



Uttar Pradesh Real Estate Regulatory Authority

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No. 11842 /Project Acctt. /U.P. RERA/2023-24

Date: 15 Sep., 2023

To,
The General Manager & Co-ordinator,
State Level Bankers Committee (SLBC),
Bank of Baroda Building,
Vibhuti Khand, Gomti Nagar,
Lucknow - 226010

Subject: Regarding Instructions to Banks for adherence to provisions of RERA Act, U.P. RERA Project Account Directions, 2020 and circulars of RBI regarding Bank Accounts of projects registered in U.P. RERA

Dear Sir,

This is with reference to the bank accounts opened by Promoters of the real estate projects registered/ to be registered in U.P. RERA. Your attention is kindly drawn to the following statutory provisions:

1. Section 4(2)(I)(D) of the Real Estate (Regulation and Development) Act, 2016, stipulating following provisions bestows obligation on the promoters that :-
 - a. seventy per cent. of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose;
 - b. the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project; and;
 - c. the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project.
2. For ensuring the compliance of above provisions by the Promoters of the Project registered in U.P. RERA, the Authority has issued the Real Estate Projects (Maintenance and operation of Separate Bank Account) Revised Directions, 2020 dt. 24.12.2020 as per the power conferred as under section 37 read with "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." It lays down the procedure and norms for opening of three accounts for the projects, norms for

their operation and change of accounts, disbursement of loan/project finance in Separate Account of the Project and procedure for closure of Separate Account, etc. (copy enclosed).

3. Further, RBI's circular No. RBI/2020-21/79 DOR.No.BP.BC.30/21.04.048/2020-21 dated December 14, 2020, allows banks to open specific accounts which are stipulated under various statutes and instructions of other regulators/ regulatory departments, without any restrictions placed in terms of the circular dated August 6, 2020 and the indicative list of such accounts includes - *"Accounts for real estate projects mandated under Section 4 (2) l (D) of the Real Estate (Regulation and Development) Act, 2016 for the purpose of maintaining 70% of advance payments collected from the home buyers."*
4. Further, Paragraph 2 of the aforementioned circular of RBI also lays down that the above permission is subject to the condition that the banks shall ensure that these accounts are used for permitted/specified transactions only.

However, on review of separate account of the real estate projects registered in U.P. RERA and for projects which are being registered afresh in U.P. RERA by their Promoters, it has been observed that

- i. Banks do not follow the norms and provisions laid down for the name of the accounts to be opened for the projects as per the U.P. Rera Account Directions, 2020 dated 24.12.2020.
- ii. Some of the banks have issued cheque books, debit cards and allowed net banking payment facility to the Promoters from the separate account of the project, whereas as per Section 4(2)(l)(D) of the RERA Act, withdrawal from separate account is allowed only when the Promoter submits the CA, Architect and Engineers Certificates in the concerned bank branch and the banker is satisfied that the amount requested can be withdrawn in view of the certificates so provided.

From above, it is clear that under the circumstances and on account of the practices different from the RERA Act and the abovementioned RBI circular, being adopted by some of the banks, it becomes difficult for U.P. RERA to monitor the progress of the projects and to ensure that 70% of the allottee money and ontx project finance is utilized on construction and development of the project only.

You are therefore, requested to issue following instructions to all the scheduled banks operational in the State of Uttar Pradesh as regards opening and operation of accounts opened/being opened for a real estate projects registered/ applied for being registered in U.P. RERA:

1. Banks necessarily follow the guidelines of opening and operation of real estate project accounts as per Account Directions, 2020 and Order dated 13.04.2021 issued by U.P. RERA vide No. 10460 dt. 24.12.2020 and 3287 dt. 13.04.2021 respectively. It is mandatory for promoters and banks to open three bank accounts namely, collection account, separate account and transaction account of the project registered in U.P. RERA on or after 01-04-2021.
2. The promoter of a real estate project shall give written standing advice to the bank for instant auto transfer of 70 percent of the money collected from

- allottees in collection account from time to time to the project separate account and not more than 30 percent to the transaction account of the project.
3. The bank shall ensure that 70% of the amount collected in the collection account is auto transferred in the separate account of the project and 30% of the amount collected in the collection account is auto transferred in the transaction account of the project immediately after funds are deposited in the collection account.
 4. The Bank shall
not issue any cheque book and/or debit card and shall not allow net banking facility in the collection and separate accounts of the project. The accounts shall be opened in the name of the main promoter only.
 5. While opening the project accounts, the concerned bank branch will issue a letter in two copies certifying
 - a. that the three accounts namely, collection account, project separate account and transaction account of the project have been opened as prescribed in the U.P. Rera Account Directions, 2020 dt. 24.12.2020,
 - b. that the names of the respective accounts along with account numbers are as follows <names of A/c and a/c no. To be given>
 - c. that the instructions for auto sweep have been applied in the collection account.
 - d. that cheque books and debit cards have not been issued in collection and separate accounts of the project nor has the net banking facility in the collection and separate accounts of the project been provided by the bank.
 6. The bank will send one copy of this letter along with the copy of the instructions given to it by the promoter to the Secretary, U.P. RERA, Naveen Bhawan, State Planning Institute, Kalakankar House, Old Hyderabad, Lucknow-226007 by registered post and give the other copy to the promoter. The promoter will file the copy of the bank letter along with enclosures with its application for registration of the project on web portal of U.P. RERA.

Encl : As above

Your faithfully



(Pramod Kumar Upadhyay)
Secretary