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RESTORATION OF CANCELLED GST REGISTRATION



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Extension of End Date / Completion
Date of Real Estate Project As Per
Section 7(3) of The Rera Act 2016
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EXTENSION OF END DATE / COMPLETION DATE OF REAL ESTATE PROJECT AS PER SECTION 7(3) OF THE RERA ACT 2016



CA. Vinay Thyagaraj

Yes, now we are entering the 7th year of implementation RERA from 1st May 2023. The Real Estate (Regulation and Development) Act, 2016, was enacted by the Parliament of India with the aim of regulating and promoting the real estate sector in India. The Act came into effect on May 1, 2016, and was implemented across the country on May 1, 2017

If we read the objectives, and provisions of the RERA Act 2016, we can understand and appreciate that the RERA protects and promotes the Real Estate Industry and all its stakeholders. Of course, the primary objective of RERA is to protect the interests of homebuyers and to promote transparency, standardisation, responsibility and accountability in the real estate sector. (The Stakeholders of the Real Estate Industry includes Land Owners, Developers, Builders, Customers, agents, channel partners, buyers, investors, Financial Institution, professionals, Government agencies, tax or revenue authorities, contractors, vendors, suppliers, service providers, etc)

The objective and intent are to develop and deliver the real estate project as planned and promised. In the process, the completion of the project development may be delayed for various reasons, which may result in the lapse of validity of plan approval / NOCs, RERA Registration, etc. The promoter shall make necessary steps to keep the validity of the registrations or approvals in order to continue the construction, sales, and marketing of the real estate project.

In the previous month's Journal, I have deliberated on the Revocation of RERA registration under Section 7 of The Real Estate (Regulation and Development) Act, 2016 and its consequences.

In this month, let me deliberate on Section 7(3) of the RERA Act, the provision is as follows –

Section 7(3)	The Authority may, instead of revoking the registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the promoter.
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1. Section 3 of the RERA Act 2016 mandates the prior registration of the Real Estate Project. As per registration, the promoter shall declare the End date/ completion date of the project development. Based on his declaration, the RERA Authority granted the registration for the real estate project in accordance with section 5 of the RERA Act.
2. Having received the RERA Registration, the promoter shall complete the development work in the project within the time as granted in the RERA registration certificate. In case the promoter could not complete the development works in the project, he shall make an application for an extension of time as per Section 6 of the RERA Act 2016 read with Rule 7 of Karnataka RERA Rules 2017. The authority on hearing and satisfaction of the reason as specified in the extension application, may permit and grant the extension of a maximum of 1 year of extension of end date/completion date.
3. In a few instances, the promoter may not be able to complete the pending work in the project with such extended end date as granted under section 6 of the RERA Act 2016. The reasons may be many (e.g., financial crunch, market conditions, government orders like NGT, MOEF, etc) In those instances, the promoter needs additional time to complete the pending development works in the project, shall approach the RERA Authority by making an application for additional time.
4. There is no specific provision in the RERA Act 2016 to provide further extension of time for completion of the

pending works in the project. However, in the interest of the various stakeholders (including allottees), the authority shall exercise their powers and allow the promoter to continue the development work and marketing, sale, etc by imposing additional terms and conditions.

5. The following procedure details and documents may be filed with the authority seeking additional time –
 - a. Duly filled application
 - b. Reasons for additional time / extended time with a brief note
 - c. Professional certificates to state the % of completion of work and balance pending work.
 - a. Architect
 - b. Engineer
 - c. Chartered Accountants
 - d. Total Number of units booked / un-booked including money realized
 - e. Balance amount/funds required to complete the pending work in the project
 - f. Source of funds for the balance amount
 - g. Affidavits and undertaking from the promoters that he shall comply with the terms of the agreement entered with the allottees in the project including agreeing to pay the compensation for the delay as mandated under the RERA Act 2016
 - h. 2/3rd Consent (written) letters from the allottees in the project.
 - i. Renewed licenses or NOC's
 - j. Any other relevant documents to prove the bonafide intention of the promoter that inspite of his best efforts, the project delivery is delayed.
6. Presently the Application filing is a manual process. Further, the authority in its order dated 31st Jan 2023 proposed the 50 % fees paid as per Karnataka RERA Rule 3(3) as the fees payable for such extension application (<https://rera.karnataka.gov.in/reraDocument?DOC=2881388>)
7. Having received the application, the authority shall verify the application and also verify whether the promoter has complied with the mandatory compliances under RERA viz., Quarterly updates, Annual Audit report submission, 70 % deposit into the RERA Designated bank account, complaints of the allottees, etc.

8. The authority shall call the promoter for a hearing, on satisfaction or non-satisfaction by the authority, the authority may approve or reject such extension application based on the merits.

E.g., the promoter failed to prove the source of funds to complete the remaining development works in the project or % of completion so far is very low and unable to prove that he can complete the project within the time as may be mentioned in the application, etc may be few examples for rejection of the application.

Section 7(3) of the RERA Act 2016



9. Following is the extract of the judgment with respect to extension – in the case of WRIT PETITION NO. 2737 OF 2017 - Neelkamal Realtors Suburban Pvt. Ltd. and anr. (Petitioners) Vs. Union of India and ors.

Having a careful scrutiny of the relevant provisions of the RERA, its object and scheme and considering the submissions advanced, we have harmoniously construed the provisions of Sections 6, 7, 8 and 37 of RERA. We hold that in case the authority is satisfied that there are exceptional and compelling circumstances due to which promoter could not complete the project in spite of extension granted under Section 6, then the authority would be entitled to continue the registration of the project by exercising powers under Sections 7(3), 8 or 37 of the RERA. Such powers shall be exercised on a case to case basis. We hold that while exercising powers in this regard, the authority shall be bound to hear the promoter, allottee or associations of allottees, as the case may be. In deserving cases the authority would be even entitled to consult the appropriate os-wp-2737-17 & ors. The authority, while dealing with such cases, shall be bound to pass a reasoned order.

The construction placed by us on these provisions shall not be construed to mean that in every case of failure of the promoter to complete the project within the extended time as prescribed under Section 6, the promoter shall be entitled as of right to seek further extension. SECTION 18

10. Accordingly, authority was required to consider each such case individually on merit and decide the terms and conditions to be imposed upon the promoter for further extension instead of revoking the registration of the project as spelled out in Section 7(3) of the Act.

11. Further, Maharera issued Order No.07/2019 dated 8th Feb, 2019 imposing common conditions to all such promoters intending to seek further extension beyond one year that concerned the association of allottees resolves that existing promoters be permitted to complete the project in specified time limit.
12. 2/3rd consent of the allottees in the project is one of the mandatory conditions for the extension of the end date of the project as per section 7(3) of the RERA Act 2016. This means that if the association of allottees decides not to continue with the existing promoter then the association of allottees shall have first right of refusal to continue as promoter and it can appoint some other developer as promoter.
13. The authority while passing the order and approving the extended time may impose such terms and conditions to protect the stakeholders. Such terms may include but not limited to –

- a. Comply with all provisions of the RERA Act 2016
- b. May direct to deposit 100 % of amount realisation from the allottees instead of 70 % deposit into RERA project designated bank account
- c. Shall not comply with the terms of the agreements entered with each allottees in the project
- d. Direct the promoter to submit monthly progress report instead of quarterly updates
- e. Any other conditions

Conclusion – the promoter while filing and professional while advising, shall consider all relevant facts and circumstances that lead to additional time and submit the application. Allottees consent is mandatory, such consent shall be informed consent in writing.

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