

Unveiling Artistry: Promoters and Development Managers in Real Estate

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Abstract

The case study of Mumbai Dreams: Olympia C D explores a legal dispute concerning the identification of a promoter under the Real Estate (Regulation and Development) Act, 2016 (RERA). The case examines whether a development manager can be considered a promoter and held liable for obligations under RERA. After careful analysis, the court determined that the development manager qualified as a promoter and shared joint liability with the developer. This decision emphasizes the importance of correctly identifying promoters and holding all parties accountable, promoting transparency, and protection for homebuyers. The ruling sets a precedent and strengthens purchasers' rights under RERA, underscoring the significance of compliance and accountability in the real estate industry.

Keywords: Real Estate (regulation and development) Act, 2016 (Rera), parties accountable, promoting transparency, protection for homebuyers, real estate industry

INTRODUCTION

The Real Estate (Regulation and Development) Act, 2016 (RERA) was enacted in India to protect homebuyers' interests, foster transparency, and ensure accountability in the real estate sector. One crucial aspect of RERA is defining the liability of the "promoter" responsible for developing and selling real estate projects. This article reviews a recent case that explores the legal implications of the promoter's liability and the role of development managers under RERA [1].

Background of the Case

Mumbai Dreams is a project that offers luxury homes in one of the most sought-after locations in the city. Spread over 582 units, the project offers a variety of homes from 1BHK to 3BHK, with sizes ranging from 402 sq. ft. to 786 sq. ft. The project is located in one of the most beautiful neighborhoods in Mumbai, overlooking the scenic Yogi Hills.

In the context of Mumbai Dreams, Olympia C D, several homebuyers had booked flats in the project and subsequently sought a refund under Section 12 of the Real Estate (Regulation and Development) Act, 2016 (RERA) [2]. They alleged false statements and non-compliance by the respondents, raising

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concerns about the promoter's liability and the role of development managers. The legal dispute surrounding the project raises important questions about the responsibilities and obligations of the parties involved under RERA, a legislation designed to protect the interests of homebuyers, promote transparency, and ensure accountability in the real estate sector. By examining this case, we can gain valuable insights into the implications of the court's decision on the promoter's liability and its impact on industry practices and legal interpretations.

ARGUMENTS AND ANALYSIS

The complainants relied on the definition of a promoter under Section 2(zk) of RERA [3], which includes a person involved in constructing or converting a building into apartments for sale. They argued that the development manager, Lucrative Properties Private Limited, as the management agency responsible for various project activities, fulfilled the criteria of a promoter.

To analyze the roles and responsibilities of the parties involved, the court examined the development management agreement between Nirmal Developers and Lucrative Properties Private Limited [4]. The agreement granted Lucrative Properties Private Limited the exclusive right to manage, plan, and supervise the project, including marketing and selling the saleable area. It also allowed the development manager to sell units at discounted rates for funding requirements. These provisions supported the claim that Lucrative Properties Private Limited qualified as a promoter.

The respondents argued that Lucrative Properties Private Limited was appointed as the development manager to assist in project management, planning, supervision, and use of their brand name for a fee. They contended that Nirmal Developers was the sole promoter responsible for all compliances and obligations towards the purchasers.

Court's Decision and Order

After considering the arguments and analyzing the development management agreement, the court concluded that Lucrative Properties Private Limited qualified as a promoter. It held the development manager jointly liable with Nirmal Developers under the provisions of RERA.

The court ordered Nirmal Developers and Lucrative Properties Private Limited to refund the complainants' amounts with simple interest at a rate of 9% per annum. Additionally, each complainant was awarded Rs. 20,000/- towards the cost of their complaint. The charged amounts were to be applied to the respective booked flats until the claims were satisfied. The court also directed Lucrative Properties Private Limited to be added as a promoter on the project's webpage within 30 days [5].

Elaboration on RERA's Primary Objectives

RERA's primary objectives are to protect the interests of homebuyers, ensure transparency in real estate transactions, and establish accountability among developers and promoters. It aims to achieve consumer protection by mandating disclosure of project details, adherence to project timelines, and implementation of escrow accounts for the dedicated use of project funds. RERA also focuses on fostering transparency by requiring developers to register projects and provide accurate information to potential buyers. Additionally, it promotes accountability by imposing penalties for non-compliance and establishing regulatory authorities to address grievances and disputes.

Implications of the Court's Decision

The court's decision in the Mumbai Dreams, Olympia C D case has significant consequences for the legal landscape and industry practices. It sets a precedent that development managers can be considered promoters under RERA if they fulfil the criteria outlined in the Act. This interpretation expands the scope of liability and accountability in the real estate sector [6].

Developers and development managers should take note of this ruling and ensure compliance with RERA provisions. Mere delegation of tasks to development managers does not absolve them from promoter liability if they actively engage in activities such as marketing, selling, and funding. This case underscores the importance of thoroughly reviewing development management agreements and accurately identifying the roles and responsibilities of all parties involved.

CONCLUSION

The Mumbai Dreams, Olympia C D case underscores the significance of promoter liability and the critical role of development managers in the real estate sector. The court's decision clarifies the liability

of development managers and reinforces the principles of RERA. It establishes a precedent that strengthens purchasers' rights and encourages compliance with regulatory frameworks, promoting transparency, and accountability in the real estate industry.

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