

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

SOURCE COMPLAINT NO. SC10001509

Mr. Nagraj Shettigar

.... Complainant

Versus

1. M/s Diksha Enterprises
2. Mr. Nitin Gajara

... Respondents

Coram: Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant was present himself.

Respondents were represented by Mr. Arun Kamble.

Order

November 01, 2019

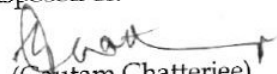
1. The complaint pertains to non-registration of a stalled project named 'Diksha Residency' situated at Village: Mouje Shivkar, Taluka: Panvel, District: Raigad. The Complainant has stated that he is an allottee in the said project and paid a substantial consideration amount for the same but the Respondents have failed to register the agreement for sale. It is the contention of the Complainant that though the Respondents are 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*), have not registered the same and therefore he is praying that appropriate directions be issued to the Respondents to register the project and to direct them to refund the amount paid to him.
2. The Respondents submitted that they could not obtain the approvals from the Competent Planning Authority (NAINA) and hence they could not apply for registration of the project with MahaRERA.



3. On the background explained above, it is necessary to consider whether the respondents 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 any plot or 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. 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. From the above, it is clear that there are no permissions by planning authority (NAINA) no directions can be issued to the Respondents to register the project, at this stage. However, the Respondents shall apply for MahaRERA registration within 30 days of them obtaining the valid approvals 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 complaint for registration of the project stands disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA