

MINISTRY OF HOUSING AND URBAN POVERTY ALLEVIATION

ORDER

New Delhi, the 28th October, 2016

S.O. 3347(E).—Whereas, certain sections of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) (hereinafter referred to as the Act) came into force with effect from the 1st day of May, 2016;

And whereas, sub-section (1) of section 4 of the Act provides that every promoter shall make an application to the Real Estate Regulatory Authority (hereinafter referred to as the Authority) for registration of the real estate project in such form, manner, within such time and accompanied by such fees as may be specified by the regulations made by the Authority;

And whereas, section 6 of the Act provides that the registration granted under section 5 may be extended by the Authority on an application made by the promoter due to *force majeure*, in such form and on payment of such fee as may be specified by the regulations made by the Authority;

And whereas, sub-section (2) of section 31 of the Act provides that the form, manner and fees for filing complaint under sub-section (1) of said section shall be such as may be specified by the regulations made by the Authority;

And whereas, matters regarding form, manner, time and required fees and documents for registration of real estate agents under sub-section (2) of section 9, manner and fees for renewal of registration of real estate agents under sub-section (6) of section 9 and the form and fees for filing appeal with the Real Estate Appellate Tribunal under sub-section (2) of section 44 of the Act are to be provided by rules made by the appropriate Government;

And whereas, there appears to be inconsistency in the said provisions as the Authority has been empowered to make regulations in respect of matters specified in the aforesaid sections, while the appropriate Government is empowered to make rules in respect of matters provided in sections 9 and 44, making it difficult to implement certain provisions of the Act;

And whereas, proviso to sub-section (2) of section 17 of the Act provides that “in the absence of any local law, the promoter shall hand over the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, within thirty days after obtaining the occupancy certificate”. However, common areas can only be handed over to the association of the allottees or the competent authority upon issuance of the completion certificate instead of occupancy certificate;

And whereas, in order to avoid the said ambiguity mentioned in the preceding paragraph, it is considered necessary to amend the proviso to sub-section (2) of said section 17;