



MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

महाराष्ट्र स्थावर संपदा नियामक प्राधिकरण

Order No: - 62/2024

No. MahaRERA/Secy/File No. 27/1004/2024

Date: 22.10.2024

Subject: In the matter of registration of Agreement for Sale / Sale Deed of units in real estate projects that are excluded from registration and what denotes completion of plotted real estate projects.

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

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

And whereas, the Government of Maharashtra has notified the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 (the Rules) for carrying out the provisions of the Act.

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

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

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

And whereas, Section 3(2) of the Act lists the real estate projects that are exempted from registration with the Authority. Section 3(2) of the Act reads as follows:

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

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

Provided the if the appropriate Government considers it necessary, it may reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

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- (b) *where the promoter has received completion certificate for a real estate project prior to commencement of this Act;*
- (c) *for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project."*

Explanation. – For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand-alone real estate project, and the promoter shall obtain registration under this Act for each phase separately.

And whereas, pursuant to receipt of requests / inquiries from stakeholders, MahaRERA by Circular No. 25/2019, dated 11.10.2019, had clarified that submission of MahaRERA project registration certificate need not be insisted upon for registration of Agreement for Sale / Sale Deed in respect of real estate projects that are exempted from registration under Section 3(2) of the Act.

And whereas, MahaRERA, vide Circular No. 25A/2023, dated 09.06.2023, considering the ratio laid down by the Maharashtra Real Estate Appellate Tribunal at paragraph 23 of its majority judgement dated 10.07.2019, in the case of M/s. Geetanjali Aman Construction & Anr V/s Hrishikesh Ramesh Paranjpe & Ors., had issued further clarification regarding Clause (a) of Sub Section (2) of Section 3 of the Act.

And whereas, in view of Regulation 3B of the Regulations, MahaRERA by Order No. 37/2022, dated 13.12.2022, considering the ambiguity in what denotes completion of plotted development real estate projects had issued clarification as to what constitutes commencement and what denotes completion of plotted real estate projects.

And whereas, the various competent authorities in the State of Maharashtra follow a procedure different from that and as clarified by and under MahaRERA Order No. 37/2022, dated 13.12.2022, in the matter of what constitutes Commencement certificate and what denotes completion certificate for plotted real estate projects.

And whereas, regarding the land sub-division layout the UDCPR (Unified Development Control and Promotion Regulations for Maharashtra State) Rule 2.7.1 of the UDCPR defined Commencement which shall be in Form D-3 of UDCPR with following conditions.

"1. It shall be the responsibility of the owner to carry out all the development work including construction of roads, sewer lines, water supply lines, culverts, bridges, street lighting, etc. and hand it over to the Planning Authority/Collector after developing them to the satisfaction of the Authority.

2. If you wish that the Planning Authority/Collector should carry out these development works, then you will have to deposit the estimated expenses to the Planning Authority /Collector in advance, as decided by the Authority.

3. As per the undertaking submitted by you in respect of recreational open space as stipulated in Regulation No.3.4, the said open space admeasuring (as the case may be) sq.m. stand vested in the name of plot holders of the layout or society of the plot holders and you have no right of ownership or interest in the said recreational open space.

4. *This permission does not entitle you to develop the land which does not vest in you.*"

And whereas, considering that in the matter of registration of Agreement for Sale / Sale Deed of units in real estate projects that are excluded from registration the above-referred MahaRERA Circulars and Order are in force, the Authority in order to ensure ease of reference and harmonious construction as well as to cure the anomaly therein has decided that the issue / aspect to be covered under the above-referred MahaRERA Circulars / Order be merged and incorporated in a consolidated MahaRERA Order.

And whereas, considering the above, the clarification with regards to Clauses (a) and (b) of sub-section (2) of section 3 of the Act in the matter of real estate projects that are excluded from registration with MahaRERA is as follows:

A. 3 (2) (a) of the Act:

"where the area of land proposed to be developed is less than or equal to five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases";

Clarification regarding the above is as under:

- i) *real estate projects where the area of land proposed to be developed is less or equal to five hundred square meters shall not require MahaRERA project registration irrespective whether the numbers of apartments / units proposed to be developed is less than or more than eight apartments/units as the case may be inclusive of all phases.*
- ii) *real estate projects where number of apartments/units proposed to be developed is less or equal to eight apartments / units inclusive of all phases shall not require MahaRERA project registration irrespective whether the area of the land proposed to be developed is less than or more than five hundred square meters.*

B. 3 (2) (b) of the Act:

"where promoter has received completion certificate for a real estate project prior to commencement of the Act".

Considering the provisions in UDCPR clarification regarding what constitutes commencement certificate and what denotes completion certificate for plotted real estate projects shall be as under:

- i) *the final approval accorded to the land sub-division layout in Form D-3 of UDCPR or the approval of similar nature with non-agriculture permission (wherever necessary) shall be considered as commencement certificate for plotted real estate projects.*
- ii) *the certificate issued by the concerned competent authority informing the promoter and/or the licensed engineer/structural engineer/supervisor of the plotted real estate project; or the copy of the acknowledgement submitted to the concerned competent authority on self-certification of promoter; that the conditions imposed in the final approval accorded to the land sub-division layout in Form D-3 of UDCPR (or in the approval of similar nature) are complied or in cases wherever non-agricultural permission is necessary the receipt of the intimation of the Tahsildhar given as an*

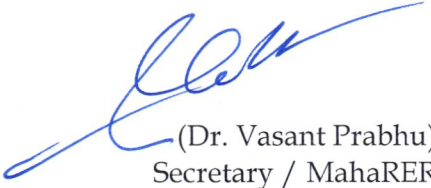
acknowledgement of having received the intimation of the date of commencement of the non-agricultural use after completion and execution of all the conditions as may have been imposed by the concerned competent authority along with Form 4 duly filled in and signed by the project architect in compliance of Regulation 3 of the Regulations shall denote completion certificate for plotted real estate projects.

In the cases referred at 'A' and 'B' above, MahaRERA project registration certificate is not required to be submitted for registration of Agreement for Sale / Sale Deed, as such real estate projects are exempted from registration under Section 3 (2) of the Act.

This Order supersedes MahaRERA Circular Nos. 25/2019, dated 11.10.2019, and 25A/2023, dated 09.06.2023, as well as MahaRERA Order No 37/2022, dated 13.12.2022.

This Order shall come into force with immediate effect.

(As approved by the Authority)



(Dr. Vasant Prabhu)
Secretary / MahaRERA