



**KERALA REAL ESTATE REGULATORY AUTHORITY  
THIRUVANANTHAPURAM**

Present: **Sri. P H Kurian, Chairman.**  
**Smt. Preetha P Menon, Member**  
**Sri. M P Mathews, Member**

Dated 18<sup>th</sup> May, 2023

**ORDER**

Sub: Clarification with respect to the threshold limits prescribed under Section 3(2)(a) of the Real Estate (Regulation & Development) Act 2016 and directions to the Promoters concerned- reg.

1. The Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the Act 2016') was passed by the parliament in the year 2016, with the objective of bringing about greater accountability and transparency in the real estate sector, to standardise the business practices and transactions, regulate and develop the real estate sector, to protect the interest of customers in respect of transactions of sale/purchase, to monitor the activities of promoters and allottees in respect of such transactions, and to provide uniform regulatory environment to ensure speedy adjudication of disputes in the real estate sector in India. The Act 2016 is applicable to and prescribes for the requirement of registration of all "real estate projects" as defined in Section 2(zn) of the Act 2016 for which completion certificates were not issued till 1<sup>st</sup> May 2017.

The term "real estate project" is defined in Section 2(zn) of the Act 2016 as follows: *"the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto"*

According to Section 2(s) of the Act 2016, the term "development" with its grammatical variations and cognate expressions, *"means carrying out the development of immovable property, engineering or other operations in, on, over or under the land or the making of any material change in any immovable property or land and includes re- development"*.

According to Section 2(e) of the Act, the term "Apartment" *whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified;*

2. However, under Section 3(2) of the Act 2016, criteria have been prescribed for a real estate project which is not required to be registered under the Act 2016. The Authority is receiving several queries with regard to the threshold limits prescribed under Section 3(2)(a) of the Act 2016 for exemption and using this loophole, numerous developers in the State have been evading registration by stating that their project doesn't match all requirements and has fewer than eight apartments and so on. Hence the Authority has decided to issue a clarification and order accordingly in this regard.



3. Even though many different interpretations and decisions are seen made by different Authorities with respect to the provision under Section 3(2)(a) of the Act 2016, as reiterated by the constitutional courts time and again the intention of the Legislature has to be gathered not only from the terms used, but also from the 'Objects and Reasons' and 'Preamble' to the said legislation. The Act 2016, as stated in its 'Objects and Reasons', was enacted for inducting professionalism and standardization in the sector and the provisions of the Act are hence required to be construed and interpreted keeping in mind these 'Objects and Reasons' of the Act in the backdrop of the facts and reality on ground, which made it necessary to have some comprehensive law on the subject. Here in the case, the very 'object' of this comprehensive legislation is to ensure that, the consumers do not suffer, by whichever name or nomenclature they are called or under whichever document, they entered into an 'Agreement' for which the real estate projects are to be brought into the purview of the registration under Section 3 and thereby the Act 2016 itself.

According to Section 3(2)(a) of the Act 2016, “*no registration of a real estate project is required where the area of land proposed to be developed does not exceed 500 square meters or the number of apartments proposed to be developed does not exceed eight, inclusive of all phases.*” It is also to be kept in mind that the proviso to Section 3(2)(a) of the Act 2016 lays down that “*if the appropriate Government considers it necessary, it may reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act*” which indicates the very spirit of the said scheme of law.

4. In view of the above facts and circumstances, we hereby issue clarification, with respect to the provision for exemption from registration, provided under Section 3(2)(a) of the Act 2016, to ensure that all real estate projects where the area of land proposed to be developed exceed 500 Square Meters or the number of apartments proposed to be developed exceed 8 inclusive of all phases are registered with the Authority under Section 3 of the Act, 2016.

1. Area of land proposed to be developed exceed 500 Square meter means that any real estate project that is developed on land that has an extent of more than 500 Square meter to be sold as plot or apartment needs to be registered with the Authority even if the number of Apartments are 8 or less
2. Number of apartments proposed to be developed exceed 8 means that even if the extent of land on which the apartments are constructed for sale is less than 500 Square Meters it is to be registered if the number of units are more than 8.

Considering the above, by invoking Section 37 of the Act 2016, the Authority hereby directs all the Promoters concerned, to comply with the decision aforementioned and register their real estate projects, required to be registered under Section 3 of the Act 2016, as provided under the said Act, Rules and Regulations, failing which penal actions shall be initiated against the defaulters as prescribed under Section 59 of the Act 2016.

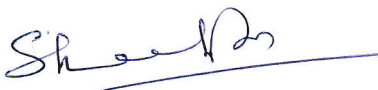
Dated 18<sup>th</sup> day of May 2023

Sd/-  
Smt. Preetha P Menon  
(Member)

Sd/-  
Shri. M P Mathews  
(Member)

Sd/-  
Shri. P H Kurian IAS (Retd)  
(Chairman)

*Approved for issue*

  
Secretary (T&A)

