

**BEFORE THE MAHARASHTRA  
REAL ESTATE REGULATORY AUTHORITY, MUMBAI**  
Physical Hearing Held at MahaRERA @03.30 pm (Churchgate)

**SUO-MOTU CASE NO. 206 OF 2021**

MAHARERA PROJECT REGISTRATION  
NO.:

P51700026614

MAHARERA REGISTERED PROJECT  
NAME:

SAI BUILDERS & DEVELOPERS

PROMOTER NAME:

SHIVSAGAR GURUCHARAN YADAV

**Coram: Shri Ajoy Mehta, Chairperson, MahaRERA and  
Shri (Dr.) Vijay Satbir Singh, Member I**

Appearance: Advocate Pooja Gaikwad a/w Mr. Shivsagar Yadav (Promoter)

**Order**

September 08, 2021

1. The Promoter has registered his project "SAI BUILDERS AND DEVELOPERS" under section 5 of the Real Estate (Regulation and Development) Act, 2016 ("said Act / RERA") bearing MahaRERA Project Registration No. P51700026614 (hereinafter referred to as the "said Project").
2. This is a suo-motu case is taken up by MahaRERA against the Promoter, Mr. Shivsagar Gurucharan Yadav pursuant to an issue of submitting a false / invalid commencement certificate bearing No. KDMC NRV/BP/KV/2019-20/23 dated 17.03.2020 (hereinafter referred to as the "said CC") with regard the said Project.
3. On 02.09.2021 a physical hearing was held in the captioned case whereby the following submissions were made on behalf of the Promoter:  
*"It is submitted that the present matter is before the Hon'ble High Court and is likely to heard today itself. It was further submitted that this commencement certificate was submitted to the Respondent by the Architect. The said Architect is no more and that the*

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*observed*  
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*Aj Mehta*

*Respondent is trying to establish contact with some representative of the said Architect. The Advocate on behalf of the Respondent has sought an adjournment to any other date to await the orders of the Hon'ble High Court. Heard the Promoter. The matter is reserved for order."*

4. The following observations and provisions of the said Act are noteworthy in the present case:
  - a. As per section 4 of the said Act every Promoter who seeks registration of his real estate project is mandated to make an application to this Authority in such form, manner, within such time and accompanied by such fee as specified by the regulations made therein and also enclose the documents such as a brief details of the enterprise of the Promoter, a brief detail of the projects launched by him (in the past five years, whether already completed or being developed), **an authenticated copy of the approvals and commencement certificate from the competent authority obtained** in accordance with the laws as may be applicable for the real estate project, the sanctioned plan, layout plan and specifications of the proposed project, etc.
  - b. Hence, the Promoter while seeking the said Project registration vide his application submitted a said CC as one of the mandatory requisites for seeking project registration under the said Act.
  - c. However, it was brought to notice of this Authority during a hearing before the Hon'ble Bombay High Court in a Public Interest Litigation No. 49 of 2021 (hereinafter referred to as the "**said PIL**") that the said CC was not issued by the Competent Authority as per the law i.e. Assistant Director of the Town Planning office of Kalyan Dombivali Municipal Corporation ("hereinafter referred to as the "**KDMC**").
  - d. In view of the issue brought forth during the hearing in the said PIL, on 18.08.2021 MahaRERA through its Chief Technical Officer called upon KDMC

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to confirm the issuance of the said CC and also inform whether any action has been initiated with regard to the construction of the said Project.

- e. On 23.08.2021 KDMC in its reply to the query put forth by MahaRERA stated that the said CC was not issued by them, i.e. by KDMC and that directions were given to initiate action under the Maharashtra Regional and Town Planning Act, 1966.
- f. This reply thus bring enough clarity and evidence that the said CC is not valid and legal. Thus, it appears that the said CC has been obtained by means that do not appear to be above board. An investigation into this issue is directed to be taken up by KDMC forthwith.
- g. In view thereof, it is pertinent to examine section 7 of the said Act that empowers this Authority to revoke / cancel registration granted under section 5 of the said Act:

*"7. (1) The Authority may, on receipt of a complaint or suo motu in this behalf or on the recommendation of the competent authority, revoke the registration granted under section 5, after being satisfied that –*

*(a) the promoter makes default in doing anything required by or under this Act or the rules or the regulations made thereunder;*

*(b) the promoter violates any of the terms or conditions of the approval given by the competent authority;*

*(c) the promoter is involved in any kind of unfair practice or irregularities.*

*Explanation. – For the purposes of this clause, the term "unfair practice means" a practice which, for the purpose of promoting the sale or development of any real estate project adopts any unfair method or unfair or deceptive practice including any of the following practices, namely: –*

*(A) the practice of making any statement, whether in writing or by visible representation which, –*

*(i) falsely represents that the services are of a particular standard or grade;*

*(ii) represents that the promoter has approval or affiliation which such promoter does not have;*

*(iii) makes a false or misleading representation concerning the services;*

*(B) the promoter permits the publication of any advertisement or prospectus whether in any newspaper or otherwise of services that are not intended to be offered;*

*(d) the promoter indulges in any fraudulent practices."*

*class note*

*Hjj Mellh*

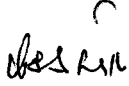
- h. From the plain reading of section 7 it is clear that this Authority has powers u/s 7 of the said Act with regard the revocation of registration for the Promoter indulging in any kind of unfair practices like in the present case not obtaining the said CC from the Competent Authority and misrepresenting Allottees and collecting money by way of misrepresentation and taking the bookings in the said Project.
- i. Hence, in terms of the above reply put forth by KDMC with regard the issuance of the said CC, there is no ambiguity in the fact that the said CC is not valid and legal and has been obtained by means that do not appear to be above board and thus this Authority thinks it a fit case to revoke / cancel the MahaRERA Project registration No. P51700026614 for the said Project and safeguard the interest of the prospective Allottees and the existing Allottees from investing / engaging further in the said Project.
- j. Further, the Promoter shall be barred / restrained to forthwith advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any apartment or building, as the case may be, in the said Project or part of it, in any planning area, of the said Project.
- k. This Authority would also urge upon the Secretary (Urban Development) Government of Maharashtra to immediately put in place a system wherein all milestone approvals relevant to buyers / purchasers of real estate projects; such as Commencement Certificate (CC), Occupation Certificate (OC) are put upon a dedicated portal by the respective Planning Authority so that the veracity of the Certificates can be verified by both the buyers / purchasers of real estate projects and MahaRERA. This shall be an important consumer protection measure.

*Chandra*

*Hij Mell*

## FINAL ORDER

Thus, in view of the above observations and the provisions of the said Act, this Authority revokes / cancels the **MahaRERA Project Registration No. P51700026614**. Further, all departments such as Secretary (Urban Development) Government of Maharashtra and all local Planning Authorities to ensure that all statutory certificates are uploaded immediately upon issuing the same on their respective website / webpage and timely changes / additions / alterations / modifications must also be immediately uploaded upon issuing the same from time to time. Further, the Promoter is restrained not to advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner apartment or building, as the case may be, in the said Project or part of it.



(Dr. Vijay Satbir Singh)  
Member I, MahaRERA



Chairperson, MahaRERA