



**BEFORE THE
TAMIL NADU REAL ESTAE REGULATORY AUTHORITY
CHENNAI
COMPLAINT NO.35/2018**

Secretary, Serene Kshetra Owners
Association (SKOA) ... Complainant

Versus

M/s. Adinath Srinivasa Foundation LLP ... Respondent

Coram: Thiru S. Krishnan, I.A.S.,
Principal Secretary to Government,
Housing & Urban Development Dept. and
Real Estate Regulatory Authority

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24th September 2018

Sub: TNRERA-Complaint against the project "Serene Kshetra" at Nathampettai Village and Valluvapakkam Village, Kancheepuram District.

FINAL ORDER

This matter relates to the complaint filed by the Serene Kshetra Owners Association seeking to have the entire Serene Kshetra project developed by the Respondent, registered under TNRERA. Individual allottees including Thiru Shekhar Murthy, 2. Thiru R.Balakrishnan, 3. Thiru Ramesh Venkatraman, 4. Thiru T.L.Sriram, 5. Tmt.N.Sasikala and S.Ravi, 6. Tmt.V.Chitra, 7. Thiru N.K.Venkatasubramanian, 8.Tmt.C.Jayalakshmi, 9. Thiru P.B.Rajagopalan, 10. Thiru V.Narayanaswamy, 11.Thiru.R.Santhanam initially repeatedly petitioned TNRERA and the Director of Town Country Planning by email and letters on 13.09.2017,25.09.2017,4.10.2017, 06.10.2017 and 08.10.2017 that the project had been wrongly listed as a "structurally

completed" project in the list prepared by DTCP and hence excluded from the definition of "ongoing projects" under Rule 2(h)(iii) of the Tamil Nadu Real Estate (Regulations & Development) Rules, 2017 and therefore rendered exempt from registering under TNRERA. They sought a rejection of the exemption and a direction to register the project under TNRERA.

2) The Project "Serene Kshetra" comprises 2 planning approvals granted to M/s. Adinath Srinivasa Foundation LLP, the details of which are as follows:-

- i) *A residential Layout project at S.F.Nos.41B/2A3, 41B/2B1A at Nathampettai village, Kancheepuram Taluk and District, Tamil Nadu, obtaining Layout sanction for 35 plots, 21 EWS plots and a shop from the Kanchipuram Local Planning Authority bearing Layout Approval number 01/2014, dated 09.06.2014, and separate building permissions from the Kanchipuram Municipality for 15 individual houses, 40 Twin houses and 21 row houses.*
- ii) *A group housing residential project at S.F.Nos.45/4A2, 4B2, 5A2, 5B, 6B,7,8,10,11,12 at Valluvapakkam village, Kancheepuram Taluk and District, Tamil Nadu which obtained Plan sanction from the Deputy Director of Town and Country Planning, Chengalpattu bearing Planning Permit Approval number 4768/2013/CR3 dated 08.05.2014, and building Permission from the Local Body.*

3) As per the map provided, the 2 sites are adjacent to each other and connected. They, however, fall in different revenue villages, of which one village falls within the jurisdiction of the Kancheepuram Local Planning Authority. Hence, the planning approvals were granted by two different authorities, the Kanchipuram LPA and the Deputy Director, Town and Country Planning in Chengalpattu.

4) Under the residential layout plan, the developer informed the Kanchipuram Local Planning Authority on 4.7.2017 that 8 individual

houses, 28 twin houses and 21 row EWS houses out of the 15 individual houses, 40 twin houses and 21 row houses approved had been constructed and structurally completed on 43 out of the 56 plots. Similarly, in the group housing project, the Deputy Director, Town and Country Planning, Chengalpattu was informed on 04.07.2017 that out of the 147 row houses, 99 row houses and the club house and staff quarters were structurally completed. On this basis the developers M/s. Adinath Srinivasa Foundation requested that their project should be exempted from the purview of RERA under rule 2 (h) (iii) of the Tamil Nadu Real Estate(Regulation and Development) Rules, 2017. On this basis, the projects were included at items number 106 and 138 as in the list of structurally completed projects exempted under Rule 2 (h) (iii) posted on the website of Commissioner of Town and Planning.

5) Against this inclusion of the project in the exempted list, a number of individual allottees / buyers represented both to the Authority and to Commissioner, Town and Country Planning that the project should not be exempted from the ambit of RERA. The complaints received were referred to the promoter for his response.

6) In the mean time, the developer registered the incomplete portions under the 2 planning approvals, as two separate projects vide Registration no. 88 dated 28.09.2017 at Valluvapakkam village and Registration No.177 dated 13.11.2017 for Nathampettai village. The respondent gave his response to this Authority on 27.11.2017 in which it was stated that the complainant's houses were structurally completed and were either handed over or being handed over to the allottees and would not come under RERA purview and that they were also being paid compensation for delay as per the contract. As the complainants were not satisfied with the response that the part of the project which they had purchased were excluded from the ambit of RERA, they

demanding vide their letters dated 06.12.2017 and 30.12.2017 that the entire project should be registered under TNRERA and the request for exemption should be rejected. In a letter sent on 06.01.2018, the complainants requested a meeting with DTCP officials to clarify the position.

7) Accordingly, the matter was referred to the Commissioner Town and Country Planning to undertake an inspection and to submit a report on the objections raised by the complainants to the inclusion of the Serene Kshetra Project in the exemption list. The Commissioner sent a detailed report on 28.02.2018 in which interalia it was stated that in Kanchipuram LPA the status was:-

	Structure with extent	Location	Status
Villas	G+1 floor (1585 sqft)	Plot No. 1 to 15 and shop	Out of 16 villas 9 Nos. of villas constructed and 7 Nos. under construction. Villa proposed in the shop site
Twin Houses	GF (1050 sqft)	Plot No. 16 to 22 & 23 to 35	Out of 20 Nos., 14 Nos. of Twin houses constructed and 6 Nos. under construction
EWS	GF (515 sqft)	Plot No.36 to 56	21 nos. of EWS blocks constructed

Regional Deputy Director, Chengalpattu region stated that "99 Nos. of Blocks (GF) are completed and finishing works are progress for handing over the houses. 48 Nos. of Blocks and Block 1 & 2, EWS Block (six) are yet to be started. Club House G+1 floor constructed in the site and it is yet to be functioning. Structural and Brick work completed for Staff Housing (G+1 floor) and finishing work yet to be started".

8) The reply of the Commissioner of Town and Country Planning and the further responses from the developer dated 02.03.2018 were sent to the complainants, who requested a personal

hearing to resolve the issue. Accordingly, the matter was first heard on 03.05.2018 and the contentions of the two parties were recorded and both parties given an opportunity to file their respective written statements on the issue. An interim order was passed on 03.05.2018, which interalia stated:

"The promoter is directed to have the issue of possible differential treatment of RERA covered and pre RERA phases of the projects examined legally to ensure that allottees under both phases enjoy the same rights and to submit the same to the Authority to take decision."

9) At the hearing, the complainants filed a written representation in which they stated their main contentions to establish that Serene Kshetra was one integrated project were as follows:

- i) "This project had not been conceived to be developed in phases, as evidenced by the attached (Annexure-1) DTCP's approval dated 08.05.2014 which mentions all the Apartments, Row houses, Club houses and Staff housing, covered by the above two paragraphs on the same survey numbers. Therefore, it is a single integrated township project which cannot be bifurcated only for the purpose of avoiding RERA. There was no communication from M/s. Adinath to owners about the implementation of the project in phases.
- ii) The individual agreements for the sale of land (UDS) makes a specific mention on page no.4 recitals, 6, 7, and 9 about developing "Integrated Residential Project for Senior Citizens". copy attached (Annexure-2). The sale deed of land also stated one project taking approval with number 30/2014 dated 08.05.2014-vide recital 18.
- iii) The individual construction agreement, copy attached (Annexure -3) also specifically mentions at recital 6, 7, 9 and 11 "Integrated Residential Project for Senior Citizens".
- iv) The allotment letters of M/s. Adinath and Serene Senior Living, (Annexure-4, 5) issued to the individual buyers make a specific mention about Integrated Serene Kshetra Project which includes Group

Development Scheme comprising of Row houses, Apartments on 9.9 acres of land of same survey numbers as mentioned above.

- v) The site layout plan, copy attached (Annexure-6), given to the individual buyers exhibits all the Row houses, Apartments, and Club house a single integrated project. It will be seen that the bifurcation now done looks artificial in a straightline row of Row houses.
- vi) One more document namely "Service Agreement", copy attached (Annexure-7) has been insisted upon by M/s. Adinath to be accepted and signed by each individual buyer for availing services from another company of Serene Group. This document also specifically mentions one integrated project."

10) After the hearing on 3.5.2018, the Serene Kshetra Owners' Association first filed a written statement on 7.5.2018 and thereafter filed a formal complaint under Form M on 17.5.2018. In the written statement dated 7.5.2018 they contended:-

"Serene Kshetra is an Integrated composite project, as evidenced and advertised through various documents and agreements establishing the integrated character of the entire project, we wish to highlight briefly the following:

- i) The documents, agreements and brochures did not confer any authority legal or otherwise to split the project into parts to the detriment of the buyers.*
- ii) Two plan approvals being cited by M/s. Adinath /Serene are at best administrative in nature dictated by the location of the lands in question without in any way violating the integrated character of the project.*
- iii) If it had not been for the integrated character of the project, common amenities and infrastructure would not have been on a 100% sharing mode without restrictions and reservations of any nature whatsoever."*

11) The respondents by their written statement dated 23.5.2018 had the following response :

"Serene Kshetra was conceived in the year 2014; much before the implementation of RERA, as a conceptualized development designed to augment, enrich and ease the life of senior citizens. The integrated development is a product mix of two developments viz., i) the villa development on laid out plots ('Layout Development scheme') and ii) apartments in group housing development ('Group Development scheme'). We have obtained two independent approvals for the development of the Layout Development scheme and Group Development Scheme respectively, though independent approvals were obtained for the development of the above mentioned dual scheme, the common amenities provided in the project are commonly made available to all purchasers of Serene Kshetra and the same has been recorded in unequivocal terms in the construction agreement executed with the purchasers, which is extracted below for easier reference:

"All purchasers of the Layout Development scheme shall allow unfettered access, use, allow, way, traverse and right to cross over the common roads, parks and other common areas of the Layout Development scheme developed to the purchasers of the Group Development Scheme without any hindrance or claim and similarly the purchasers of the Group Development scheme shall allow unfettered access, use, allow, way, traverse and right to cross over the common roads, parks and other common areas of the Layout Development scheme developed to the purchasers of the Group Development Scheme without any hindrance or claim".

In light of the submissions made above, it is apparent that the apprehensions of the Complainant that the TNRERA registered phase may get certain advantages over the non-RERA phase is perverse and not maintainable.

We submit that there is nothing in the provisions RERA and TNRERA Rules would empower its purchasers to restrict the right of usage of common areas and amenities of the non-RERA purchasers in the previous phases. As stated, earlier, the primary objective of registering a project with RERA is to ensure

that the funds collected by the promoter from the purchaser is utilized solely for that particular project and to ensure that the promoter honours its responsibilities as per the agreements executed.

There is absolutely no issue of preferential treatment conferred by such registration to RERA purchasers over and above the non-RERA purchasers and it is our emphatic submission that the purchasers of both the Layout Development and Group Development scheme enjoy equal rights to the common areas and amenities available in the project, as per the terms of our agreements executed.

We submit that the idea of 'Serene Kshetra' as a project was conceived much prior to the notion of RERA. The project was conceptualized to encompass 400 units in two portions viz., the layout development scheme at the front and the Group Development scheme at the rear and the same has been promoted as an integrated development. Further, the gifting of lands for OSR and roads are done keeping in mind this conceptualized scheme of the development. Subsequent to the promulgation of RERA, the Layout development and group development were shown as two developments, viz., the layout development scheme as phase -I and Group Development Scheme as Phase -II for the purpose of registration with RERA. It is to be noted that the right to develop a project in phases is a statutory right conferred on the Promoter under RERA.(emphasis added). It is submitted that in the present instance, all the common amenities visualized in the project have been duly completed and delivered as part of Phase-I itself. Therefore, the scheme of development adopted in the present instance, to represent the project in two phases is well within the mandate prescribed by law and to allege otherwise by the Complainant is unjust and flawed.(emphasis added).

On the subject of exemption sought under TNRERA for structurally completed buildings, it is our solemn submission that we have diligently complied with the provisions of TNRERA in seeking exemption for such buildings, which have been represented as the completed phases of the project. We have availed the statutory exemption granted under the provisions of TNRERA. Rule 2(h)(iii) of TNRERA explicates the produce to seek

exemption for structurally completed buildings in the DTCP jurisdiction. To comprehend the applicability of Rule 2(h)(iii) is required. Though registration is mandated for ongoing projects under Section 3, the Act has exempted those projects which have obtained completion certificate as on the date of notification of section 3. It can be inferred that the legislative intent of RERA is to exempt those projects wherein the promoter has shown proof that the building is structurally completed. In order to keep up the spirit of the said objective, TNRERA has included Rule 2 (h)(ii) and Rule 2 (h)(iii) for projects within CMDA and beyond CMDA respectively. Rule 2(h)(ii) is applicable for developments within the CMDA limits wherein the Development Control norms prescribe the issuance of completion certificate including partial completion certificate; and Rule 2 (h)(iii) is applicable for developments beyond CMDA limit where there was no procedure prescribed for the issuance of completion certificate.

It is our humble submission that the subsequent to us apprising the Authorities of the status of buildings under Rule 2(h)(iii), the buildings in Serene Kshetra were duly inspected by the authorities concerned. It is only after ensuring our diligent compliance with the law that the exemption was granted to the structurally completed buildings in the Group Development Scheme vide Entry no. 106 in the list titled 'Status of Applications Received under Rule 2(h)(iii)' published in the website of TNRERA.

Similarly, we had also sought exemption for the structurally completed buildings in the Layout Development scheme in Serene Kshetra. Yet again, it is only after ensuring our compliance with the law, the Authorities concerned has issued us the exemption; reflected as Entry No.138 in the list titled 'Status of Applications Received under Rule 2(h)(iii)' published in the website of TNRERA.

We respectfully submit that with respect to the phase wise development envisaged by us, the contentions of the Complainant that the said scheme is in violation of the provisions of TNRERA is incorrect and baseless. The phased development for which we have sought registration under RERA is well within the rules and norms prescribed under the provisions of RERA and TNRERA."

12) In the hearing held on 30.05.2018 the complainants were given time till 11.7.2018 to respond to the written reply of the respondent. The following interim order was also passed:

"In the interim, without prejudice to the final outcome, the Respondent is directed to submit the draft of a clause to be added in the Construction Agreement to be registered with future allottees of the RERA registered phase clarifying that all purchasers within the project shall have equal access to all common areas such as roads, parks, club house etc. without hindrance".

13) The complainants had an opportunity for a written response on 11.07.18 in which reiterated the arguments that they had already made. In response, the respondent in his written statement dated 27.8.2018 asserted:

"a) The exemption obtained by the Respondent for structurally completed phases of Serene Kshetra is bonafide and the Authority is not empowered under RERA to examine the legality of the same;

b) Since, Serene Kshetra is not a project registered with TNRERA, the authority lacks the jurisdiction to entertain the present complaint filed;

c) The scheme of development so conceived for Serene Kshetra does not violate the provisions of RERA and TNRERA."

14) Both parties have cited certain earlier orders of this Authority and of other Authorities in their favour.

15) Both parties were finally given an opportunity on 24.9.2018 to advance their oral arguments if any, and they reasserted their arguments contained in the written statements.

16) From the contention of the two parties and the facts of the case the following issues come up for determination:

(1) Once a project has been included in the list of structurally completed projects by the Directorate of Town and Country Planning under Rule 2 (h) (iii), is it open to this Authority to examine whether a project has been correctly included in the list,

or on as contended by the Respondent, is the complaint not maintainable on this ground alone, and TNRERA not empowered to question the legality of an exemption under Rule 2(h)(iii)?

(2) What is the scope of the Explanation under Section 3(2) of Real Estate (Regulation & Development) Act, 2016, which deals with registration of phases of the projects?

"Explanation.- For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately."

Does it give the promoter / developer an unfettered right to determine what the phases of a project would be?

(3) Depending upon the answers to the above two questions, is the promoter, in the facts and circumstances of the present case entitled to avail exemption as provided under Rule 2(h)(iii) for certain structurally completed portions of the construction undertaken under the two planning permissions accorded to the Serene Kshetra Project?

17) On the first issue, the Respondent contends that once a project is included in the list of structurally completed project under rule 2 (h)(iii) of the DTCP, this Authority has no jurisdiction in the matter at all. Hence this Authority cannot examine whether such project has been rightly included in the list of structurally completed projects and hence correctly exempted from the operation of the Real Estate (Regulation and Development) Act, 2016. This issue goes into the heart of what the powers of the Real Estate Regulatory Authority are. The functions and powers of RERA under sections 34, 35, 36 and 37 are wide. Under section 34(a) the functions of the authority include:

“(a) to register and regulate real estate projects and real estate agents registered under this Act:”

To fulfill this function, the Authority is competent to exercise its powers under section 35 to call for information and conduct investigation. Under sections 36 and 37 the Authority is empowered to issue interim orders and directions. Section 37 specifically provides that :-

“The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such directions shall be binding on all concerned.”

18) In view of this legal position, it would not be correct to contend that Rule 2 (h) (iii) confers finality on whether the project is an ongoing project or not. Inclusion in a list under Rule 2(h)(iii) cannot take away the powers as the Authority under section 34 and 35 to examine whether a project is required to be registered and whether the shelter available under rule 2 (h) (iii) has been correctly resorted to in a particular case. The Authority has a duty to ensure compliance to the provisions of Real Estate (Regulation and Development) Act, 2016. Thus, to conduct an enquiry and to issue directions to secure registration of a project which is a function of RERA is very much within the statutory function of powers of RERA.

19) Further, in the case of Mr. Y. Ravishankar Vs M/s. Marg Properties Ltd., in an order delivered on 23.05.2018, the Real Estate Appellate Tribunal (Tamil Nadu, Andaman and Nicobar Islands), the Tribunal went into the issue of whether a project required to be registered with RERA, in a case in which this Authority had dismissed a complaint on the ground that the project had already been included in the list of exempted projects under Rule 2 (h) (iii). The Appellate Tribunal went into the merits of whether the project is required to be

registered or not and made a finding that indeed the project was not structurally completed and hence was not eligible for exemption although had been included in the list of DTCP. The Appellate Tribunal stated as follows:

“Further taking into consideration, that the project has not been completed, does it not mean that it is a continuing offence? The allottee has every right to bring to the notice of the authority when there is non completion of the project on the date of the coming into force of the Act. He has to establish that the promoter is not entitled to claim the exemption because of his continued non completion”.

20) Hence, the contention of the respondent that the complaint is not maintainable since the project has already been included in the list of exempted project under rule 2 h (iii) is not acceptable. This Authority has the power to examine whether the project has been correctly included in the list or not.

21) Coming now to the second issue which has been framed on the scope of the explanation under section 3 of RERA Act and its applicability in the present case, the legal provisions dealing with the phasing of projects are contained in the Explanation under section 3(2) of the Act and in Explanations II and III under Rule 4 of the Tamil Nadu Real Estate (Regulations and Development) Rules, 2017. The Explanation under section 3(2) states :- “ *For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under This Act for each phase separately.*” The expression where the real estate project is to be developed in phases, clearly implies that there needs to be prior intent that the project will be developed in phases.

22) Explanation of II and III under Rule 4 are reproduced below:

Explanation II.- If the project has been conceived to be developed in phases, where the plans for the initial phase are approved by the planning authority prior to the date of coming into force of sub-section (1) of section 3 of the Act, then for such projects the requirement of obtaining two third consent from existing allottee, under clause (ii) of sub-section (2) of section 14 of the Act is exempted for addition/revision/modification of plans for subsequent phase/s of development, provided the scheme of developing the project in phased manner has been agreed upon by the allottee and promoter in the agreements executed between them.

Explanation III.- If the approval from the planning authority is obtained for larger extent of land, but where the development is conceived to be in phases, the promoter shall be permitted to register each phase as an independent project with the Authority. In such case, the requirement of obtaining two third consent from existing allottee under clause (ii) of sub-section (2) of section 14 of the Act is exempted for addition/revision/modification of plans for subsequent phases of development, provided the development in phases has been agreed upon by the allottee and promoter in the agreements executed between them, when there is no reduction in the common area and there is no change in the total built up area of the registered phase/project."

The two explanations under Rule 4 envisage cases where either initially the project is conceived to be developed in phases and planning permission is obtained for the initial phase or where planning permission is for a larger extent and the development is in phases, then the requirement of consent of two thirds of the allottees for modifications under section 14 of the Act is waived, provided the

development in phases is already explicitly agreed upon by the allottee and developer. Hence even for on-going projects, Rule 4 requires explicit prior agreement for development in phases.

23) Based on a reading of the Explanations under section 3 and under rule 4, there is no doubt that to register a project as being developed in phases, prior intent requires to be demonstrated by the developer. Ascertaining such intent will depend upon facts and circumstances of each individual case. In the present case, the complainant has produced several documents, agreements and brochures showing that Serene Kshetra was intended as an integrated project. They further highlighted that these documents, agreements and brochures never stated that the project would be split into phases. The respondent in his written statement also stated clearly that :

"Serene Kshetra was conceived in the year 2014; much before the implementation of RERA, as a conceptualized development designed to augment, enrich and ease the life of senior citizens. The integrated development is a product mix of two developments viz., i) the villa development on laid out plots ('Layout Development scheme') and ii) apartments in group housing development ('Group Development scheme')."

24) Hence in this case, there is no doubt that the project was originally conceived of as an integrated project. The developer himself admits that the question of splitting the project into phases arose after the promulgation of RERA Act. The intention appears to be to take advantage of an option offered under the Act to segregate the structurally completed portion of the projects as a separate project and out of the purview of RERA by seeking exemption under rule 2 (h)(iii). This has been interpreted by the developer as a statutory right conferred under the Act. There does not appear to be any such inherent and automatic right conferred on the developer to split the project into phases as per his convenience. Such phased development ought to

have been originally contemplated and clearly demonstrated, or if the split is to be done subsequently, it should be with the consent of two-thirds of the allottees.

25) If at all, Serene Kshetra is to be considered as project to be developed in phases, the only logical phasing would be the 2 separate planning approvals that have been obtained, for the residential layout at Nathampettai Village and for the group housing project in Valluvapakkam Village. They have two separate planning permissions, are on distinct pieces of land and in the agreements with allottees, mentioned as distinct phases with co-equal rights as admitted by the Respondent. The relevant portion of the agreement was also quoted by the Respondent. There would have been a reasonable case if it had been contended that either one or both of these phases have been fully structurally completed and hence exempted from registration. In the present case, structure completion is claimed for certain portions of each of these phases. The attempt thus is to further split the two distinct phases into sub-phases with a portion of the project covered under both the planning approvals getting registered under RERA, while other portions of both planning approvals are sought to be exempted as structurally completed projects. From the maps of the site, it is clear that the structures of the "structurally completed" phases and "RERA Registered ongoing" phase are intertwined and interspersed with each other and in some cases not even in clearly discernible blocks.

26) In the present case, applying the scheme of the Act and Rules, the logical way to examine whether the Serene Kshetra project in its entirety is required to be registered under RERA is to first examine the manner in which the project can be split up in phases as permissible under section 3 of the Act read with Rule 4 of Tamil Nadu Real Estate (Regulation and Development) Rule, 2017. Both the

complainants and respondents have indicated that the project was intended to be developed as an integrated and comprehensive project. The only permissible phasing of the project is as the "layout development" and the "group housing development" which have separate planning permissions. In agreements with the allottees also, they have been recognized as two phases, but with co-equal rights only common facilities. Hence, it is possible to recognize only 2 phases in the present project which are the layout development in Nathampettai Village and the Group Housing Development in Valluvapakkam Village. It is not open to the developer to further split these two phases further into structurally completed portions exempt from RERA and ongoing portions to be registered under RERA.

27) What has to be examined next is whether both or either of these two phases are fully structurally completed to fulfill the definition under Rule 2 (h) (iii). In the present case, based on the report of the Commissioner of Town and Country Planning and the Respondent's own admission, it is fairly clear that only portions of the intended development under both the layout development approval and the group housing development approval have been completed. Hence, according "structurally completed" status to the whole project or even to either one of the two phases is neither warranted nor contemplated under the provisions of section 3 of the Act.

28) This brings us to the third question as whether the promoter in this case is entitled to avail exemption under rule 2 (h) (iii) for certain structurally completed portions of the construction undertaken under two planning permissions granted to the Serene Kshetra project. Since the second issue has been answered to the effect that it is not open to the developer to further split the project into phases beyond the 2 planning permissions already granted and that both or either each

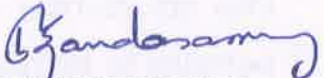
of the 2 phases requires to be fully structurally completed in order to avail the exemption under rule 2 (h) (iii), it necessarily follows that the developer in this case cannot avail the exemption under rule 2 (h) (iii) for any portion of the Serene Kshetra project as per the entries included in CTCP's list.

29) Accordingly, the respondent directed to register the entire Serene Kshetra project under RERA within 2 weeks from the receipt of this order.

Sd/-..... 10.10.2018

Principal Secretary to Govt., H&UD Dept., and
Real Estate Regulatory Authority

/TRUE COPY/FORWARDED/BY ORDER


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