

Considering the provisions of Section 3 of the Real Estate (Regulation and Development) Act, 2016, as per Rule 44 (1) (i) of the Registration Rules, 1961, Regarding processing of document registration

GOVERNMENT OF MAHARASHTRA

Revenue & Forest Department

Govt. Resolution/ Stamp – 2017/2453/PR.KR. 410/M-1 (Policy)

Madam Cama Road, Hutatma Rajguru Chowk,

Mantralaya, Mumbai – 400 032

Dt : 20 September, 2019

Ref: Letter of Inspector General of Registration & Stamps, Govt. of Maharashtra, Pune bearing No. प्र.क्र.का.4/प्र.क्र.330/2017/908 dtd. 31st July, 2017

Preamble :

With reference to the request made vide the letter referred above of Inspector General of Registration & Stamps, Govt. of Maharashtra, Pune, the matter of issuing explanatory notice was under consideration of the Government, regarding registration of sale agreements or purchase deeds of plots, apartments, or buildings in projects which are not registered with the RERA Authority for ongoing projects, excluding the project exempted as per Section 3(2) of the Real Estate (Regulation and Development) Act, 2016, it is prohibited as per sub-section (1) of the said section and hence the sub-rule (1) (i) of Rule 44 of the Registration Rules 1961, applies to the section of the said RERA Act.

Government Circular

1. Section 3 of the Real Estate (Regulation and Development) Act, 2016, is as under

Section-3.

(1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that, projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that, if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions

of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

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

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

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

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Explanation. – For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a standalone real estate project, and the promoter shall obtain registration under this Act for each phase separately.

2. So, Rule 44 of the Registration Rules, 1961, provides for the requirements to be verified by the Deputy Registrar before registering the document.

44. Certain requirements to be verified before accepting a document for registration.-

(1) Before accepting any document for registration, a registering officer may not concern himself with its validity, but shall ascertain –

(a)

(b)

..

(i) that if the transaction which is intended by the document, is prohibited by any existing Act of Central or State Government, then the true copy of requisite permission or No Objection Certificate from the Competent Authority under the said act, has been attached along with the document and that the document is not written in contradiction with any vital term or condition mentioned in that permission or No Objection Certificate.

3. As mentioned above and considering the provisions of Section 3 of the Real Estate (Regulation and Development) Act, 2016, as per Rule 44 (1) (i) of the Registration Rules, 1961, the following notice being issued with clarification:-

Whereas, except for the projects exempted under section 3 (2) of Real Estate (Regulation and Development) Act, 2016, which are under the purview of Real Estate Regulatory Authority (RERA Authority) under section 3(1) and for which Completion Certificate has not been obtained, a plot, apartment, or building in such unregistered real estate projects or in any part of the said projects or in any planned area, whether such ongoing real estate projects are registered or not, it has been prohibited from appealing to the public for purchase through advertisement or marketing, or booking for sale of real estate in the said project.

Accordingly, Rule 44 under sub-rule (1) (i) of the Registration Rules, 1961 applies for registration of 'Document for Transfer of property (Transfer Deed)' for such unregistered real estate projects with the Real Estate Regulatory Authority (RERA Authority).

4. This circular is being issued under opinion of the Law and Judiciary Department under reference No.403/88/Civil/ Confidential/2018/dt 14th January 2019 and being issued in accordance with the feedback and consent received from the Housing Department, under reference No. Rera-2019/ प्र.क्र.92/दुवपु-2, dt. 29 June 2019.

This Government Resolution of the Government of Maharashtra has been made available on this website www.maharashtra.gov.in and its code is 201909201918015719. This order is being issued with digital signature attestation.

By order and in the name of the Governor of Maharashtra,

Pritamkumar Jawale
Desk Officer, Government of Maharashtra

CC:

1. Secretary of Hon'ble Governor of Maharashtra, Rajbhavan, Mumbai
2. Additional Chief Secretary/Principal Secretary/Secretary of Hon'ble Chief Minister, Mantralaya, Mumbai
3. Private Secretary of all Ministers/State Ministers, Mantralaya, Mumbai
4. Private Secretary of Speaker, Legislative Council, Vidhan Bhavan, Mumbai
5. Private Secretary of President, Legislative Assembly, Vidhan Bhavan, Mumbai
6. Private Secretary of Opposition Leader, Legislative Council/Legislative Assembly, Vidhan Bhavan, Mumbai
7. Chief Secretary, Govt. of Maharashtra, Mantralaya, Mumbai
8. RERA Authority, Mumbai
9. Additional Chief Secretary, Housing Department, Mantralaya, Mumbai
10. All Additional Chief Secretaries, Principal Secretaries, Secretaries, Mantralaya, Mumbai
11. All Divisional Commissioners
12. Settlement Commissioner and Director Land Records, Govt. of Maharashtra, Pune
13. Inspector General of Registration and Controller of Stamps, Govt. of Maharashtra, Pune
14. Additional Controller of Stamps, Principal Stamp Office, Mumbai
15. Accountant General - 1 & 2 (Mumbai/Nagpur), Govt. of Maharashtra
16. All District Collectors
17. All District Treasury Officers
18. All Municipal Commissioners
19. All Municipalities / Municipal Councils, Chief Officers
20. All Deputy Inspector Generals of Registration and Deputy Controller of Stamps (Divisional Offices)
21. Nivadnasti, Desk - R 1 , Elections, Revenue & Forest Department, Mantralaya, Mumbai