

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

SOURCE COMPLAINT NO. SC10001749

Mr. Alphonso Augustine Victor POA Of Mrs. Priya Hughes Complainant

Versus

Garnet Construction Limited ... Respondent

Coram: Shri Gautam Chatterjee, Chairperson, MahaRERA

Complainant did not appear.

Respondent was represented by Mr. Bishvajeet Mukherjee, Adv.

Order

July 22, 2019

1. The present complaint pertains to non-registration of the building named 'Magic Hills' situated Ambivali having CTS survey No. 13 to 17 part, Pin Code: 410202. The Complainant in his complaint has stated that he is an allottee of the said building and residing therein. His contention is that the Respondent has not obtained the Occupancy Certificate from the concerned planning authority when RERA came into force. Therefore, he is praying that appropriate directions be issued 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 Learned Counsel of Respondent submitted that the said building was already completed prior to the enactment of the Act. Thereafter, possession has been handed over to the allottees with Occupancy Certificate which has been obtained on April 18, 2017.



Therefore, he added that the completed building does not come within the purview of the said Act.

3. As per S. 3(2) (b) of the said Act:

"...

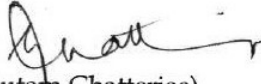
Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required:-

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

..."

From the above, since the Respondent has already procured the Occupation Certificate/Completion Certificate before commencement of the said Act from May 01, 2017, this building does not fall within the purview of provisions of the said Act, and hence, is not required to be registered with MahaRERA.

4. 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.
5. In view of the above, the complaint for registration of the project stands disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA