



Circular No: KRERA / circular / 03 / 2019

Date : 31.10.2019

6.11.

Subject: Land Owners having Area/Revenue Share in Real Estate Project
to be treated as Promoter (landowner).

Whereas, under Section 37 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") the Karnataka Real Estate Regulatory Authority is vested with the power to issue directions from time to time to the promoters, allottees or real estate agents' as it considers necessary from time to time.

Whereas, the Chairperson, Karnataka Real Estate Regulatory Authority is also vested with the powers of general superintendence and directions in the conduct of affairs of the Authority under section 25 of the said Act.

Whereas, under powers granted to the Karnataka Real Estate Regulatory Authority and its Chairman under the aforesaid provisions of the said Act and since the Karnataka Real Estate Regulatory Authority considers it necessary in the interest of the promoters including landowners and the allottees, the present Circular is issued exercising powers under the aforesaid provisions of the said Act.

As per the elaborated definition of Promoter in Section 2(zk) of the said Act defines and explains that land owner also falls under the purview of definition clause, keeping in view the overall purpose, object and the intention behind enacting the said Act, more particularly various duties, responsibilities and obligations imposed thereby upon the Karnataka Real Estate Regulatory Authority so as to inter-alia bring in

- (i) maximum transparency in the real estate sector and resultantly to promote it; and
- (ii) awareness about the provisions of the said Act and educate general public about nuances of it.

It is found requisite by the Karnataka Real Estate Regulatory Authority to issue appropriate clarification and/or explanation, for the better understanding, working and implementation of the said Act and the Rules framed thereunder, as also for the removal of doubts, if any and if at all, in regard to the aforesaid definition of the term 'Promotor' contained in the said Act.

Whereas, during the online registration process, especially for on-going projects, it was observed that several developers (who actually obtain building permissions and construct) of the real estate project, have entered into arrangement with individuals/organizations like land owners, by which the said individuals/organizations are entitled to a share of the total revenue generated from sale of apartments or share of the total area developed for sale which are also marketed and / or sold by such individuals/organizations.



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Whereas, a careful consideration of the aforesaid definition in the light of the true object and purpose of the said Act leaves no manner of doubt that such individuals/organizations are also covered and clearly fall within the aforesaid definition of the term 'Promoter' and as such are Promoters within the meaning of the said terms for the purpose and for the implementation of the said Act and all the rules framed thereunder. They are therefore jointly liable for the functions and responsibilities specified in the Act in the same manner as the Promoter who actually obtains building permissions and carries out construction.

Whereas, for the ease of filing online registration application and for the benefit of the consumers it is necessary to distinguish and / or identify whether such Promoter is the land owner or is actually obtaining the building permissions for carrying out the construction and is in fact carrying out construction. Therefore, it is directed that

- (1) Such individual organizations who fall within the aforesaid definition of the term 'Promoter' on account of being landowners, shall be specified as such, at the time of online registration with Karnataka Real Estate Regulatory Authority.
- (2) Further the 'Developer/Promoter' shall register his project including the share of the 'Landowner/Promoter' and to monitor the transaction to be done by the 'Landowner/Promoter' to comply Section 4 (2)(1)(D) and also Rule 15.
- (3) Though liabilities of such 'Landowner/Promoter' shall be as co-terminus with the written agreement / arrangement governing their rights in the real estate project, for the purpose of withdrawal from the designated bank account of a real estate project, the obligations and liabilities of all such Promoters shall be at par with each other.
- (4) A copy of the written agreement or arrangement between 'Landowner/Promoter' which clearly specifies and details the rights and shares of each Promoter should be uploaded on the Karnataka Real Estate Regulatory Authority website, along with other details for public viewing.
- (5) Further, the 'Landowner/Promoter' and 'Developer/Promoter' should also submit a joint affidavit as prescribed by the Authority and the 'Landowner/Promoter' shall be answerable to the claim regarding the title over the land involved in the project as well as any claim pertaining to the Real Estate Project.
- (6) The 'Developer/Promoter' shall be liable to provide the details of transaction carried out by the 'Landowner/Promoter' before obtaining the Completion Certificate/Occupancy Certificate for his project and the 'Developer/Promoter' shall ensure by asking the 'Landowner/Promoter' to deposit of 70% of the sale proceeds realised from the allottees of landowner share (in case of area sharing) to the Designated Account of the real estate project in case the 'Landowner/Promoter' does the transaction before obtaining the Completion Certificate/Occupancy Certificate.



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- (7) The 'Developer/Promoter' shall comply Rule 15 by furnishing the details of the transaction done by him as well as by the 'Landowner/Promoter'.
- (8) It is made clear to all Developer/Promoter and Landowner/Promoter shall have the express clause in their Agreement or Joint Development Agreement or Joint Venture Agreement or by whatever name called and the Developer/Promoter and Landowner/Promoter shall have the responsibility to comply the above terms.

By the approval of Chairperson, Karnataka Real Estate Regulatory Authority.

K. S. Rathakumari
Secretary,

Karnataka Real Estate Regulatory Authority