

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

SOURCE COMPLAINT NO. SC10001671

Jagmal Kumhar ... Complainant

Versus

Rashmi Realty Builders Pvt. Ltd. ... Respondent

Coram: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainants was present himself.

Respondent was represented by Mr. Yogesh Bosmiya, Director.

Order

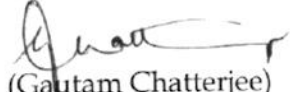
January 01, 2020

1. The complaint pertains to non-registration of a proposed project named 'Smart Homes Vasai' situated at Sec-1, Vasai East, Palghar- 401208. The Complainant has stated that 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.). Therefore, it is his prayer that appropriate directions be issued to the Respondent to register the project.
2. The matter was heard on June 14, 2019 in the presence of the Complainant. The Respondent did not appear in spite of service of notice. Hence, the matter was adjourned for appearance of the Respondent and was heard on August 02, 2019 and October 18, 2019 in the presence of both, the Complainant and Respondent.
3. During the hearing, the Respondent submitted, in writing, that as per interim order passed by Hon'ble High Court, Bombay in PIL No. 87 of 2013, this project land was brought under restrictions of wet land. The building plan approvals of this project are



revoked by the VVCMC Authority. Therefore, they are not in position to start the construction work of the said project and shall register the said residential project after obtaining the necessary approvals, sanctions and permissions from the competent planning authority (VVCMC). Hence, it was his argument that the project cannot be registered at present for want of valid approvals from the competent authority.

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. 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 the building plan approvals, 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 requisite approvals, along with commencement certificate for the project.
7. 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.
8. In view of the above, the complaints for registration of the project stands disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA