

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

SOURCE COMPLAINT NO: SC10000763

Raju Narad Shahu ... Complainant

Versus

Jagdish Wankhade Respondent

Coram: Shri Gautam Chatterjee, Chairperson, MahaRERA

Complainant was himself present.

Respondent was himself present.

Order

June 20, 2019

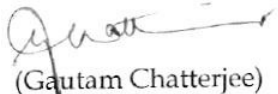
1. The present complaint pertains to non-registration of the sale of plot situated at Nari, Nagpur, Taluka: Nagpur (Urban), District: Nagpur - 440026 taken on CTS No. 2/2/2 plot no 30. The Complainant has stated that the Respondent has sold the plot to him after he has paid the entire consideration. It has been alleged by the Complainant that the said plot was already sold to a third person. Therefore, Complainant is praying to issue appropriate directions to the Respondent to register the project in accordance with the provisions of Real Estate (Regulation & Development) Act, 2016 (herein after referred to as the *said Act*.)
2. The Respondent, submitted his written submission in which he has stated that he is not selling the plots for plotted development but selling plots which he had purchased from the "Bandhu Gruhanirman Sahakari Sanstha Maryadit, Nagpur through Shrihansa Housing Agency" in 2005 by way of Agreement for Sale. He has further submitted that he is the owner of only two plots but not the entire layout. Therefore, the Respondent is not liable to register the sale of such plots with MahaRERA.



3. On the background explained above, it is necessary to consider whether the respondent can be directed to register the project in accordance with the provisions of the said Act and rules and regulations made thereunder.
4. In accordance with the provisions of Section 3 of the said Act, the promoters are under obligation not to advertise, market, book or offer for sale or invite in any manner apartment or building as the case may be without registering the Real Estate Project with the Real Estate Regulatory Authority under the provisions of the said Act. Provided that projects that are ongoing on the date of commencement of the said Act and for which completion certificate has not been issued, promoter shall make application for registration within a period of three months from the date of commencement of the said Act.
5. A Real Estate project is defined under Section 2 (zn) of the Act as, the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenance belonging thereto;
6. Section 2 (s) of the Act defines "development" as, "development" with its grammatical variations and cognate expressions, means carrying out development of immovable property, engineering or other operations on, on, over or under the land or the making of any material changes in any immovable property or land and includes re-development. Essentially development would mean development of immovable property in accordance with permissions for such development which are given by the Competent Planning Authority.
7. From the above it is clear that, the sale transactions effected by the Respondent in the instant case is of immovable property where no permission for development of the said immovable property is given by the Competent Planning Authority and such transaction does not fall under the definition of a real estate project.



8. It was also explained that as stated in Para 86 of the judgement of Hon'ble Bombay High Court in *Writ Petition No. 2737/- U Neelkamal Realtors. Vs. Union of India*, RERA will apply after getting the project registered. Therefore, merits of the other grievances made by the Complainant has not been gone into. The Complainant has the liberty to raise the same in an appropriate forum.
9. In view of the above, the complaint for registration of the project stands disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA