

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

SOURCE COMPLAINT NO. SC10001936

Aneel Varma Complainant

Versus

Kaiyomerz Palia (Our Town) Respondent

Coram: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was present himself.

Respondent was represented by Adv. Anil D'souza.

Order

December 02, 2019

1. The present complaint pertains to non-registration of a plotted development project named 'Our Town' situated at Gut No 154, Dalkhan Taluka: Khardi Shahpur, District: Nashik 421301. The Complainant has stated that he is the an allottee and also occupant of the said bungalow plot from the year 1996. He has raised a contention that since the Respondent has failed to complete the work of plotted development till date, it should be treated as an ongoing project and the Respondent be directed 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. During the course of hearing the learned counsel for the Respondent submitted that the said plotted development is completed and possession is handed over to the Complainant and also to all other allottees, in the year 1998, much prior to the Commencement of the said Act.
3. During the course of the hearing, the Complainant pointed out that there are other projects too where the Respondent has been advertising and selling apartments,



without registering the same under the provisions of the said Act. However, the counsel for the Respondent pointed out that two other ongoing projects of the Respondent are registered with MahaRERA and that no provisions of the said Act have been violated.


4. On the background explained above, it is necessary to consider whether the Respondent should be directed to register the project in accordance with the provisions of the said Act and rules and regulations made thereunder.
5. 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.

6. 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) (D) of the said Act, it is obligatory on the part of the promoter to declare the time period within which he undertakes to complete the project. As per Section 4(2) (D) of the said Act, it is obligatory on the part of promoter to maintain separate account and deposit 70% of the amount realized for the Real Estate Project from the allottees from time to time. The said amounts to be utilized to cover the cost of construction and land cost and shall be used for that purpose only and the promoter is entitled to withdraw said amount in proportion to the percentage of completion of the project. Only after compliance of provisions of Section 4(2) of the said Act, the promoter is entitled for registration on the terms and conditions prescribed by the Authority.



7. This provision of Section 3 of the said Act has to be read along with Section 4 and Section 5 (3) of the said Act which states that registration granted shall be valid for a period under sub-clause (C) of clause (1) of sub-section (2) of Section 4 for completion of the project.
8. From the above, it is clear that the Promoter has completed the plotted development work many years prior to the commencement of the said Act. Therefore, no directions can be issued to the Respondent to register the said plotted development project as an ongoing project, as per the relevant provisions of the said Act. Therefore, no directions can be issued to the Respondent/ Promoter to register the said project as per the relevant provisions of the said Act.
9. 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 have not been gone into. The Complainant has the liberty to raise the same in an appropriate forum.
10. In view of the above, the complaint for registration of the project stands disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA