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To,
Shri Ajay Mehta (I.A.S. Retd)
Chairman,
Maharashtra Real Estate Regulatory Authority,
Housefin Bhavan, Bandra Kurla Complex,
Bandra (E), Mumbai.

Sub: Suggestion / Issued faced by the Developers / promoter with MahaRERA

Respected Sir,

Firstly, we at CREDAI-MCHI would like to applaud the various initiatives taken by MahaRERA to create more transparency for buyers. Recent changes like verification of Commencement certificate, display of QR code with synopses, grading of MahaRERA projects is a welcome move. This will give buyers immense confidence to invest hard earned money with the respective developers.

We hereby bring to your kind attention/ notice, the difficulties and hindrances faced by the Developer/Promoter fraternity.

1) Termination/Cancellation of Agreement for Sale on continuous default of payments by the Allottee/s in terms of the Agreement for Sale under RERA Act

This is with respect to the default of payments committed by the Allottee/s, in terms of the registered Agreement for Sale (AFS) under the RERA Act.

As a just and fair forum MAHARERA has always been striving hard in providing relief to the Developer and Allottee/s both. However, this is to bring to your kind attention that the Developer/Promoter fraternity have been forced to deal with Allottee/s who are continual payment defaulters in terms of the AFS. Under Section 19 (6) of the RERA Act which states that the Allottee/s is/are placed under an obligation to make payments in terms of the Agreement for Sale executed with the Developer/Promoter.

However, the only remedy provided to the Developer/ Promoter is dealing with such defaulting Allottee/s in purview of clause 4.2 of the RERA model form of Agreement, which states that "Without prejudice to the right of promoter to charge interest, on the Allottee/s committing default in payment on due date of any amount due and payable by the Allottee/s to the Promoter under this Agreement (including his/her proportionate share of taxes levied by concerned local authority and other outgoings) and on the Allottee/s committing three defaults of payment of instalments, the Promoter shall at his own option, may terminate this Agreement: Provided that, Promoter shall give notice of fifteen days in writing to the Allottee/s, by Registered Post AD at the address provided by the Allottee/s and mail at the e-mail address provided by the Allottee/s, of his intention to terminate this Agreement and of the specific breach or breaches of terms and conditions in respect of which it is intended to terminate the Agreement. If the Allottee/s fails to rectify the breach or breaches mentioned by the Promoter within the period of notice then at the end of such notice period, promoter shall be entitled to terminate this Agreement".

Maharashtra Chamber of Housing Industry

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VASAI VIRAR | ALIBAG | KARJAT-KHALAPUR-KHOPOLI | YOUTH NMR

payment of dues, but yet there is no response from the Allottee/s. In such circumstances, we are facing difficulty to create a clear and marketable title on such blocked apartments/ unit by executing and registering the deed of cancellation for the blocked apartment/ unit, as the Defaulter Allottee/s is not ready and willing to register the Deed of Cancellation, and pays no heed to our request and reminders, which in turn has created a deadlock situation in the progress of project, which is unfair on the Allottee/s who are making regular payment as per the registered agreement.

Under the provision of Contract Act, the registered document needs to be cancelled by the consent of both the contracting parties and such cancellation needs to be registered with the Registrar, or under the order by appropriate authority and only with the order from appropriate authority that Developer can cancel the registered document when the allottee does not come forward to cancel the registered document.

Many of our developers' members have filed a complaint against such mischievous buyers so that the authority can pass the order on priority. However, it takes a very long period to bring the matter on board. In fact, it is pertinent to note that in majority of the matters allottees did not appear, makes it evident that they no regard for the law.

CREDAI-MCHI Prayers

MahaRERA being the appropriate authority for contract between Allottee/s and the developer, we humbly request MahaRERA, to create special que for dealing such cases on priority and pass an order directing the Registrar to register cancellation of deed unilaterally after conducting the hearing with the Allottee/s under the provision of MahaRERA. This step is required for the benefit of the other majority Allottee/s in general for the purpose of completing the project in time.

2) Issue with Registration of application regarding proposed floors and potential of the plot.

We would like to applaud the Registration team for their tremendous efforts in ensuring a smooth registration application process, All three department Finance, Legal and Technical teams who have been supporting and cooperating with the SRO to clear the scrutiny.

However, we would like to highlight a particular issue that our developer fraternity faced during the registration process. Previously, MahaRERA used to approve applications with the proposed floors as per the concession plans approved by the planning authority. Currently, promoters are being informed to upload only the sanctioned FSI and its corresponding floors.

For the balance FSI, promoters are being requested to apply for correction under section 14(2), which requires the consent of the allottees.

Sir, you are aware that developers receive the FSI in stages as soon as they make the payment. We cannot expect the promoter to obtain the full FSI at the initial stages itself, as it would require significant financial resources that can be met as the construction progresses and buyers make payments.

Today, buyers are using this tool to blackmail the developer by not providing consent, even though they were informed about the potential of the building and its prospects. Promoters are even being forced to remove the blanket consent in the agreement.

This creates a huge hindrance for applying for corrections in the future.

CREDAI-MCHI prayers

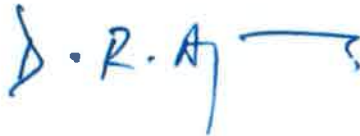
We kindly request you to make provisions for proposed floors that align with the concession plans approved by the planning authority, so that buyers are aware of the building's potential. Promoters will be bound to sell only the flats that are sanctioned, and through correction, they will be allowed to make changes for future FSI and floors without requiring consent, as they will be informed in advance through the MahaRERA portal.

We hope that the above suggestion will be considered positively, and necessary action will be taken for early resolution.

Yours sincerely,
For CREDAI-MCHI



Domnic Romell
President



Dhaval Ajmera
Hon. Secretary