

**BEFORE THE KERALA REAL ESTATE APPELLATE
TRIBUNAL, ERNAKULAM**

- Present:-
1. Justice Sri. Somarajan.P, Chairperson
 2. Sri. Vincent.P.J, Judicial Member
 3. Dr. Kuruvilla Thomas, Administrative Member.

Wednesday, the 28th day of May, 2025.

REFA No. 44/2025

(Against the order dated 23/1/2025 in Complaint No.160/2023 of the
Kerala Real Estate Regulatory Authority.)

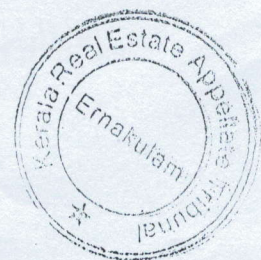
Appellants:-

1. K. Bharathan, Proprietor, Top Constructions, S/o. Mullappily Balakrishnan Nair, 31/83, Thrissur Corporation, Poonkunnam Desom, Thrissur Village, Thrissur Taluk – 680002
2. Top Constructions, Shornur road, Thrissur, represented by proprietor K. Bharathan, S/o.Mullappily Balakrishnan Nair, 31/83, Thrissur Corporation, Poonkunnam Desom, Thrissur Village, Thrissur Taluk – 680002.

By Advs. Sri. Dinesh Mathew J. Murikan, Sri. Mohammed Thayib.N.M, Smt. Nayana Varghese, Sri. Jerry Peter and Smt. Ria Varghese.

Respondents:

1. M/s Top Crystal Owners Association, 8th floor, Room Number 8 C, Top Crystal Apartments, Near KSEB Vaidyuthibhavan, Kottapuram Road, Chakkamukku Desam, Thrissur Village, Thrissur District, Pin 680002. Represented by its Secretary, Suresh G Menon, Ambat House, Triprasadam, Puranattukara P.O., Pin-680551
2. Binu Joseph, President Top Crystal Owners Association, S/o.K.P.Joseph, Kuruthukulangara house, Konikkara P.O., Thrissur - 680306.



3. Sasidharan Nair R., Treasurer, Top Crystal Owners Association, Flat No. 8B, Top Orchid Apartment, Parakkottu Lane, Patturayikkal, Thiruvambadi P.O., Thrissur-680022

Exparte

This appeal came up for admission on 28/05/2025, and the Appellate Tribunal on the same day passed the following

ORDER

The 1st respondent is the registered Association and the 2nd and 3rd respondents are the President and Treasurer of the Association, respectively. Notices were already served to respondent Nos. 2 and 3. Hence service is completed. Respondent Nos. 1 to 3 called absent, nobody represented, and hence set exparte.

2. Heard the appellants.

3. This appeal is against the interim order passed by the Kerala Real Estate Regulatory Authority (for short the 'K-RERA') dated 23/1/2025 directing to register the project by name 'Top Crystal', a residential apartment project at Trichur under Section 3 of the Real Estate (Regulation & Development) Act 2016 (for short 'the Act').

4. After hearing the parties and after perusing the evidence adduced, the K-RERA found that the project is an ongoing project and as such it requires registration as mandated under Section 3 of the Act,



by its order dated 23/1/2025. It is against that order this appeal is preferred by the promoter.

5. It is the case wherein admittedly occupancy certificate was issued only on 29/4/2019, much after the cut off date of 1/5/2017. The inspection conducted by the team of officials from K-RERA would also reveal the ongoing nature of the project. It is submitted by the learned counsel for the appellant that the date of submission of application for getting the occupancy certificate has to be accepted as the date of completion of the project, when the occupancy certificate was issued without raising any objection pertaining to its completion. But in the present case, there is nothing to show about the actual date of completion or submission of application for issuance of occupancy certificate. The occupancy certificate was issued more or less two years after the cut off date. Normally the occupancy certificate has to be issued within a period of two months and it would tell upon what is behind it. Even if it is assumed that the occupancy certificate was issued only after the expiry of the stipulated period, then also it will not assist the case advanced by the promoter. There is a big gap of more or less two years between the date of issuance of occupancy certificate and the cut off date. Necessarily there is no reason for interfering with



the order passed by the K-RERA directing the promoter to register the project in accordance with the mandate under Section 3 of the Act.

Hence the appeal fails and stands dismissed. But there is no order as to cost of this appeal.

Sd/-

Justice Somarajan.P
Chairperson


Sd/-

Vincent P.J,
Judicial Member

Sd/-

Dr.Kuruvilla Thomas
Administrative Member

//True copy//
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Registrar (in charge)

