

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 2nd AUGUST 2022

Registration No.	PRM/KA/RERA/1251/310/PR/171208/000986
Applicant / Promoter	GOPALAN ENTERPRISES, No. 5, Richmond Road, Bengaluru - 560025.
Project Name	GOPALAN OLYMPIA, Sl. No. 470, Sy. No. 30/4, 31/1, 32, Kumbalagodu Gram Panchayat, Bengaluru Urban.

1. Project "Gopalan Olympia situated at Sl. No. 470, Sy. No. 30/4, 31/1, 32, Kumbalagodu Gram Panchayat, Bengaluru Urban is a registered project with K-RERA. The registration of this project, as per the registration certificate was valid from 11/08/2017 to 30/06/2021. 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 31/12/2021. However, project is not completed till date.
2. The promoter Gopalan Enterprises had applied for extension on 31/08/2021 addressing a letter to the Authority seeking extension of project till 31/12/2023. The promoter represented before the Authority that while submitting the application for registration of the project, due to COVID - 19 pandemic and due to heavy rain in 2019-20, they could not complete the construction of all the nine blocks. It is submitted that the project undertaken by the promoter involved the construction of 1344 residential units with 9

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residential apartment blocks and club house, which could not have been completed in less than 4 to 5 years. It is further submitted that as indicated by the Certificate of the Chartered Accountant for the quarter ending July 2021, the percentage of completion of the project was 60.75% 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 20/04/2021, 31/08/2021, 17/11/2021 and 29/01/2022 and the following documents have been furnished.

- (i) Partial occupancy certificate, dated 16/11/2019
- (ii) Chartered Accountant certificate on fund utilization
- (iii) Chartered Accountant certificate on funds required
- (iv) Architect certificate for status of work as on date
- (v) Architect certificate for pending work as on date
- (vi) Engineer certificate for status of work
- (vii) Engineer certificate for pending work as on date
- (viii) Sold and unsold flats details
- (ix) Copy of Agreement of sale
- (x) Details of other projects of same promoter.

4. The case was posted for hearing before the Authority and was heard on 18/11/2021.

5. 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.

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6. 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. However, in this case the promoter has submitted an affidavit dated 01/08/2022 stating that,

- (i) He is aware of the facts and circumstances and hence swearing the contents of this affidavit,
- (ii) He is the managing partner of the company called Gopalan Enterprises and having a property No.30/4, 31/1 (P) and 32(P) of Kumbalagodu Village, Kengeri Hobli, Bengaluru South Taluk.
- (iii) He has obtained license and plan approval for construction of residential apartment having 9 blocks with 3 blocks (2B+G+2 UFS) & 6 Blocks (B+G+13 UFS) along with a club house (2B+G+2 UFS) from BBMP to proceed with the construction and accordingly the construction of the above blocks are under different states.
- (iv) He is able to complete works of A, B and I blocks and club house. For the three blocks and club house we have obtained occupancy certificate from BDA on 16/11/2019. He has handed over these flats to the customers. These three blocks contain 336 units.
- (v) He had applied for extension of validity period to the Karnataka Real Estate Regulatory and Development Authority for the project.

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- (vi) He submits that C, D, E, F, G & H blocks they have not offered the same for booking to any customer and hence no customer is going to be affected.
- (vii) He submits that there are no sales or offer to sale or marketing of the blocks C, D, E, F, G & H and also CA certificate submitted the same.
- (viii) That he has not taken any project finance for this project and also the interest of the flat buyer/s is not affected as the flats in these towers are not open for booking.

7. The Authority has examined the case of the promoter in accordance with the provisions of Section 7 and 8 of the Act, since this is a project wherein the registration is lapsed and the project is incomplete. Section 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. Further, ~~since the project registration is already lapsed, there is no~~ requirement of examining the issue of revocation of registration by the Authority. 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 minimised. On a conjoint reading of Section 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 allottees by ensuring the completion of the project within a reasonable period of time, even beyond the extended period of time allowed under Section 6 of the

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Act. In view of this, the intent of the legislature as expressed in Section 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 project and protect the interest of the allottees. Section 8 reads as under:-

Obligation of Authority consequent upon lapse of or on revocation of registration.—Upon lapse of the registration or on revocation of the registration under this Act, the Authority, may consult the appropriate Government to take such action as it may deem fit including the carrying out of the remaining development works by competent authority or by the association of allottees or in any other manner, as may be determined by the Authority: Provided that no direction, decision or order of the Authority under this section shall take effect until the expiry of the period of appeal provided under the provisions of this Act: Provided further that in case of revocation of registration of a project under this Act, the association of allottees shall have the first right of refusal for carrying out of the remaining development works.

A harmonious reading of the provisions of Section 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.

8. The facts of the case, the representations made by the promoter, the status of progress of the project, the continuation of the project implementation by the present promoter is an acceptable

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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 Section 11 of the Act and shall complete the internal and external development of the project, including amenities, with a reasonable time as represented before the Authority. The promoter shall also ensure that the requisite and timely cash flow are 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.

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


(D. Vishnuvardhana Reddy)
Member-1
K-RERA


(Neelamani N Raju)
Member-2
K-RERA


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

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