



GOA REAL ESTATE REGULATORY AUTHORITY

DEPARTMENT OF URBAN DEVELOPMENT

GOVERNMENT OF GOA

101, 1ST Floor, 'SPACES' Building, Plot No. 40, EDC Patto Plaza, Panaji 403 001 GOA
www.rera.goa.gov.in

F.No. 3/RERA/ongProj.(410)/2018/ 67

Date: 21 /6/2019

ORDER

This Order shall dispose the penalty proceeding initiated against Isprava Vesta Private Limited vide Notice no. F.No. 3/RERA/ongProj.(410)/2018/489 dated 25/1/2019.

M/s Isprava Vesta Private Limited, promoter of the proposed project **Fonteiro Vaddo**, in Sy. No. 117/1, Mazalwado, Assagao- Bardez, Goa has applied for registration of aforesaid project with the Real Estate Regulatory Authority, Goa under section 3 of the Real Estate (Regulation and Development) Act 2016 read with Goa Real Estate (Regulation and Development) (Registration of Real Estate Project, Registration of Real Estate Agent, Rates on interest and disclosure on websites) Rules 2017 vide their application submitted through online portal dated **05th Dec, 2018**;

As per records it is seen that a complaint was filed by one Smt. Deepti Aggarwal on 10/5/2018 informing that the promoter has not filed application for registration of the ongoing project as required under Section 3 of the Act.

In Pursuance to above the Promoter was asked to apply for registration of project vide letter no. 3/RERA/complaint(11)/ 2018/402 dated 7/11/2018. Accordingly the Promoter filed application through online portal for registration of the ongoing project by name **Fonteiro Vaddo**, in Sy. No. 117/1, Mazalwado, Assagao- Bardez, Goa.

As per section 3 of the Act the projects that are on-going on the date of the commencement of this Act and for which the completion Certificate is not been issued, the Promoter shall make an application to the Authority for Registration said project within the period of 3 months from the date of commencement of this Act.

The Promoter having contravened Section 3 of the Act was asked to show cause vide Notice No. F.No. 3/RERA/ongProj.(410)/2018/489 dated 25/1/2019 as to why Penalty under Section 59 (1) of the Act should not be levied.

In pursuance to the Notice, the Applicant/ Promoter was present for hearing through a duly authorised legal pleader /authorised person on 15/5/2019 before the Interim Authority.

On the date of the hearing the legal/Authorised representative of the respondent requested to consider the reply filed by their letter dated 7/3/2019 as their arguments.

The reply/arguments of the promoter in brief are that they are not bound to pay the penalty to this Authority as they had applied for registration within three months from the date of Circular issued by the Authority on 17/9/2018 and hence in terms of Section 3 of the RERA Act, 2016, r/w Rule 4 of the Goa Real Estate (Regulation and Development) (Registration of Real Estate Projects, registration of Real Estate Agent, Rate of Interest and Disclosure on Website) Rules 2017, they are not liable for penalty.

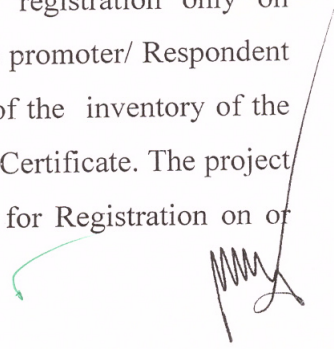
I have pursued the reply filed by the promoter. Based on the submission of the Promoter the question before the undersigned is

- I) Whether the project is an on-going project.
- II) Whether the Promoter is justified in calculating the 3 months time limit for registration of ongoing project based on circular issued by the Authority on 17/9/2018 and whether it is a fit case for levy of penalty under Section 59 and the amount there off.

The Goa Real Estate (Regulation and Development) (Registration of Real Estate Project, Registration of Real Estate Agent, Rates on interest and disclosure on websites) Rules 2017 were notified vide notification no. 11/47/2017-DMA/2466 dated 24th November 2017. As per section 3 of the Act the projects that are on-going on the date of the 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 3 months from the date of commencement of this Act.

As such the promoters of on going projects were required to file the application for registration within a period of 3 months i.e by 23rd February 2018. The said date was further extended upto 23rd March 2018 with the approval of the Government.

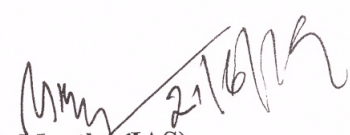
The Respondent has however filed application for registration only on 5th December 2018. As per the documents submitted by the promoter/ Respondent it is seen that the promoter had sold/ made offer for sale of the inventory of the said project as evident from Annexure 'A' attached to C.A Certificate. The project is therefore an on-going project and should have applied for Registration on or before 23rd March 2018.



As regards to the Circular issued on 17/9/2018, the Authority merely clarified the position. Such clarificatory Circulars cannot be equated with an Amendment to the provisions of the Act and Rules made there under. The Act and the Rules were already in Public domain from the date of its publication on official gazette and hence the Promoter is not justified in taking the refuge to the Circular dated 17/9/2018 for calculating the three months' time limit for filling applications in respect of on-going projects. The Promoter having already sold/made offer for sale of the flats/ shops in the on-going project and failing to file application for registration before 23rd of March 2018 has contravened section 3 of the Act and hence liable for Penalty in terms of Section 59 of the Act.

Considering the estimated value of the project and the delay in filling application for registration, and taking none of the submission of the Promoter, I impose a penalty of Rs.3,00,000/- under Section 59 of the Act on the project **Fonteiro Vaddo**, for late registration project to be payable by the M/s Isprava Vesta Private Limited. The Promoter having paid the entire amount through under protest, no further demand notice is necessary.

Issued under my hand and Seal of this office on this 21st day of June, 2019.


(W.V.R. Murthy, IAS)
Interim Authority Goa RERA

To: Isprava Vesta Private Limited
42A, First Floor, Impression House,
G.D. Ambedkar Marg, Wadala (West),
Maharashtra, Mumbai
400031.

Issued on 21/6/2019
Signature 