

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

SOURCE COMPLAINT NO. SC10000641

Ashok Bhirud Complainant

Versus

Yogi Reality Pvt Ltd Respondent

Coram: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was himself present.

Respondent was represented by Mr. R. K. Sharma and Mr. Dilip Jain; Authorised Representatives.

Order

September 17, 2019

1. The present complaint pertains to non-registration of the stalled industrial project named 'Yogi Reality Pvt Ltd' situated at Pimplas, Taluka: Bhiwandi, District: Thane - 421311. The Complainant has stated that he is an allottee of the said proposed project. He further stated that even after paying a substantial consideration amount, the possession of the plot has not been handed over, till date. It is the contention of the Complainant that it should be treated as an ongoing project for which although the Respondent is under obligation to register the project in accordance with the provisions of Real Estate (Regulation & Development) Act, 2016 (herein after referred to as the *said Act*), he has not registered the same and therefore he is praying that appropriate directions be issued to the Respondent to register the project.
2. During the course of the hearing, the Authorised Representative of the Respondent submitted that, in the year 2006, the project was initially launched for setting up an industrial cum textile park. Thereafter, the plot on which the proposed project was

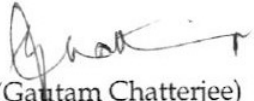


supposed to be developed, via a Government Notification was declared under the Coastal Regulation Zone (CRZ). This restricted the Respondent to carry out any construction or development on the said plot, till date. Moreover, he also has filed an affidavit dated July 25, 2019, stating that, on account of lack of valid approvals for development of the said plot from the competent planning authority, he has not registered with MahaRERA. However, he affirms that within a month from receipt of obtaining the same, he will duly register the project, and consequently carry out the required developments on the said plot.

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. 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.
5. As per section 4 of the said Act, it is obligatory on the part of the promoter to make an application to the Authority for registration of the Real Estate Project in such a manner and within such time and accompanied by such fee as may be specified by the regulations made by the Authority. As per Section 4 (2) (c) and (d) of the said Act, it is obligatory on the part of the promoter to enclose along with the application for registration, the authenticated copy of the approvals and commencement certificate, sanctioned plan, layout plan, etc. from the competent authority.
6. Since the Respondent does not have approvals as mentioned above in para 5, no directions can be issued to the Respondent to register the project, at this stage. However, the Respondent shall apply for MahaRERA registration within 30 days of them obtaining the valid approvals for the proposed project.



7. It was also explained that as stated in Para 86 of the judgment 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.
8. In view of the above, the complaint for registration of the project stands disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA