



GOA@60

## GOA REAL ESTATE REGULATORY AUTHORITY

DEPARTMENT OF URBAN DEVELOPMENT

GOVERNMENT OF GOA

101, 1<sup>st</sup> Floor, 'SPACES' Building, Plot No. 40, EDC Patto Plaza, Panaji 403 001 GOA

www.rera.goa.gov.in

Tel: 0832-2437655; e-mail: goa-rera@gov.in

F.No.3/RERA/Complaint(127)/2020/152

Date: 18/03/2021

Subject: Show Cause Notice No.3/RERA/Complaint(127)/2020/549 dated 27/10/2020 to Shri Kiran Dabolkar ( Surya Kiran Residency).

### ORDER

This is to dispose off the Show Case Notice No. 3/RERA/Complaint(127)/2020/549 dated 27/10/2020 issued by Goa RERA, directing the Promoter to Show Cause as to why penalty should not be imposed on him for not registering the Project u/s 3(1) read with Section 59(1) of 'The Real Estate (Regulation and Development) Act, 2016 within 15 days. The brief facts of the case are that Shri Jose Cabral and Jimmy Cabral ( hereinafter referred to as Complainants), filed a Complaint against the Promoter of 'Surya Kiran Residency' for delay in handing over the possession of the apartment by the Promoter/Respondent. During the course of scrutiny of the Complaint, it was noticed that the Project is not registered under the RERA. Accordingly, the above mentioned Notice dated 27/10/2020 was issued to the Promoter.

2. Promoter Mr. Kiran Dabolkar vide his letter dated 6/01/2021 replied the Show Cause Notice. It has been mentioned in the reply that the Project 'Surya Kiran Residency' located at Survey No.81/1(Part) of Village Calapur Taluka Tiswadi Goa was started before RERA notified in the State of Goa. The Promoter have mentioned that they have obtained Completion Certificate dated 12/03/2020 from Town and Country Planning Department and Occupancy Certificate dated 4/06/2020 from Tiswadi Taluka Office. It has been pointed out by the Promoters that they were not aware of the provisions of the RERA Act and Rules and their intention was not to avoid compliance of the provisions of RERA Act and Rules. Further they have pointed out that as soon as they came to know that the said Project is liable for registration under RERA, they have started necessary formalities for the same and he will be submitting the application through Online RERA Web Portal at the earliest.

3. The case was fixed for hearing on 2/02/2021. Promoter represented through Chetan Joshi remained present before the Authority on this day and submitted an application that the Promoter is making an application along with all the documents to register the project under RERA. He requested for 15 days time to complete the documentation and approve it. On his request, the case was adjourned and one month's time granted. On the next date of hearing on 2/03/2021, the Respondent/Promoter was present and stated that the documents are ready and are being uploaded on the site. On his request one more week time was granted to the Respondent with no further extension and again the case was adjourned for 16/03/2021.

4. Now on 16/03/2021, neither Promoter nor his Representative attended this Authority. It is observed that the Promoter is making Statement after Statement for applying for registration under RERA Act, but has not done anything till date. As stated earlier in his reply dated 6/01/2021, he has stated that they had started the necessary formalities for making the application. On 2/02/2021, during course of hearing, they requested 15 more days time to make the application along with all the documents. One month time was granted on this request and when the case came for hearing on 2/03/2021, Promoter made the same plea that the documents are ready and being uploaded on site. One more week time was granted for the same with no extension. Now on 16/03/2021, Promoter didn't appear before the Authority for hearing and he has not made any application for registration so far. This shows that the Promoter is making commitments after commitments for making application for registration but he is not serious about the same and having no intension for the same.

5. Provision in respect of registration of Real Estate Project has been incorporated u/s 3 of the RERA Act. The relevant portion of the said provision, section 3(1) is as follows:-

**“3. Prior registration of real estate project with Real Estate Regulatory Authority.-**(1) *No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:*

*Provided that projects that are ongoing on the date of 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 three months from the date of commencement of this Act.”*

6. Para 2 of the above mentioned section 3(1) is related with the registration of ongoing projects. As per this, the projects that were ongoing before commencement of the Act and for which Completion Certificate was not issued, was coming under the category which require registration. This section 3 came in force on 1/05/2017. However, in Goa, Rules were framed only on 24/11/2017 and Interim Authority was established after that. Interim Authority by Order No.11/35/2017-DMA dated 23/02/2018 prescribed 23/03/2018 as the last date for filing application for ongoing Real Estate Projects. In this case, Completion Certificate was obtained on 12/03/2020 as per submission of the Promoter himself. Hence it is clear that this project comes under the category of being registered under the Act.


7. Section 59 of the RERA Act deals with punishment for non registration under section 3 of the Act. This provision is as follows:-

*“59. Punishment for no-registration under section 3.- (1) If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten percent of the estimated cost of the real estate project as determined by the Authority.”*

8. From the above, it is clear that the Promoter has violated the provisions of the Act by not registering it. He should have made application for registration before 23/03/2018 but he failed to do so. It is a fit case for action u/s 59(1) of the Act. As per this section, the Promoter can be penalized upto 10% of the Project cost. Exact cost of the entire project is not known. From the documents available on record, it is found that there are 32 flats in the project.

9. In view of above, considering all the aspects of the case, I feel that penalty of Rs.05.00 lakhs (Rupees five lakhs only) should be imposed on the Promoter. Accordingly, Promoter is directed to pay penalty of Rs.05.00 lakhs and make application with all required documents and fees within 15 days, failing which he will be liable for further action and penalty u/s 59(2) of the Act.

Order accordingly.

  
**J.B.Singh, IAS(Retd.)**  
Member, Goa RERA

To:

**1. Kiran Dabolkar,**  
T-46, Third Floor,  
Alfran Plaza,  
Panaji-Goa, 403001. } ‘Surya Kiran Residency’