

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

SOURCE COMPLAINT NO. SC10000474

CREDAI MCHI - Raigad

... Complainant

Versus

City and Industrial Development Corporation of Maharashtra Ltd.

.... Respondent

Coram: Shri Gautam Chatterjee, Chairperson, MahaRERA

Complainant was represented through Ritika Agrawal, Adv.

Respondent was represented through Mr. Hemant Prabhikar, Adv.

Order

June 03, 2019

1. The present complaint pertains to non-registration of the schemes for allotment of developed plots. The Complainant, MCHI-CREDAI Navi Mumbai has stated that CIDCO has sold plots, through advertisement, to members of the Complainant organization without registering their sale transaction of plots under the provisions of the Act. They have alleged that CIDCO is a promoter as per the definition of a promoter laid down in Section 2(zk) of the Act because they are a Public Authority/Development Authority and the members of the Complainant organization are allottees of plots owned by such authority or plots placed at their disposal by the Government. Therefore, the Complainant is praying that appropriate directions be issued to the Respondent to register the project in accordance with the provisions of Real Estate (Regulation & Development) Act, 2016 (*hereinafter referred to as the said Act*).
2. The Learned Counsel for Respondent, submitted that the Respondent has not sold the plots for plotted development. These plots have been sold vide a public tender to prospective developers to develop and construct apartments to be sold to third



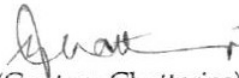
persons. Therefore, the Respondent is not liable to register the sale of such plots with MahaRERA.

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 CIDCO in the instant case are of immovable property where permissions for development of the said immovable property is yet to be given by the Competent Planning Authority.



Therefore, they cannot be treated as sale for the purpose of plotted development which comes under the definition of a Real Estate Project. Pursuant to the transactions effected by CIDCO, the buyers of the said developed plots, who are real estate developers, will seek approval from the competent authority for development of building on the said plots and the said development of building on these plots will have to be registered with MahaRERA under the provisions of the Act by the said developers. These buyers of the CIDCO plots would then be promoters for the development of buildings on these plots which they have bought from CIDCO.

8. It was further explained to the Complainant that if their building development of the plots acquired from CIDCO are dependent on certain off-site infrastructure that has to be provided by CIDCO, then while registering their projects with MahaRERA, the Complainant or their members can include CIDCO as a promoter (Land-owner).
9. In view of the explanation given above, the sale transactions effected by CIDCO are sale of immovable property where permissions for development of the said immovable property is yet to be given by the Competent Planning Authority and such transaction does not fall under the definition of a real estate project.
10. In view of the above, the complaint for registration of the project stands disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA