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The Hon'ble Division Bench of Maharashtra Real Estate Regulatory Authority (*Authority*) in the matter of *Rare Township Pvt Ltd vs. IIRF India Realty VIII Ltd* dealt with the issue of whether the Respondent *i.e.* an Investor could be deemed a Promoter as per Section 2 (zk) of the Real Estate (Regulation and Development) Act, 2016 ("*Act*").

The Authority by its Order dated June 30, 2022 ("*Order*") observed as under:

- ❖ As per the Act, a Promoter is not only a person who “constructs”, but also a person who “causes to construct”, thus the legislature has provided a wider meaning to the term ‘Promoter’ by adding the term “causes to construct” to protect the interests of home buyers.
- ❖ Even though the Investor was not a person constructing the project. However, the execution of Share Subscription and Shareholders Agreement and its addendum had put the Investor in a position where he could “cause to construct” and hence, the Investor would stand in the shoes of a Promoter.
- ❖ In the present case, since the Promoter and Investors were held to be Promoters, all liabilities arising out of a breach shall fall upon both, the Promoter and the Investor. However, how the same are to be distributed and apportioned does not concern the consumer of the Project.
- ❖ However, it was cautioned the order must not be used as a paint brush to paint every Investor into the shoes of a Promoter.

The MahaRERA Order dated June 30, 2022, can be accessed [here](#).

Financial Investors in a real estate project – To be, or not to be.

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