



THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 – REVIVAL OF STALLED PROJECTS

THE INSTITUTE OF CHARTERED
ACCOUNTANTS OF INDIA

REFRESHER COURSE ON MAHARERA
PRACTICE & PROFESSIONAL OPPORTUNITIES
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WHAT IS STALLED PROJECT

- ▶ The word “Stalled” is defined in English dictionary as “to halt the motion or progress or bring to a standstill”.
- ▶ In the parlance of Real Estate, a “stalled project” is a project which has come to a standstill and which is not making any progress or is inordinately delayed beyond its normal date of completion.

REASONS FOR PROJECT BECOMING STALLED

- ▶ Change in the regional framework of Competent Authority.
- ▶ Change in reservation by local body.
- ▶ Defect in title of land as notified by Revenue Authority.
- ▶ Project becoming non-feasible due to lack of Sale and Recovery

REASONS FOR PROJECT BECOMING STALLED

- ▶ Promoter acting in a malafide way Few cases are: -
- ▶ Diversion of funds to other projects.
- ▶ Siphoning of money for personal use.
- ▶ Excessive spending for showing off.
- ▶ Illegal or improper trade practices resulting in loss.
- ▶ Borrowings at heavy interest rate.
- ▶ Lack of supervision and monitoring of project expenses resulting in excessive spending and fund leakage.
- ▶ Detention of promoter for illegal activities or unfair trade practices.
- ▶ Multiple litigations against the Promoter by Allottees, Financial Institutions, bankers, contractors, suppliers etc.

LEGAL FRAMEWORK

- ▶ To mitigate the difficulties of the Allottees, Section 7 read with Section 8 of RERA has proposed a solution.
- ▶ Section 7 - Revocation of Registration
- ▶ Section 8 – Obligation of Authority consequent upon lapse of or on Revocation of Registration

STEPS FOR REVIVAL OF STALLED PROJECT

- ▶ Formation of legally constituted Association of Allottees.
- ▶ Filing Complaint with MahaRERA under Section 31 of the Act.
- ▶ Complaint should claim relief “to allow Association of Allottees to take over the project.
- ▶ MahaRERA shall try to understand willingness of existing developer to complete the project.
- ▶ In case of failure of existing developer to submit any scheme for completion of the project , then ...

(Continued...)

STEPS FOR REVIVAL OF STALLED PROJECT

- ▶ (Continued...)
- ▶ MahaRERA shall hear out Association of Allottee to understand their willingness and scheme to complete the project.
- ▶ First right of refusal always vests with the Association of Allottees.
- ▶ Association of Allottees will have to formulate detailed scheme to complete the Project in consultation with MahaRERA.
- ▶ Such scheme shall be finalized and approved by MahaRERA.

SUCCESS STORY

- ▶ Classic example of such a scheme formulated by MahaRERA is the project “**DSK SADAFULI**”
- ▶ Name of project- Sadafuli Phase I and Phase II
- ▶ Stage of completion - 90% complete
- ▶ Number of Allottees - 131
- ▶ Resolution mechanism - MahaRERA authorized the Association of Allottees to carry out balance project work. MahaRERA appointed resolution panel consisting of renowned developer Mr. Niranjan Hiranandani and consumer right activist Mr. Satish Deshpande along with the panel of professionals comprising of Architect, Engineer and Chartered Accountant.
- ▶ Rights given to the Association of Allottees and the resolution panel professionals: -
- ▶ Complete pending development work by appointing contractor or developer as may be considered appropriate.
- ▶ Collect balance receivables from Allottees.
- ▶ Raise interim funds from Tata capital Housing Finance Limited and refund the same along with interest.
- ▶ Execute agreement for sale of unsold Apartments.

SUCCESS STORY

IMPORTANT FACTORS CONTRIBUTING TO SUCCESS STORY WERE

- ▶ Advanced stage of completion.
- ▶ Net worth positive project.
- ▶ Confidence building mechanism of MahaRERA by constituting a panel of eminent personalities.
- ▶ In case the Association of Allottees is not willing for the scheme of taking over & completion of the project, then MahaRERA can enforce implementation of the stalled projects through a new developer or through a State Government Development Authority like MHADA, MMRDA, CICDO etc.

LEGAL RECOURSE

Legal recourse to Allottee or Association of Allottees in case of stalled projects under various laws:-

- ▶ Real Estate Regulation and Development Act, 2016
- ▶ Indian Contract Act
- ▶ Specific Relief Act 1963
- ▶ Arbitration and Conciliation Act 1996
- ▶ Indian Penal Code 1860
- ▶ Civil procedure code
- ▶ Insolvency and bankruptcy code 2016 (IBC)
- ▶ Consumer Protection Act 2017



THANK YOU

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