

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

MUMBAI

1. Source Complaint No. SC10000893

Kiran Rajmane

2. Source Complaint No. SC10000896

Niraj shah

... Complainants

Versus

Prakash Kuntalal Chopada

... Respondent

Coram: Hon'ble Shri. Gautam Chatterjee, Chairperson, MahaRERA.

Complainant: Present

Respondent: Present

ORDER


May 14, 2019

1. This complaint is pertaining to a building known as "SAI HERITAGE" on the land bearing No. 129/2/8.129/2/7.129/2/6 at Wakad, Pune.
2. The Complainant, who is residing in the above mentioned building, has stated that the residents have not been able to form Co-operative Housing Society, since the sanctioned plan shows 12 flats and whereas the builder has sold 14 flats. Therefore, the Pune Municipal Corporation is not issuing Occupation Certificate and since occupancy certificate is not obtained Respondent be directed to register the project in accordance with the provisions of Section 4 & 5 of Real Estate (Regulation & Development) Act, 2016.
3. The Respondent during the hearing informed that the project construction work was already completed and the building has been in occupation of the residents prior to the Real Estate (Regulation & Development) Act, 2016 coming into effect. He added that he will get the revised plan approved and will submit the



same to the Society so as to facilitate formation/registration of Co-operative Housing Society.

4. In accordance with proviso to Section 3 of the Act, projects that are ongoing on the date of commencement of the Act and for which the completion certificate has not been issued, are required to be registered under the Act. In the instant case, the project construction work was already completed and the building was occupied, prior to the Real Estate (Regulation and Development) Act, 2016 coming into effect. Therefore, the occupied building cannot be treated as an ongoing project when the Act came into effect. Though it is a fact that the second condition, required for registration, is not fulfilled and the building has not obtained completion or occupancy certificate, keeping in view the objective of the Act of completing project work and handing over possession, such buildings of the past, which have been occupied prior to the coming into effect of the Act but which do not have completion or occupancy certificate, should not be brought under the ambit of the Act and should not be directed to register merely to obtain OC.
5. In view of the above, since the project is already completed prior to the commencement of the said Act and it is occupied, it is not mandatorily required to be registered under the provisions of Section 3 of the Real Estate (Regulation and Development) Act, 2016. Merits of the other grievances made by the Complainant, have not been gone into. The Complainants have the liberty to raise the same in an appropriate forum.
6. The complaint is accordingly stands disposed of.


(Gautam Chatterjee)
Chairperson/MahaRERA