



Maharashtra Real Estate Regulatory Authority

(MahaRERA Order No: 07/2019 Date: 08th February 2019)

Subject: Approval of Association of Allottees for order under Section 7(3) of the Act

Whereas, Hon High Court by an order dated 6th December 2017 in the Writ Petitions No. 2737, 2711, 2255, 2708, 2727, 2256, 2730, in Neel Kamal Realtors Suburban Pvt. Ltd. and anr. Vs. Union of India and others had observed as follows: -

"It is possible that a genuine promoter, after making good efforts is unable to complete the project within the time stipulated at the time of initial declaration or under extended period. Considering the extent of power conferred on the authority under Section 7, we need to put up a harmonious construction on the provision of Section 6 of RERA. The law confers powers under Section 7 on the authority, in the larger public interest to regulate the real estate sector. The authority shall be entitled to take into consideration reasons and circumstances due to which the project could not be completed within the extended aggregate period of one year as prescribed under Section 6. We, therefore, find that a balanced approach keeping in view the object and intent of the enactment and the rights and liabilities of promoter and allottee in larger public interest is to be adopted. The authority would exercise its discretion while dealing with the cases under Sections 6, 7, 8 read with Section 37 of RERA."

"We would observe that in case the promoter fails to complete the project in the prescribed time declared by him or the extended time under Section 6, then it shall not mean that the only outcome would be to oust the promoter from the project."

"In case the promoter establishes and the authority is convinced that there were compelling circumstances and reasons for the promoter in failing to complete the project during the stipulated time, the authority shall have to examine as to whether there were exceptional circumstances due to which the promoter failed to complete the project. Such an assessment has to be done by the authority on case to case basis and exercise its discretion to advance the purpose and object of RERA by balancing rights of both, the

promoter and the allottee. In such exceptional cases, the authority would be entitled to allow the same promoter to continue with the subject project for getting the remaining development work complete as per the directions issued by the authority. It shall not be interpreted to mean that in every case a promoter who fails to complete the project under the extended time under Section 6 would get further extension as of right."

Whereas, Section 7(3) of the Real Estate (Regulation and Development) Act, 2016 reads as under:

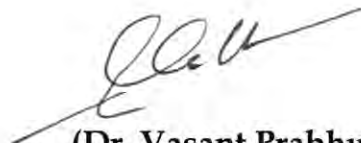
"7(3). The Authority may, instead of revoking the registration under subsection (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the promoter.

Therefore, in order to ensure that interest of the allottees are protected and completion of the MahaRERA registered project is achieved, the authority resolves the following:

In cases, where the promoter of a MahaRERA registered project is unable to complete the project in the extended time of one year, granted under Section 6, further extension may be given only in those cases where the concerned association of allottees resolve that instead of revoking the registration, the existing promoter be permitted to complete the project in a specific time period and on payment of same fees as prescribed under the Rules for extension.

Provided that Association of allottees shall be Association or society or co-operative society or a federation or any other body by whatever name called, consisting of a majority of allottees having booked their plot or apartment or building, as the case may be, in the project.

By the approval of the Maharashtra Real Estate Regulatory Authority
(MahaRERA)



(Dr. Vasant Prabhu)

Secretary
Maharashtra Real Estate Regulatory Authority