



MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

महाराष्ट्र स्थावर संपदा नियामक प्राधिकरण

Circular No. 25A/2023

No. MahaRERA/Secy/File No. 27/१२०/2023

Date: ०९/०६/२०२३

Sub: In the matter of real estate projects excluded from MahaRERA
Project Registration

Ref: Circular No. 25/2019 dated 11.10.2019: Clarification regarding
Registration of Agreement for Sale/Sale Deed for Real Estate Projects.

Whereas, considering the complaints / inquiries received by MahaRERA from home buyers / allottees and promoters/ developers expressing difficulties faced by them while registering Agreement for Sale / Sale Deed for real estate projects, MahaRERA has issued Circular No. 25/2019 dated 11.10.2019 bearing No. MahaRERA/Secy/File No. 27/1004, listing the real estate projects that do not require MahaRERA Project Registration for the purpose of registration of Agreement for Sale /Sale Deed.

And whereas, the above-referred Circular was issued considering the provisions of Sub-Section 2 of Section 3 of the Real Estate (Regulation and Development) Act, 2016 (the Act) as well as the ratio laid down by the Maharashtra Real Estate Appellate Tribunal (MahaREAT) at paragraph 23 in its majority Judgement dated 10.07.2019 in the case of M/s. Geetanjali Aman Construction & Anr V/s Hrishikesh Ramesh Paranjpe & Ors delivered in the Appeal whilst setting aside the order passed by the Authority in Complaint Nos. SC10000672 and SC10000691.

And whereas, inspite of issuing the above-referred Circular No. 25/2019, MahaRERA has been informed that with regard to Serial Nos 1 and 2 of the said Circular there are issues / hardship faced by promoters while registering the Agreement for Sale / Sale Deed as well as at the time of obtaining bank finance by intending unit purchasers/home buyers/allottees though the clarification given in the said Circular is crystal clear and unambiguous.

And whereas, Serial Nos. 1 and 2 as written in Circular No. 25/2019 dated 11.10.2019 is reproduced herein for ready reference:

- "1) Real Estate Projects where the area of land proposed to be developed is less than or equal to five hundred square meters.
- 2) Real Estate Projects where number of apartments proposed to be developed is less than or equal to eight apartments."

And whereas, Clause (a) of Sub Section (2) of Section 3, of the Act, the proviso to the said Clause and the Explanation given thereunder reads as under

MAHARERA HEADQUARTERS

Housefin Bhavan, Plot No.C-21, E-Block, Bandra-Kurla-Complex, Bandra (E), Mumbai 400051

Tel. No. 022-68111600 • E mail : helpdesk@maharera.mahaonline.gov.in

महारेरा मुख्यालय

हाउसफिन भवन, प्लॉट नं. सी-२१, ई-ब्लॉक, वांद्रे-कुर्ला-कॉम्प्लेक्स, वांद्रे (पूर्व), मुंबई ४०००५१.

दूरध्वनी. क्रमांक. ०२२-६८१११६०० ई-मेल: helpdesk@maharera.mahaonline.gov.in

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

(b)

(c)

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, the ratio laid down by MahaREAT at paragraph 23 in its majority Judgement dated 10.07.2019 reads as follows:

“Keeping in view the settled law on interpretation of a statute and language of clause (a) of Section 3(2) of the Act of 2016, we are of the firm view that on the happening of any of the two contingencies i) the area of land proposed to be developed does not exceed 500 sq. mtrs or ii) the number of apartments proposed to be developed does not exceed eight inclusive of all phases, project needs no registration under sub section (1) of Section 3 of RER Act. The unambiguous language of clause (a) of Section 3(2) of the Act of 2016 makes it clear that "or" is to be read disjunctively and not conjunctively as conjunctive reading would make legislative intent redundant and would amount to changing the texture of the fabric which is not permissible in law.”

And whereas, the correctness of the said Judgement is assailed in Second Appeal (St) No. 31823 of 2019 before the High Court of Judicature at Bombay in its Civil Appellate Jurisdiction.

And whereas, pending such orders that may be passed in the above-referred Second Appeal or such orders that may be passed in an independent proceeding by the Full Bench of MahaREAT, or the High Court, or the Supreme Court on the question of interpretation of Clause (a) of Sub-Section 2 of Section 3 of the Act the following further clarification is issued in view of the majority Judgement dated 10.07.2019 of MahaREAT ie with regard to Serial Nos 1 and 2 of Circular No. 25/2019 dated 11.10.2019.

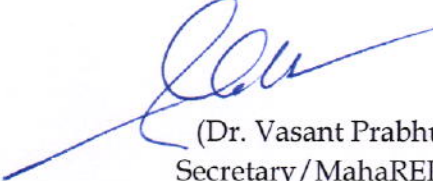
- 1) Real Estate Projects where the area of land proposed to be developed is less or equal to five hundred square meters shall not require MahaRERA Project Registration irrespective whether the numbers of apartments / units proposed to be developed is less than or more than eight apartments/units as the case may be inclusive of all phases.
- 2) 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.

The above clarification shall not preclude/prohibit/bar promoters from submitting application on their own motion for registration of their respective real estate project even through such projects are excluded from MahaRERA Project Registration in the event such promoters desire/want their respective real estate project to be registered with MahaRERA.

This Circular supplements Circular No. 25/2019 dated 11.10.2019 regarding Serial Nos 1 & 2 enumerated therein under the heading "Real Estate Projects that are excluded from MahaRERA Project Registration" and for interpretation of what is stated in the said Serial Nos 1 & 2, the clarification given herein shall be followed by all concerned.

This Circular shall come into force with immediate effect.

(By Order of the Authority)


(Dr. Vasant Prabhu)
Secretary/MahaRERA