

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

PROCEEDINGS OF THE AUTHORITY

Dated 3rd February, 2022

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| Project Name/ Registration No. | "HIGHCLIFF" Sy. No. 86/1, Panathur Village, Varthur Hobli, Bangalore East, Bangalore-560102. PRM/KA/RERA/1251/446/PR/171031/001436 |
| Applicant / Promoter | "HIREN WAHEN BUILD TECH" No. 2317, 3 rd Floor, 27 th Main, HSR Layout, Sector 1, Bengaluru Urban – 560 102. |

1. Project 'Highcliff' situated at Sy. No.86/1, Panathur Village, Varthur Hobli, Bangalore East, Bangalore is a Registered project with K-RERA. The registration of this project, as per the registration certificate was valid from 23/08/2017 to 22/04/2019. The Promoter had not completed the project within the initial period of registration and therefore an application was submitted for extension of the registration of the project. The Authority granted extension of project registration for a period of one year, as provided u/s 6 of the Act and accordingly the validity of registration was extended upto 22/04/2020. On account of COVID-19, a further extension of 9 months was allowed by the Authority and the project completion period was extended upto 21-01-2021. However, project is not completed till date.
2. The Promoter of the project represented before the Authority that while submitting the application for registration of the project there was a mistake committed in indicating the time required for completion of the project. It is submitted that the project undertaken by the Promoter involved the construction of 152 units with a 14 floor structure, which could not have been completed in less than 4 to 5 years. It is further submitted that as indicated by the Certificate of

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the Chartered Accountant for the quarter ending Sept.2021, the percentage of completion of the project was 68% and the Authority may extend the validity of Registration upto 31-03-2023, to enable the promoter to achieve completion of the project.

3. The Promoter has submitted written requests dated 15/10/2020, 11/06/2021 and 08/11/2021 and the following documents have been furnished:

- (i) Chartered accountants certificate on fund utilization
- (ii) Chartered accountant certificates on funds required
- (iii) Architect certificate for status of work as on date
- (iv) Architect certificate for pending work as on date
- (v) Engineer certificate for status of work
- (vi) Engineer certificate for pending work as on date
- (vii) An affidavit dated 22/01/2020 sworn by Sri. W Lalith Sing, director of the promoter M/s. Hiren Buildtech, Authorized signatory of the promoter.
- (viii) Engineer certificate showing the expenses incurred on materials in the project
- (ix) Consent letter by the allottees
- (x) Design basis report by - Structural Engineers
- (xi) Commencement certificate
- (xii) TDR - Agreement to sell
- (xiii) List of allottees with Agreement date and Delivery date
- (xiv) NOC issued by BESCOM, BWSSB, SEIAA, BSNL, AAI, KSPCB and Karnataka Fire & Emergency Services
- (xv) Stability Certificate of Structure.

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4. In the application dated 08/11/2021, the promoter has stated as under:

'The project consists of residential buildings having in all 152 apartments, has been taken up for development in pursuance of the building plan sanctioned dated 15/06/2017 issued by the BBMP. Having commenced the development work, the commencement certificate for the project has been obtained as on 22/07/2019. It is to be noted that the project which consists of 152 apartments, could not have been completed within the short time of 4 years as mentioned in the application for grant of registration of the project. The commencement certificate for the project itself is given only after the end date was over for the project.

Having realized that there is an error in filing the application for grant of registration of the project while monitoring the end date properly, we have made several representations to this Hon'ble Authority to allow us to rectify the error based on the facts and circumstances. We have subsequently, having no other alternative, sought for extension of registration for a period of one year which has been granted and with the extension of registration granted for one year, the extension for completion of the project has been extended for a period of one year and along with the COVID extension granted by this Hon'ble Authority, the project registration is said to expire as on 22/07/2021.

We have been carrying on with the development work in the project and we require 24 months for completion of all the remaining development works and to obtained the occupancy certificate. In view of all the above, to enable us to carry on with the development works and also continue to market the project, it is necessary that the registration of the project be extended further for a period of 24 months. We have also obtained consent letters from most of the allottees'.

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5. The case was posted for hearing before the Authority and was heard on 16/02/2021, 17/08/2021, 18/08/2021, 07/12/2021 and 24/12/2021. The Authority has taken note of the fact that there were 8 complaints filed against the project seeking interest for delay in completion of the project. Of these 7 complaints have been disposed by the Adjudicating Officer and only one complaint is pending for disposal. The Promoter is liable to pay interest for the delays in completion of the project as per the provisions of Sec.18 of the Act, as and when the orders are passed by the Authority.
6. As regards the extension sought by the promoter, it is evident that Section 6 of the Real Estate (Regulation and Development) Act, 2016 empowers the Authority for grant of extension which shall in aggregate not exceed a period of one year. Since extension of one year was already granted u/s 6 of the Act, a further extension of the validity of Registration cannot be considered.
7. The Authority has perused the documents submitted by the Promoter of the project and status of progress of the project. In the given facts and circumstances of the case, the allottees who have invested in the project have to be satisfied with the present state of progress and express confidence in the Promoter in its ability to complete the project during the further extended period of time sought by the Promoter. In order to ascertain the views of the allottees, a hearing was conducted on 24.12.2021. About 26 allottees attended the hearing on Skype and confirmed that they have given consent letters to the project promoter, indicating their willingness to continue with the project and extending their cooperation to the Promoter in completion of the project.
8. The Authority has examined the case of the Promoter in accordance with the provisions of Sec.7 and 8 of the Act, since this is a project wherein the Registration is lapsed and the project is incomplete. Even

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though the promoter has not been able to complete the project within the extended period of time allowed u/s 6 of the Act, the allottees have expressed the willingness to continue with the project and enable the promoter to complete the project. Sec.7 of the Act provides for revocation of registration on the basis of certain reasons and considerations that are taken cognizance by the Authority, but such grounds have not been brought before this Authority for consideration. On the contrary, the consents of the allottees indicating their willingness to continue with the project despite delays, is placed for the consideration of the Authority. Further, since the project registration is already lapsed, there is no requirement of examining the issue of revocation of registration by the Authority. The project progress is stated to have reached 68% by the end of Sept.2021 and the balance work to be completed would be about 30%.

Even though there is a distinction between the revocation of registration and lapse of registration, in both the cases, there is a requirement of the Authority taking the requisite steps that are necessary for completion of the project and to ensure that the hardship to the allottees is minimized. On a conjoint reading of Sec.7 and 8 of the Act, it is intended that the Authority shall take appropriate steps and initiate such actions that are required to protect the interest of the allottees by ensuring the completion of the project within a reasonable period of time, even beyond the extended period of time allowed u/s 6 of the Act. In view of this, the intent of the legislature as expressed in Sec.7(3) of the Act, in providing wider powers and discretion to the Authority in dealing with the cases of revoked/lapsed registrations has to be taken into consideration, in order to aid the basic object of protecting the interest of the allottees. Further, Authority is vested with the powers to impose such terms and conditions on the promoter, so as to ensure the completion of the

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project and protect the interest of the allottees. In cases of lapsed Registrations of projects, the provisions of Sec.8, inter-alia, provide for the Association of Allottees (AoA) to exercise its first right of refusal for carrying out the remaining development works of the project. In the instant case, such a proposition is not brought before the Authority by the allottees, instead the majority of allottees have indicated their willingness to extend the cooperation to the present promoter to complete the project. A harmonious reading of the provisions of Sec.7 and 8 of the Act and its application to the facts of the case makes it feasible to permit the present promoter to carry out the remaining development works within a reasonable time, subject to such terms and conditions that are imposed by the Authority.

9. The facts of the case, the representations made by the promoter, the status of progress of the project, the consent letters submitted by the allottees and the willingness of the allottees to continue with the project indicate that the continuation of the project implementation by the present promoter is an acceptable proposition for the completion of the project. In view of this, the Authority issues the following order:

ORDER

The promoter of the project is permitted to continue with the project and further directed to take all the necessary steps to expedite the completion of the project in accordance with the representations submitted before this Authority. Since the project is under implementation, even after lapse of registration, the promoter shall strictly abide by the statutory compliances such as submitting the quarterly updates of the project. The promoter shall not dilute any of its duties and obligations in terms of Sec.11 of the Act and shall complete the internal and external development of the project, including amenities, within a reasonable time as represented before the Authority. The promoter shall also ensure that the requisite and timely cash flows are

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available for meeting the project expenditure for achieving completion of the project at the earliest.

Further, it is directed that the promoter shall file detailed monthly report on the progress of the project, in addition to quarterly updates, together with the Certificates from Chartered Accountant, Engineer and Architect and the delays in progress, if any, shall be disclosed and brought to the notice of the Authority.

The promoter is further directed to take note that in the event of any defaults and violations of provisions of the Act and in the event of lack of progress in the implementation and completion of the project, the Authority would take further appropriate action as per the provisions of Sec.8 of the Act.


(D. Vishnuvardhana Reddy)
Member
K-RERA


(Neelamani N Raju)
Member
K-RERA


(H.C. Kishore Chandra)
Chairman
K-RERA

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