

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 FIRST ADDITIONAL BENCH
OF THE AUTHORITY

Dated 8th JULY 2020

Complaint No. CMP/200307/0005645

MEMBERS PRESENT:-

1. **M R KAMBLE**, Chairman, KRERA.
2. **ADONI SYED SALEEM**, Member 2, KRERA.

R P TRIVHARAM

.....Complainant

No. 8, 6th Cross,
Anarjyothi Nagar, Vijaynagar,
Bengaluru Urban – 560040.

AND

EMLAK VENTURES PRIVATE LIMITED,

.....Respondent

No. 24/1, Near Jalahalli Cross,
Chokkasandra,
Bengaluru – 560057.

This complaint has been filed against the promoter who has got his project MSPP Layout registered with RERA under certificate of registration bearing No. PRM/KA/RERA/1251/309/PR/200123/003222. The project is situated at Sy. No. 75/1, 75/2 and 80 of Soladevanahalli, Hesaraghatta Hobli, Bengaluru North, Bengaluru Urban.

The complaint in brief is that the promoter has no title to the said property, he has not produced any JDA and has made fraudulent and false statement at the time of registration. It is only an agreement to sell without possession which has been submitted to obtain registration. The complainant is said to be a petitioner in CP 13/2016 filed against Mysore stoneware pipes and potteries limited before the NCLT. As per the joint compromise petition

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dated 14/06/2017 the consent of the complainant is required for any transaction in relation to schedule properties owned by the company. An executer has been appointed. The complainant has not consented to the agreement to sell without possession which is being relied by the promoter. On these grounds the complainant has requested for revocation of the registration granted to the said promoter.

Notices were issued and the case was posted for hearing on skype.

On 08/07/2020 the case was heard by the first additional bench of the Authority. The respondent was absent and he had sent a letter dated 07/07/2020 requesting for 30 days time to submit documents. The complainant and his advocate were present on skype and submitted that the registration has been obtained by the promoter by fraudulent means and on the strength of that registration, the promoter is likely to sell the sites in the said project. Therefore urgently he requested for revocation of the registration granted by the Authority.

At the time of filing online application seeking registration under Section 4 of the Real Estate (Regulation and Development) Act, 2016, the promoter had filed the following documents:-

- (i) Mutation dated 19/01/2002, bearing No. RRCR 226/2001-02 in favour of MSPP.
- (ii) Work order dated 03/06/2019 of the BDA in favour of the Managing director, Mysore stoneware pipes and potteries limited. In the said order it is noted, Mr. P Trivikram, was the managing director when the land was got converted from industrial to housing purposes on 19/08/2015.
- (iii) Approved residential layout of the BDA in favour of Mysore stoneware pipes and potteries limited subject to several conditions. The layout is provisionally approved on 25/01/2019.
- (iv) Encumbrance certificate in favour of the Mysore stoneware pipes and potteries limited.



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- (v) Pahani in favour of Mysore stoneware pipes and potteries limited.
- (vi) Agreement of sale dated 07/07/2018 entered into between Mysore stoneware pipes and potteries limited and the promoter namely EMLAK Ventures Private Limited. This agreement of sale is with respect to the project land situated in Soladevanahalli village, Hesarghatta Hobli. In the said agreement to sell, the promoter is proposing to purchase the project land and it is agreed between the seller and purchaser that vacant possession of the project land is to be delivered to the promoter within a period of three months.

As could be seen from the above the owner of the land is Mysore stoneware pipes and potteries limited. The layout has been approved in favour of the said company, the BDA's work order dated 03/06/2019 is in favour of the said company, and the encumbrance certificate and the Khata are all in the name of the said company. The promoter herein is only an agreement holder for the purchase of the land.

Section 4 of the Real Estate (Regulation and Development) Act, 2016 specifies the documents which have to be filed at the time of seeking registration of the project. All the documents produced by the promoter at the time of registration stands in the name of the said company namely Mysore stoneware pipes and potteries limited. The promoter has not filed any documents to show that the various approvals required under the law has been issued by the competent Authorities in his favour. Nor he has produced any documents to show that he has title over the land.

Section 4(2)(l) requires the promoter to file a declaration supported by an affidavit to show that he has legal title over the property and the land is free from encumbrances and a declaration to the effect that 70% of the amount realized for the real estate project from the allottees shall be deposited from time to time is maintained in a scheduled bank. The promoter has failed



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to file such a relevant documents like declaration supported by an affidavit.
He has also failed to file a joint development agreement with the land owners.

Section 2 (zk)(i) and (ii) defines promoter as under:-

- (i) A person who constructs, or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or
- (ii) A person who develops land into a project, whether or not the persons also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or

By any interpretation the Emlak ventures private limited does not qualify to be a promoter under the definition of the Real Estate (Regulation and Development) Act, 2016.

Therefore the promoter herein has obtained registration from the Real Estate Regulatory Authority by fraudulent means without furnishing the relevant documents requiring him to qualify as a promoter. The land, approvals are in favour of the Mysore stoneware pipes and potteries limited with whom he does not have even a joint development agreement.

The promoter has obtained registration by making a false and misleading representations at the time of registration which also amounts to unfair practice. In case no immediate action is taken to revoke the registration, the promoter is likely to enter into sale transactions with prospective buyers. In order to safeguard the interest of the home buyers it is found necessary to invoke the provisions of Section 7 of the Real Estate (Regulation and Development) Act, 2016.

In view of the same, following order is passed.



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ORDER

In exercise of powers conferred under Section 7 of the Real Estate (Regulation and Development) Act, 2016, the registration bearing No. PRM/KA/RERA/1251/309/PR/200123/003222 granted in favour of the respondent is hereby revoked.

However the Respondent is at liberty to file a fresh application seeking registration of the project by filing necessary documents as contemplated under the Act.

(Adnan Syed Saleem)

Member-2

KRERA

(M.R Kamble)

Chairman

KRERA

