

हिमाचल प्रदेश सरकार

8.11.2021

Complaint no. HP RERA/OFL/21-35

Present:- None for the complainant

Sh. Shyam Lal Thakur for the respondent.

Sh. Abhishek Sood Assistant District Attorney, RERA Himachal Pradesh

HEARING IN PERSON

In the present matter, the complaint filed by Sh. Virender Chhikara was withdrawn by filing an affidavit stating therein that the matter was amicably settled between the parties.

The only issue left to be adjudicated by this Authority was whether the project is liable to be registered with the Authority in view of provisions of Real Estate (Regulation and Development) Act, 2016.

In terms of the previous order, the respondent promoter Sh. Ravinder Kumar Chopra was directed to furnish certain documents/information stated therein, in order to enable the Authority to decide the issue of registration of the project in question. Sh. Shyam Lal Thakur representative for Ravinder Kumar Chopra (respondent) was present in person today before the Authority. He has submitted that he has brought the requisite documents. The same are taken on record.

After going through the record placed before us, it transpired that the project is constructed over 7 biswas of land (approximately 263 square mts) comprising of one building having 3 flats (apartments). Section 3 of the Act deals with requirement of registration of real estate projects with the Authority. It reads as under

“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

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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 stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately.”

From the perusal of section 3 of the Act, it is certain that if the area of the land proposed to be developed in a real estate project does not exceed 500 square meters or the number of apartments

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proposed to be developed does not exceed eight, the same is not required to be registered under the Act with the Authority. However, if the land sought to be sub-divided exceeds 500 square meter or the apartments proposed to be developed exceeds eight, the same will be considered to be a real estate project and will be required to be registered with this Authority as per Section 3 of the Real Estate (Regulation and Development) Act, 2016.

In the present facts, since the project is situated over 263 sq mts and the apartments are 3 in number therefore the project Sushma Chopra Apartment at Deoghat, Solan is not required to be registered with the Authority as per Section 3 of the Real Estate (Regulation and Development) Act, 2016. The present case is disposed off. No order as to costs.

Badalia
B.C.Badhalia
MEMBER

SKM
Dr. Shrikant Baldi
CHAIRPERSON

Rajeev
Rajeev Verma
MEMBER