



**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

| <b>PROCEEDINGS OF THE DAY</b>   |   | <b>115</b> |
|---|---|------------|
| Day and Date  | Tuesday and 27.05.2025  |            |
| Complaint No.   | CR/3606/2024 Case titled as Capital Gateway Homebuyers Welfare Associations VS KNS Infracon Private Limited & Department Of Town and Country Planning & Office of Senior Town and Country Planning Gurugram |            |
| Complainant   | Capital Gateway Homebuyers Welfare Associations   |            |
| Represented through   | Ms. Prerna Advocate   |            |
| Respondent  | KNS Infracon Private Limited & Department Of Town and Country Planning & Office of Senior Town and Country Planning Gurugram  |            |
| Respondent Represented  | Shri Rishabh Jain Advocate for R1 (Memo of appearance filed today during proceedings)<br>Shri Rakesh Kumar AR on behalf of R2&3   |            |
| Last date of hearing  | 11.03.2025  |            |
| Proceeding Recorded by  | Naresh Kumari and HR Mehta  |            |
| <b>Proceedings</b>  |   |            |
| <p>The complainant has filed the present complaint against the respondents on the grounds inter alia that the respondent no 1 intends to increase the FAR and has altered the original plan in Phase-2 unilaterally without obtaining the mandatory 2/3<sup>rd</sup> majority in violation of section 14 (2) (ii) of the RERA Act. The Complainant has also sought the following Reliefs inter alia:</p> <p>“a) <i>The Respondent No 1, its promoter, or his agent or assignee or any allottee or anybody acting through him shall not be granted any further extension of HRERA Registration no 12 of 2016 beyond 30/06/2025 i.e the expiry of the current registration.</i></p> |   |            |



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- b) *The Respondent No 1, its promoter, or his agent or assignee or any allottee or anybody acting through him be restrained from creating, registering any association of Homebuyers till the subsistence of Capital Gateway Home Buyers Association by any other nomenclature, modification or amendment.*
- c) *Set aside /Cancel the revised Zonal and Building plan issued by the Respondent no 2, i.e Department of Town and Country Planning, Haryana, Chandigarh vide Memo number ZP-723/AD(RA)/2016/26863 dated 09/12/2016 retrospectively, and restore the original approved building and zonal plans dated 16/04/2011.*
- d) *Set aside the memo dated STP (G) /2023/427 dated 23/08/2023 issued by the Respondent no 3, i.e Office of the Senior Town Planner , Gurugram Circle, Gurugram, Department of Town & Country Planning, Haryana thereby not allowing the Respondent any further extension of Floor Area Ratio and that the Respondent shall abide by the original Zonal and building plan dated 16/04/2011.*
- e) *Restrain the Respondents No 2 and 3 from granting any further enhancement of Floor Area Ratio or change/modify/revise the original Zonal and building plan dated 16/04/2011.*
- f) *The Respondent No 1, its promoter, or his agent or assignee or any allottee or anybody acting through him shall not be allowed any further change in building and zonal plans in the Plan dated 16/04/2011 as approved in 2013.*
- g) *Direct the Respondent No 1, its promoter, or his agent or assignee or any allottee or anybody acting through him to demolish the additional 2 floors in Phase-II constructed against the original sanctioned floors of 10 and no further enhancement in number of floors shall be made.*
- h) *Direct the Respondent No 1, its promoter, or his agent or assignee or any allottee or anybody acting through him to compensate the respective buyers in the wake of the demolition of the additional 2 floors in Phase-II constructed in violation of the original sanctioned floors of 10.*
- i) *The Respondent no 1, its promoter, or his agent or assignee or any allottee or anybody acting through him shall restore and follow the provision of basic amenities and common areas, common buildings , without altering, modifying, amending the nomenclature, location and purpose, especially with respect to the Community Buildings as per the original building and Zonal Plan dated 16/04/2011.*

The complainant states that the members of the Complainant booked their respective flats in individual capacity. The builder-buyer agreements were signed between the respective buyers and M/s Tashee Developers Pvt Ltd.



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and KNS Infracon Pvt Ltd in 2012. Thereafter, the project was continued by KNS Infracon Pvt Ltd. the buyers had paid almost 90-95% of their respective amounts of consideration by December 2015. However, the Respondent no 1 showed lackadaisical attitude and he managed to complete only about 75-80% in Phase-I and only 40-45% in Phase-II. Occupation Certificate is yet to be obtained by the Respondent no 1 from the Department of Town and Country Planning even for the Phase-I. The buyers sent emails to the Respondent No 1 from 2016-2018 to enquire about the progress of the project. However, the Respondent No 1 refused to respond to and answer the queries from the buyers. However, the respondent no 1 handed over the possession of a few flats despite the fact that they were incomplete. The basic amenities like, electricity, water supply, lift and other security such as fire safety and such other had not been provided and occupation certificate had not been obtained yet. Those who accepted the possession, however, could not continue to stay and were compelled to move out as the flats were not in a condition to live in due to the aforesaid reasons. However, there are still two occupants residing in 2 flats in Phase-I despite no provisions for safety such as fire safety, basic amenities and occupation certificate.

The complainant association further states that the respondent no 1 has tried to change the layout and has altered the number of saleable units, provisions of the common facilities, parking, EWS SER etc. in place of G+10 floors in each tower as per the original sanctioned plan of 2011, the project now has G+12 floors in towers G to H in Phase II. The total saleable units as per original plan of 532 flats, 107 SER/EWS units have now been changed to 538 units of flats, 96 EWS units and 54 SER units under Block D. Moreover, in place of 2 Community Buildings and 1 Commercial Center, as was sanctioned in the original Building plan of 2011/12, now the Project has provision for 1 Community Building and 2 Commercial Centers, with changes in their locations too. The parking facilities have also been altered. Thus, under the revised plan there is no mention of lower basement in the parking of Phase II. Total parking slots have also been reduced to 958 against 1095 no of parking slots in the original plan.

On the contrary, the respondent states that before approval of revised building plan, the respondent no.1 issued advertisement in three newspaper i.e. The Tribune, Indian Express and Dainik Bhaskar inviting objections from the existing allottees. As per information given by STP, Gurugram vide letter dated 17.11.2016, no objections were received from any of the allottee in respect of the proposed amendments in the revised building plan. It further



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states that no legal right of the allottees of the project has been infringed on account of the revision of the building plans. The same are in accordance with the permitted FAR and the norms already laid down by the Department. Accordingly. With the increase of FAR, number of dwelling units increased from 532 to 538 which are within the permissible FAR limit. The respondent no.1 accordingly constructed additional 2 floors in the license area project.

Argument Heard.

Detailed order will follow. Matter stands disposed of. The file be consigned to registry.

Ashok Sangwan  
Member

  
Arun Kumar  
Chairman  
27.05.2025

  
Vijay Kumar Goyal  
Member