Financial year 2019-20, which is due on 31st December, 2020, is further extended up to 31st January 2021. Promoters and Chartered Accountants are required to comply with the requirement of submission of Form 5 by the revised time period.**

## **RAJASTHAN REAL ESTATE REGULATORY AUTHORITY**

No.: R1(167) RJ/RERA/QPR/2020/ 12Dated: 1<sup>st</sup> January, 2021

### **Sub.: Submission of Quarterly Progress Reports (QPRs) for Registered Real Estate Projects**

Corona time has been a trying time, but the Authority has used this time to strengthen its online system and expand its online services for the promoters. Earlier, we had made a provision only for online submission of applications for

registration of projects. But, by now following online services have been added onto RERA web portal:-

1. Online generation of registration certificates
2. Extension of registration
3. Updation of revised approved maps
4. Change of RERA account with banks
5. Updation of encumbrances
6. Uploading of Completion/Occupancy Certificates.

Today, the Authority has launched an online facility for submission of QPRs of registered projects. This will enable promoters to submit QPRs, using their dashboard. The QPRs submitted by the promoters will become visible to the Authority and to the public as soon as those are submitted by the promoter. In this context, the following directions are issued for compliance by the promoters:

1. From today, no paper QPRs will be accepted by the Authority; and promoters must submit all their QPRs online, using the QPR button on their dashboard.
2. For the purpose of submitting QPRs, quarters have been defined as January to March, April to June, July to September and October to December. First QPR becomes due at the end of the quarter in which a project is registered and last QPR becomes due at the end of the quarter in which the project is completed.
3. Promoters will be able to submit QPRs for their project only for the period of validity of its registration. QPRs for the period beyond the validity of registration can be submitted only after getting the registration of the project extended by making an online application therefore.
4. There is no fee for submitting QPR online, but it is expected that the promoters will submit their QPRs correctly and truly. Therefore, if a QPR has been submitted and the promoter wants to edit the submitted QPR, he will have to pay processing charges as under:-
  - (a) Rs. 2,000/- If the editing is done before the end of the next quarter.
  - (b) Rs. 5,000/- If the editing is done after the end of the next quarter.

5. As per the Rajasthan Real Estate (Regulation and Development) Rules, 2017 (hereinafter called the Rules'), the for a quarter has to be submitted within 15 days of the end of quarter. Therefore, if a QPR is not submitted within the time prescribed in the Rules, delay processing charges of Rs. 5,000 / - will have to be paid for each delayed submission.
6. Forms R-1, R-2 and R-3 prescribed under the Rajasthan Real Estate Regulatory Authority Regulations, 2017 will form the basis of each QPR. Therefore, the promoters shall obtain R-1, R-2 and R-3 from concerned professionals at the end of each quarter and fill the QPR online, based thereon. The promoter shall ensure that there is no mismatch between the data provided in R-1, R-2 and R-3 and the data provided in the QPR.
7. In this manner, the promoters are required to obtain Forms R-1, R-2 and R-3 four times in a year, for submitting QPRs; and they can very well use these very Forms for withdrawing money from RERA account. In addition, the promoters will be free to obtain R-1, R-2 and R-3 at any time they need to withdraw money from RERA account.
8. The QPR for October-December 2020 has become due today and needs to be submitted online by 15th January, 2021. As for the QPRs of earlier quarters, those can also be submitted using the online system. All the promoters who have not submitted QPRs for earlier quarters or have submitted those in paper form, are now required to submit the QPRs online for all earlier quarters also, No delay processing charges or penalty will be levied if the promoter submits all pending QPRs by 31st March 2021. Also, no processing charges will be levied if any submitted QPRs are edited before 31st March 2021. But, after 31st March 2021, delayed QPRs can be submitted only by paying the specified delay processing charges and submitted QPRs can be edited only by paying the specified processing charges.
9. To facilitate the submission of QPRs of earlier quarters, obtaining of R-1, R-2 and R-3 has been made non-mandatory. The promoters can submit the QPRs for earlier quarters based on whatever records they have kept or the QPRs they have already submitted in paper form.
10. Under section 11(1) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called the Act') read with rule 1 6(1)(D) of the Rules, every

promoter is required to submit a QPR and update the project details online. Non-submission of QPR for any quarter is, therefore, a violation of section 11(1) of the Act and rule 16(1)(D) of the Rules and attracts a penalty under section 61 of the Act.

11. If any false information is provided in QPRs, it will attract a penalty under section 60 of the Act.
12. To facilitate the submission of QPRs online, the online QPR Forms have been auto-populated with the data that is already available on RERA web portal. The first online submission of QPR may be a little taxing, but the Authority is confident that all subsequent submissions will be very smooth and the promoters will find it a very useful tool.
13. Submission of QPR is an opportunity for the promoters to review the progress of their project(s), including pending statutory compliances. It provides an opportunity for the allottees as also the potential buyers to know the latest status of the project and stay updated. It also provides an opportunity for the Authority to monitor the progress of registered projects and use the data in its decision-making on various issues concerning registered projects.
14. It is expected that the promoters will make good use of this new online facility to ensure correctly and timely submission of QPRs for each of their registered projects. If there are any practical difficulties in submitting QPR online, Shri ArpitSancheti, DTP-cum-Joint Registrar (Projects) may be contacted on his mobile number 9829872121 or e-mail ID [jointregistrar.rera@RAJASTHAN.GOV.IN](mailto:jointregistrar.rera@RAJASTHAN.GOV.IN)

This issues with the approval of Hon'ble Chairman.

## **RAJASTHAN REAL ESTATE REGULATORY AUTHORITY**

No.: F.1(167) RJ/RERA/QPR/2020/35

Dated: 4<sup>th</sup> January, 2021

Order

**Sub.: Submission of Quarterly Progress Reports (QPRs) for Registered Real Estate Projects**

In reference to the Authority's Order No. 12, dated 01.01.2021, it is hereby clarified that the QPR for October-December 2020, which is otherwise due to be submitted online by 15.01.2021, can also be submitted/edited online upto 31.03.2021 without payment of any delay processing charges/processing charges or penalty.

It is further directed that QPRs for earlier quarters may be submitted online before submitting the QPR for October-December 2020. If the QPRs are submitted online in chronological order, it will be helpful in processing and interlinking the data of different QPRs. Therefore, QPR for the earliest quarter should be submitted first and then the QPRs for subsequent quarters in chronological order and in the last QPR for October-December 2020 may be submitted, all by 31st March 2021.

**Though the online format of QPR is interactive and is best seen and understood online, a screenshot of the online QPR format, for plotted development and for other than plotted development, is attached herewith for a general understanding of the online QPR format.**

This bears the approval of Hon'ble Chairman.

## **PART-IV**

### **RERA NEWS**

**PTI**  
**12/11/2020**

#### **FM ANNOUNCES RS 18,000 CRORE ADDITIONAL OUTLAY FOR URBAN HOUSING SCHEME**

Finance Minister Nirmala Sitharaman has announced a Rs 18,000 crore additional outlay for the urban housing scheme to help complete real estate projects that would create jobs and boost the economy. This move would help start work on 12 lakh houses as well as complete 18 lakh houses. This would create 78 lakh new jobs as well as demand for steel and cement.

Announcing support for construction and infrastructure, Earnest Money Deposit (EMD) and performance security requirements will be relaxed for government tenders and will be replaced by bid security declaration. Performance security on contracts will be reduced to 3 per cent instead of 5 to 10 per cent. This would be extended to ongoing contracts which are free of disputes. It would also be extended to public sector enterprises.

These relaxations will be given till December 31, 2021. This move would give relief to contractors by reducing locking up of capital and cost of bank guarantees.

**TNN**  
**13/11/2020**

#### **KARNATAKA GOVERNMENT CUTS PROPERTY REGISTRATION FEE FROM 5% TO 3%**

The state government has reduced the property registration fee for flats costing less than Rs 20 lakh from 5 per cent to 3 per cent, took the decision to drive demand in the affordable housing sector. The new registration rate of 3 per cent will also apply to industries buying a property (building or land).

The fee cut will help a new home buyer save up to Rs 40,000. But some realtors are not sure if the measure will help the sector as there are hardly any flats in cities like Bengaluru that cost less than Rs 20 lakh. They suggested that apartments costing up to Rs 50 lakh should be covered under the new rate. Trade bodies and home buyers, in fact, have repeatedly urged the government to decrease the stamp duty and registration charges to 3 per cent for all properties above Rs 21 lakh.

In May, the government lowered the registration stamp duty from 5 per cent to 3 per cent for properties priced between Rs 21 lakh and Rs 35 lakh. Last year, it had brought down the stamp duty from 5 per cent to 2 per cent for properties costing up to Rs 20 lakh.

**PTI**  
**27/11/2020**

### **GOVERNMENT EXTENDS CREDIT GUARANTEE SCHEME TO 27 SECTORS**

The government has extended the Emergency Credit Line Guarantee Scheme (ECLGS) to the health sector and 26 other sectors identified by the Kamath Committee. The National Credit Guarantee Trustee Company Limited (NCGTC) has issued the operational guidelines for implementation of ECLGS 2.0 scheme.

The scheme was announced by the government earlier this month as part of the Rs 2.65 lakh crore Atmanirbhar Bharat 3.0 package. Under ECLGS 2.0 entities with outstanding credit above Rs 50 crore and not exceeding Rs 500 crore as on February 29, 2020, which were less than or equal to 30 days past due as on February 29, 2020 are eligible. The loans provided under ECLGS 2.0 will have a five-year tenor, with a 12-month moratorium on repayment of principal.

These entities or borrower accounts will be eligible for additional funding up to 20 per cent (which could be fund based or non-fund based or both) of their total outstanding credit (fund based only) as a collateral free Guaranteed Emergency Credit Line (GECL), which would be fully guaranteed by NCGTC.

In addition to ECLGS 2.0, where no annual turnover ceiling has been prescribed, it has also been decided to extend ECLGS 1.0 to entities under ECLGS which had a total credit outstanding (fund-based only) of up to Rs 50 crore as on February 29,

2020, but were previously ineligible owing to their annual turnover exceeding Rs 250 crore.

All other existing criteria or terms and conditions remain unchanged. The scheme would be applicable to all loans sanctioned under ECLGS during the period from the date of issue of these guidelines by NCGTC to March 31, 2021 or till guarantees for an amount of Rs 3 lakh crore crore is sanctioned under the ECLGS (taking into account both ECLGS 1.0 and 2.0), whichever is earlier.

**TNN**

**27/11/2020**

### **FOUR-MEMBER SQUAD TO CHECK THREE LAKH DOCUMENTS FOR RERA VIOLATIONS IN PUNE**

The state government has directed the Inspector General of Registration and Stamps (IGR) to submit a report on violations in property documents registered in Pune city from October 2019.

A four-member squad appointed for this purpose faces an uphill task — there an estimated 3 lakh documents registered at the 27 sub-registrar offices in the city. The panel would visit each office and check the documents for any violations under the Real Estate Regulatory Authority (RERA) Act or the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act.

The government appointed this squad after complaints from citizens about the violations that many projects had not been registered with the state RERA regulator, and other projects also violated the other law.

**ET Bureau**

**28/11/2020**

### **HOUSING MINISTER COAXES REALTORS TO OFFLOAD UNSOLD INVENTORY**

The minister highlighted that property sales registration in Maharashtra in September surpassed levels in the pre-Covid-19 era and were the highest in this calendar year. According to him, a major factor that contributed towards this growth was the reduction in stamp duty by the state government and other steps by the



Central government. And also, the discounts and incentives including subsidy on under-construction and ready properties have been offering by realty developers to attract homebuyers and prop up sales.

The minister praised NAREDCO Maharashtra's developer members for absorbing the homebuyers' stamp duty burden and suggested that developers in other parts of country should take the same initiative to prompt sales activity.

According to him, the Covid-19 pandemic is a blip in the economic growth story, but eventually the real estate sector will emerge stronger. The pandemic will undoubtedly change the way one lives and works and emerging trends will become part of our "new normal."

**TNN**

**30/11/2020**

### **UNIQUE CODE FOR EACH PROPERTY TO HELP KANPUR CIVIC BODY INCREASE TAX COLLECTION**

The state government has taken the house tax evasion seriously and decided to allot a unique code to each house so that none are left out of the ambit of house and general tax and all properties, both residential and commercial, are brought under tax net. The unique code system would also check the manipulation in house tax assessment.

As per information, each house will have a unique code in the state consisting of 16 digits and a letter. The first two numbers would denote the state. The next three digits (3, 4 & 5) would be code of the local body, sixth and seventh will represent zones, and eighth, ninth and 10th would represent the ward. The digits from 11 to 16 will be code of the property and 17 will be a letter, R, N or M. R will represent residential, N would indicate non-residential and M will be mixed (residential-cum-non-residential) and would indicate whether the property is residential or commercial.

The code would clearly demarcate whether a property is residential or commercial or mixed. At present, several residential houses are being used for commercial purposes, but are still paying tax on residential rate.

**The New Indian Express**  
**14/11/2020**

### **KARNATAKA GOVERNMENT TO BUILD 1.69 LAKH HOUSES IN PANCHAYAT LIMITS**

With an eye on the panchayat polls, the State Government is planning at least 20 houses for each panchayat under the Prime Minister Awas Yojana and other housing projects. Keen to fulfil Prime Minister Narendra Modi's wish to provide housing to the shelterless under Ambedkar and Basava Housing programmes, the state government will construct about 1.69 lakh houses in panchayat limits. About 1.17 lakh houses have been completed and Rs 200 crore has been set aside for developing 64 lakh sites and land has already been identified for this purpose.

Taking note of the damage to 65,000 houses in floods, the government has released Rs 1,700 crore for construction of new houses. Some are against relocation and have not moved to the newly-built houses. They have planned to develop satellite towns in the state expedited construction of houses and also development of new layouts.

The government has planned to develop 30,000 sites in 1,936 acres at a cost of Rs 3,455 crore at Jigani near Anekal. As many as 16 mega housing projects are in progress across the state to develop 25,000 sites and tenders has been invited for construction of houses. There are plans to develop a township in 100 acres near Chamarajnagar and land has been identified at Madapura, Bogapura, where the land losers will get half of the developed sites.

**Financial Express**  
**15 /12/2020**

### **REAL ESTATE IN INDIA POISED TO TAKE OFF IN 2021**

Over the past few years, the real estate sector has witnessed a rapid evolution in the policy landscape in India. Consistent government initiatives laid the groundwork for transparency and facilitated ease of doing business in the past few years. The year 2020 began on a positive note, but a global lockdown, together with disrupted supply chains, temporarily frayed hopes.

A report by Colliers India has highlighted the commercial space absorption shot up to 58% for the quarter ended September 30th, 2020. This development is a good

indicator of improved consumer confidence and growth. It is likely to sustain the retail segment for now while boosting the demand for commercial real estate in the long term. While India is witnessing a wave of COVID-19 cases, the plummeting of the positivity rate to below 5% has inspired confidence. Most Indian corporates have returned to office, while international corporates seem to have adopted a 'wait and watch' approach.

The retail spaces built on the 'under one roof' concept with integrated facilities for shopping, food and entertainment will be the norm. A tectonic shift in commercial and retail spaces investment is also expected. Savills India predicts an uptick of 42% in the leasing activity by co-working spaces in 2021.

A combination of the conducive policy landscape, re-opening of workplaces, restored consumer confidence and increasing interest from international investors augur well for commercial real estate to embark on a growth trajectory in 2021.

**The Times of India**  
**16/12/2020**

### **REALTY BITES: RAW MATERIAL PRICE SPIKES IN TAMIL NADU**

Building your dream home has turned pricier than a year ago as the cost of construction material has shot through the roof. The prices of various raw material recorded a spike of 15% from projected estimates. Except for M-sand, the cost of most raw material increased, with cement and steel seeing steep escalation. The sharp rise in price comes at a time when the real estate sector was slowly getting back on track after the impact of the pandemic.

While price of 53 grade cement bag is up by Rs 90, steel rates have shot up by Rs 22,000 per tonne in the past 18 months. There is also a spurt in the cost of electric cables and plumbing materials such as PVC pipes on an average by 12% and 14%, respectively. This apart, real estate developers in the city said most of them have effected a revision in wages for construction labourers by Rs 100 to Rs 150 per day. All these factors have pushed up the overall construction cost of building a house. Builders Association of India state treasurer S Ramaprabhu said that individuals building their homes will have to shell out 15% more, than initial estimates, as the cost of all raw material has invariably increased.

For instance, a person who had planned a house in 1,000 square feet with an estimated construction cost of Rs 20 lakh in March this year will have to pay an additional Rs 3 lakh presently. S Sridharan , chairman, Confederation of Real Estate Developers' Association of India (CREDAI) (Tamil Nadu chapter) said substantial price hike of construction material will force developers to put brakes on their ongoing projects.

**Economic Times**

**23/12/2020**

### **START PROCESS OF NON-AGRICULTURAL PROPERTIES' REGISTRATION IN DHARANI: TELANGANA CM**

A day after Telangana government responded to the High Court in a matter pertaining to updating non-agricultural properties in its Dharani portal, Chief Minister K Chandrashekar Rao on Sunday instructed the officials concerned to start the process of registration of such properties, once the HC vacates its stay.

Dharani is a one-stop portal of the government for all matters pertaining to land transactions. Rao asked the administration to be ready to start the registration process from November 25. The officials have already fixed the price of properties in villages, towns and urban areas and nobody has any discretionary powers to change them.

The Telangana High Court on November 4 had directed the state government to stop collecting and uploading any data pertaining to non-agricultural properties of individuals in its Dharani land portal in view of data security. As the court had issued interim directions and stayed the entry of non-agricultural property details, the state government on November 21 told the Telangana High Court that mentioning Aadhaar and caste details on the Dharani portal was optional.

**ET BUREAU**

**25/12/2020**

### **MAHARASHTRA DEVELOPMENT PREMIUM REDUCTION TO PROVIDE BUYERS ZERO STAMP DUTY BENEFIT**

The Maharashtra government is set to reduce the development premium charged to developers by 50% but this benefit can be availed only by those developers who pay stamp duty for homebuyers.

Realty developers of both ongoing and new projects will be able to get the benefit of this reduction in premium for the next entire year until 31st December 2021 with a condition that they give an underwriting to the government that they will absorb the homebuyers' stamp duty burden.

The developers, apart from this assurance deed, will have to provide a certificate from the homebuyer that his/her stamp duty charges have been paid completely by the builder.

Registration of residential sales in the financial capital rose 53% from a year earlier to 9,827 deals in the just three weeks of December, surpassing the number for the entire November month, which itself was the highest in eight years. The state government's revenue collection will dip but this would be offset by the increased number of project developments in the city. The state government is also expected to generate more stamp duty and registration revenue from increased housing sales, say experts.

**PTI**  
**29/12/2020**

### **HARYANA AMENDS REGISTRATION MANUAL TO CURB FRAUDULENT PROPERTY TRANSFERS**

In a decision to protect the rights of property owners by checking fraudulent transfers, the Haryana government has issued a notification amending the Haryana Registration Manual.

The amendment would empower registering officers to accept and register cancellation deeds cancelling the sale deeds earlier registered fraudulently by a person who is not entitled to transfer such property.

If a person has a right in the property and someone else transfers it without his consent, the right in that property still continues to subsist in the true owner and the transfer has no effect on such title. The notification to amend the Manual, which

contains instructions related to registration, transfer and sale of property, was issued on December 23.

According to the amendment, if a document relating to transfer by way of sale, gift, mortgage, exchange, lease or otherwise, is registered of 'Shamlat Deh' (village common land) land vested or deemed to have been vested in the Panchayat Deh under the Punjab Common Lands (Regulation) Act, 1961, or in Municipalities, the Block Development Panchayat Officer, Secretary or Executive Officer or Commissioner, Municipal Corporation or District Municipal Commissioner, would get the cancellation deed registered after seeking approval of the Deputy Commissioner or other superior authority. 'Panchayat Deh' is the property owned, managed and controlled by a panchayat.

**The Business Times**

**29/12/2020**

### **INDIA'S NEWEST MORTGAGE FINANCIER SEEKS CONSERVATIVE GROWTH**

Chief executive officer Manish Shah said Instead of aggressively expanding its asset book, Godrej Housing Finance will focus on acquiring 1,000 customers by March to test the sustainability of its systems and processes. Primary goal is to understand: do we have an engine that knows how to onboard customers well, that serves them well." The firm, which launched its mortgage lending business last month, is open to buying assets from other shadow lenders and banks in the fiscal year starting in April

The financier, which is a unit of conglomerate Godrej Group that makes everything from soaps to houses, wants to run a tight ship aiming at a low cost structure. He is seeking a lending margin of 1.5 per cent to 2 per cent, and initially focusing on serving buyers of homes erected by Godrej Properties and top builders. In a country where owning a home is a symbol of security and defaulting on mortgage loans a taboo, most lenders are vying for this relatively safe retail segment.

Aware of the stiff competition in India's 21-trillion rupee (\$379.2 billion) mortgage market, Godrej will use multiple pricing scales for customers instead of a few blanket parameters to decide lending rates. Mr. Shah said that they will have greater differentiation between the lowest and highest interest rates so that we can do a better job maintaining our spreads. The firm is currently funding its loan book

from capital infused by parent Godrej Industries. It is likely to borrow 10 billion rupees to 20 billion rupees through bonds and loans in the next financial year and turn profitable by the March quarter of 2022 at the earliest, according to Mr Shah.

**ET BUREAU**

**30/12/2020**

### **UP-RERA PLANS TO APPROACH RBI ON PROJECT DISBURSALS**

The Uttar Pradesh Real Estate Regulatory Authority (UP-RERA) has said it plans to approach the RBI after developers complained that banks aren't disbursing project receivables for construction, a step that will lead to delays in home delivery.

NAREDCO had recently raised the issue of banks not allowing developers' use of project receivables for projects as per the RERA norms and multiple projects getting stuck due to funds paucity.

Section 4 of the RERA Act stipulates that 70 % of the money collected by the promoters from the allottees of the project will be kept in a separate account of the project (escrow account) and will be utilized for the purpose of construction of the project and payment towards cost of the land of the project. Directions from RERA mandates that the promoter will maintain three accounts for the project - collection account escrow account and transaction account.

The step taken by the banks to deduct EMIs from the 70% earmarked for use in construction activity will lead to a shortage of funds for the developers. The government has to come out with directives and guide the banks to deduct the EMIs from the 30% part of the amount which is not for construction.

All the payments from the homebuyers have to be received in the collection account from which not less than 70% of the amount will be auto transferred by the bank into a separate account of the project and likewise not more than 30% of the money will be transferred to the transaction account of the project to be used by the promoter for expenditure other than the construction and land cost of the project.



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