

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह सिविल लाईंस गुरुग्राम, हरियाणा

Day and Date	Monday 06 th November 2023
Complaint No.	RERA-GRG-2544-2022
Complainant	HARERA, Gurugram
Nature of complaint	Suo Motu Cognizance
Represented through	Ar. Neeraj Gautam
Respondent	M/s Mahira Buildtech Pvt. Ltd.
Project	Mahira Homes 103

BRIEF

1. The suo- motu cognizance has been taken by the Authority against the promoter M/s Mahira Buildtech Pvt. Ltd. for the real estate project 'Mahira Homes 103' as detailed in the subsequent paras.
2. The project was registered by the Authority as per the following details:

Sr. No.	Particulars	Details
(i)	Name of the project	Mahira Homes 103
(ii)	Name of the promoter	M/s Mahira Buildtech Private limited
(iii)	Area of the project	5.40347 acres
(iv)	Location of the project	Sector 103, Gurugram
(v)	Nature of the project	Affordable group housing
(vi)	Number of units	800 Residential Units and 60 Commercial Units
(vii)	Master account no.	1) 4542-0029-0000-0011 2) 4244-0500-0426 (active)
(viii)	Separate RERA account no. (70% account)	1) 4542-0021-0000-5612 2) 4244-0500-0425 (active)



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(ix)	Free account	1) 4542-0021-0000-5621 2) 4244-0550-0083 (active)
(x)	Contact e-mail address	gurgaon@mahiragroup.com

3. M/s Mahira Buildtech Private limited in collaboration with the landowners whose details are exhibited in the subsequent para made an application for the grant of a license to develop an affordable group housing colony under section 3 of the Haryana Development and Regulation of Urban Areas Act, 1975, and rules made thereunder, namely, the Haryana Development and Regulation of Urban Areas Rules, 1976.
4. The competent authority i.e., DTCP, Haryana granted license no. 31 of 2019 dated 01.03.2019 valid up to 28.02.2024 under the Haryana Development and Regulation of Urban Areas Act, 1975 & Haryana rules 1976 made thereunder for setting up of an affordable group housing colony over an area measuring 5.40347 acres in the revenue estate of village Daultabad & Tikampur, Sector-103, Gurugram Manesar Urban Complex to the following entities: -
 - (i) Bijender Singh-Surender Singh-Dayanand Ss/o Ratan Singh, Ratan Singh S/o Badlu Ram
 - (ii) Mahesh Kumar-Satish Kumar-Shiv Kumar Ss/o and Raj Rani Wd/o Bisan Swaroop,
 - (iii) Kuldeep S/o Dharm Singh,
 - (iv) Gainwati Wd/o Jagdish,
 - (v) Rajesh-Rajeev Ss/o Jagdish, Anand Saroop-Shree Kishan Ss/o Nawal Kishor
 - (vi) Sita Ram-Rambir @ Rajbir Laxminarayan and Krishan Ss/o Abhay Ram in collaboration with M/s Mahira Buildtech Private limited, 302A, 3rd Floor, Global Foyer Building, Sector 43, Gurugram-122009.
5. The Director Town & Country Planning vide its order dated 17.05.2022 had blacklisted the developer company, its directors, shareholders, and other authorized signatories from grant of license under the provisions of Act 8 of 1975 in the future. The order reads as follows:

"Whereas, on account of committing various grave violations in license no. 128 of 2019, 31 of 2019, 24 of 2020 and 66 of 2021 dated, granted for development of affordable group housing colony in Sector-63A, 103, 95 & 104, Gurugram, forged and fabricated bank guarantees and also forged signatures of the bank officials/officer on the bank



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*guarantees which was submitted by CZAR Buildwell Pvt. Ltd., at the time of grant of license No. 66 of 2021 and replacement the old bank guarantees in lieu of fresh Bank Guarantees submitted in the three other licenses as indicated above which were issued to Mahira Buildtech Pvt. Ltd. and CZAR Buildwell Pvt. Ltd. It has been accordingly decided to blacklist the developer company i.e. Mahira Buildtech Pvt. Ltd. & CZAR Buildwell Pvt. Ltd., its Directors, shareholders and other authorized signatory from grant of any new license under the provisions of Act 8 of 1975 in future. Accordingly, all concerned are hereby directed not to process any application of the above said company, its Directors and shareholders for grant of license under the Act *ibid.*"*

6. On account of the blacklisting of the developer company i.e. M/s Mahira Buildtech Pvt. Ltd. & M/s CZAR Buildwell Pvt. Ltd., its Directors, shareholders, and other authorized signatories, the Haryana Real Estate Regulatory Authority, Gurugram had taken the following actions: -
7. As the promoter was blacklisted for committing various grave violations of the terms of the license apprehension was cast upon the conduct of the promoter company and prima facie there was a likelihood that the promoter may indulge in some acts in violations of the provisions of the Real Estate (Regulation and Development) Act, 2016 and rules and regulations made thereunder. Accordingly, on the apprehension that the promoter may commit violations of the provisions of the Real Estate (Regulation and Development) Act, 2016 and rules and regulations made thereunder, the authority took suo-motu cognizance of the issue relating to the affairs of the promoter of the project and initiate inquiry under section 35 of the Act *ibid.*
8. For the purpose of conducting a preliminary inquiry Sh. Nikhil Sharma (Engineering Executive) and Sh. JS Sindhu (Executive Engineer Monitoring) visited the site and a report about the physical status of construction was submitted by them to the authority.
9. The report of Sh. Nikhil Sharma (Engineering Executive) and Sh. JS Sindhu (Executive Engineer Monitoring) suggested that construction is only 15-20% and does not seem commensurate to the amount withdrawn from the bank account. Neither the QPRs have been submitted nor the requisite certificates from an engineer, an architect, and a chartered accountant required for withdrawal have been submitted with the authority.
10. Keeping in view the reasons recorded above, the authority vide its notice dated 27.05.2022 called upon the promoter to furnish the following



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information within 7 days from the issuance of the notice i.e., by the 6th of June 2022:

- a. The total amount so far collected/realized from the allottees.
 - b. Allottee-wise schedule of payment received.
 - c. Amount of work done so far at the site.
 - d. Percentage of physical progress achieved.
 - e. Land cost of the project and proportionate land cost of a percentage of physical progress.
 - f. The details of the Bank Accounts where the amount realized from allottees has been deposited/received.
 - g. The withdrawals from the separate RERA Account where 70% of the amount to be realized from allottees is mandatory to be deposited.
 - h. The proof of having withdrawn from the separate account 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.
 - i. The details of the balance available in the separate RERA Account and whether it is the remaining amount in the separate RERA Account out of seventy percent of the total amount realized from the allottees after withdrawals as per provisions of section 4(2)(I)(D).
 - j. Certificate of the Chartered Accountant that amounts collected for this project and the withdrawals have been in compliance with the proportion to the percentage of completion of the project.
 - k. Wherever there has been deviation/variation from the provisions of section 4(2)(I)(D) and the explanation relating to the same.
 - l. Copy of documents submitted to Director Town & Country Planning, Haryana in compliance with rules in part IV of the Haryana Development and Regulation of Urban Areas Rules, 1976.
11. The authority in its proceedings of the hearing dated 10.06.2022 restrained the promoter from creating any third party right by way of mortgage/ loan or any other manner on the project land, sold and unsold units further, and appointed M/s Grand Mark & Associates to conduct a forensic audit of the project account on the points mentioned above.
12. Further, the DTCP Haryana had withdrawn the blacklisting order dated 17.05.2022 subject to the following conditions:



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- A. The colonizer shall follow construction-linked payment in all these projects and shall not demand any additional installment till proportional constructions against payments already received by it are completed at the site to the satisfaction of STP, Gurugram.
- B. The cancellation of allotment made by the colonizer against nonpayment by allottees on account of disproportionate demands made by it shall be withdrawn by the colonizer within a week and an ATR in this regard shall be filed with STP, Gurugram.
- C. The colonizer shall install a signboard at the site showing the detail of flats mortgaged in favor of DTCP.
13. On perusal of the forensic audit report and resolution plan submitted by the promoter, the Authority had decided to de- freeze the account of the project "Mahira Homes 103" subject to the following conditions:
- The promoter shall bring back the unauthorized withdrawal into the separate RERA account so that the residential component of the project is financially viable, and the work may be started so the units can be handed over to the allottees.
 - The promoter shall submit all requisite certificates from a chartered accountant, engineer, and architect for withdrawal of funds to the Authority and the concerned bank, and funds of the account may only be withdrawn after following the provisions of law
 - The promoter shall not be allowed withdrawing any amount from RERA or free account till he incurred proportionate cost on construction on site and any amount to the contractor shall be paid on an actual basis after physical verification by the monitoring consultant to be appointed by the Authority.
 - The promoter shall only make withdrawals from the separate RERA account in proportion to the percentage of completion of the project after it is certified by an engineer, an architect, and a chartered accountant and the withdrawal shall be in proportion to the percentage of completion of the project.
 - The promoter shall deposit back the loan amount paid to its group company and associates and other non-project-related withdrawals to the separate RERA account within six months.
 - The promoter shall enter into an agreement for sale as prescribed in the Haryana Real Estate (Regulation and Development) Rules, 2017, and amended as per requirements and approved by the authority with the allottees within three months.



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- vii. The promoter shall not make any non-project-related expense from the separate RERA Account.
- viii. The promoter shall immediately start the construction work on the site in the interest of the allottees and for completion of the project.
- ix. The promoter shall submit a monthly physical progress report to the authority.

14. A letter dated 22.08.2023 has been dispatched to STP, Gurugram seeking the report of the site of the project "Mahira Homes 103". A site report dated 20.09.2023 is received in the Authority from STP, Gurugram vide memo dated 20.09.2023.

As per the report of DTP Gurugram, the progress on the site is as below:

Site visit dated 20.06.2023	Site visit dated 20.09.2023	Difference from the last visit
Tower A: PCC done at basement. Tower B: Stilt + 7 th floor structure complete. Tower c: Stilt + 10 th floor structure complete + 11 th floor shuttering. Tower D: Stilt + 12 th floor structure complete + 13 th floor shuttering. Tower E: Stilt + 11 th floor structure complete + 12 th floor shuttering. Tower F: Stilt floor structure complete. Tower G: Stilt floor structure complete. Tower H: Stilt floor structure complete. No labour working at site.	No labour found at site. The status is same as on 26.06.2023 & no construction has been raised at site from 26.06.2023 till date.	No difference

15. Since the promoter had failed to submit the status of compliance of de-freeze order of the bank accounts dated 19.04.2023, a show cause notice dated 19.10.2023 was issued to the promoter as to why the penal proceedings shall



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not be initiated against the promoter and the accounts of the project shall not be freezed again with an opportunity of hearing on 06.11.2023.


Ar. Neeraj Gautam
(Associate Architectural Executive)

Day and Date of hearing	Monday and 06.11.2023
Proceeding recorded by	Sh. Ram Niwas

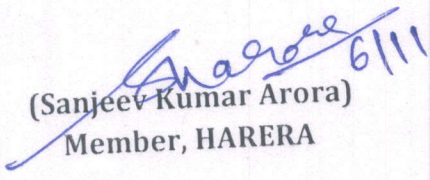
PROCEEDINGS OF THE DAY

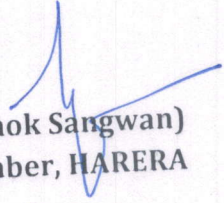
Ar. Neeraj Gautam (Associate Architectural Executive) briefed about the facts of the case.

None is present on behalf of the promoter.

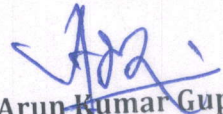
Show cause notice dated 06.11.2023 has been issued to the promoter regarding revocation of registration of the project "Mahira Homes 103". Since, the promoter has neither complied with the conditions mentioned in the order dated 19.04.2023 regarding de-freeze of the bank accounts of the projects nor submitted any reply to the show cause notice dated 19.10.2023 as to why the penal proceedings shall not be initiated against the promoter and the bank accounts of the project shall not be freezed again, the Authority decides to freeze the bank accounts of the project with immediate effect.

The promoter is further restrained from creating any third-party rights on the project till further order.


(Sanjeev Kumar Arora)
Member, HARERA


(Ashok Sangwan)
Member, HARERA


(Vijay Kumar Goyal)
Member, HARERA


(Arun Kumar Gupta)
Chairman, HARERA

