



HARYANA REAL ESTATE REGULATORY AUTHORITY, PANCHKULA.

Mini Secretariat (2nd and 3rd Floor), Sector-1, Panchkula.

Telephone No: 0172-2584232, 2585232

E-mail: officer.rera.hry@gmail.com, hrapkl-hry@gov.in

Website: www.haryanarera.gov.in

Extract of the resolution passed by the Haryana Real Estate Regulatory Authority, Panchkula in its meeting held on 26.10.2020.

Item No. 114.16

(viii) **Promoter :** Elite Homes Pvt. Ltd.

Project : "M2K Galleria" – Commercial Colony on land measuring 5659.613 sq. mtrs. situated in Sector-5 & 7-A, Dharuhera, Rewari.

Temp ID: RERA-PKL-746-2019

Present: None.

License No. 189 of 2007 was granted to M/s Heavenly Resorts Pvt Ltd and its associate companies namely M/s Elite Homes Pvt Ltd, M/s Saraf Synfeb Pvt Ltd & M/s Symphony Electronics Pvt Ltd to develop a residential plotted colony on land measuring 74.581 acres situated at sector-5 & 7A, Dharuhera, District Rewari.

The licensee company submitted applications dated 04.11.2019 alongwith orders of Hon'ble High Court Delhi passed on 02.12.2009 in Company Petition No. 235 of 2009 vide which the three licensees companies i.e. M/s Heavenly Resorts Pvt Ltd , M/s Saraf Synfeb Pvt Ltd & M/s Symphony Electronics Pvt Ltd of License no. 189 of 2007 had merged/amalgamated in the 4th licensee company namely M/s Elite Homes Pvt Ltd in compliance of orders dated 02.12.2009, passed by the Hon'ble High Court Delhi in Company Petition No. 235 of 2009. Therefore, License No. 189 of 2007 dated 18.06.2007 deserves to be construed as having been granted to the licensee company M/s Elite Homes Pvt Ltd.



2. Based on the above, M/s Elite Homes Pvt. Ltd. on 20.02.2020 submitted an application for registration of one such part of the licensed land , measuring 5659.613 sq. mts., which is planned for development as commercial sites. The matter was placed before the Authority in its meeting held on 02.03.2020 wherein the commercial pocket was found to be fit for registration subject to the payment of deficit registration fee. However, since no information in respect of the remaining colony was submitted by the promoter, the applicant company was asked to either submit proof of having obtained a part completion certificate qua the remaining area of licensed land or to submit an application for registration of remaining licensed land . Thereupon, the promoter vide his letter dated 18.09.2020 has submitted information in the following tabular form:

Sr. No	Particulars	Area (in acres)	Remarks
a	Area as per original License No. 189 of 2007.	74.58100	
b	Add: Area added in the township vide new additional License No. 06 of 2020.	0.98125	
c	Less : Area migrated for New License No. 22 of 2020 under DDJAY-2016.	5.30625	
d	Less : Area migrated for New License No. 23 of 2020 under DDJAY-2016.	2.31250	The said license is granted for total land of 5.16875 acres out of which 2.3125 acres are migrated from license no. 189 of 2007 and remaining 2.85625 acres are fresh additional land bought by licensee.
e	Net Area of the Township	67.94350	
f	Less: Part Completion area granted vide memo no. 18470 dated 31.07.2017	52.33800	



	which was applied on 06.09.2016.		
g	Less: Area applied for RERA Registration under the present application bearing Temp Project ID: RERA-PKL-PROJ-746-2019.	1.399	Commercial plot no. A-34 admeasuring 5659.613 sq. mtr.
h	Area remaining unsold with the Licensee, as on date, for which due RERA Registration will be sought in due course at the time of launch for sale in market.	14.2065	

3. It is evident from Sr. no. 8 of the above-mentioned table that the promoter is seeking to avoid registration of balance 14.2065 acres on the ground that he would apply for its registration in due course at the time when he will launch the same for sale.

The basic question in a case where promoter moves an application only for registration of a part of project, is whether registration under section 3 of the RERA Act is permissible for a part of the licensed land or the whole area of licensed land is necessarily registrable? Section 3 and Section 4(2)(c) of the Act become relevant for answering this question and the same are being reproduced as under:

“Section 3. Prior registration of real estate project with Real Estate Regulatory Authority.--(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 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.”

Section 4. Application for registration of real estate projects.—

(1) *****

(2) The promoter shall enclosed the following documents along with the application referred to in sub-section (1), namely:-

(a) *****

(b) *****

(c) 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 mentioned in the application, and where the project is proposed to be developed in phases, an authenticated copy of the approvals and commencement certificate from the competent authority for each of such phases;”



Section-3(1) provides that no person can sell any plot, apartment or building in any real estate project or part of it without registering the real estate project with the Real Estate Regulatory Authority.

Said section comprises of two parts. First part prohibits the person from selling any property and the second part paves a way for enabling such person to sell the property in a real estate project. What is prohibited in the first part is sale out of the whole real estate project or a part of it because the expression used in the Section is “in any real estate project or part of it”.

The second part envisages the extent to which a real estate project is required to be registered and the expression used for this intent is “the real estate project” and not “the real estate project or part of it”.

On the basis of distinct use of words in above referred two parts of Section-3, it has to be necessarily concluded that the promoter intending to sell even a part of real estate project has to get the entire real estate project registered and he cannot be allowed to have only a part of the real estate project registered because he for the time being is selling units from such part only and is undertaking to get the remaining part registered at the time when sale from the remaining part would be effected. Thus construed, a promoter is required to get the entire real estate project registered for which he has obtained a license from the concerned department for development of plots, apartments or building in a real estate project.

4. Explanation given at the end of Section 3, however, permits registration of a real estate project in phases. Said explanation provides that 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 the Act for each phase separately. Section 4(2)(c) of the Act mandates that a promoter intending to develop the project in phases shall enclose with the application moved for registration of his project the authenticated copy of the approvals and commencement certificate from the competent authority for each such phase. This will implies that a promoter can seek registration of his real estate project in phase only if he had obtained approvals and commencement certificates from the competent authority for the development of each phase of his project separately.

5. The promoter in this case has not obtained the authenticated approvals and commencement certificates from the Town and Country



Planning Department for development of his project in phases and therefore, he is directed to file/submit the application for registration of the remaining 14.2065 acres land of his project.

6. Adjourned to 07.12.2020 with the above directions.

True copy



dhruv
Executive Director,
HRERA, Panchkula

A copy of the above is forwarded to CTP, HRERA Panchkula, for information and taking further action in the matter.

LA (Divya)
2/11/20