

PROCEEDINGS OF THE DAY

Day and Date	Monday and 20.01.2020
Subject	Show cause notice HARERA/GGM/_____20.01.2020.
Respondent company	Orris Infrastructure Pvt. Limited, J-10/5, DLF Phase-II, MG Road, Gurugram
Represented through	Shri Rasendra Pathak, authorized representative of the promoter in person
Proceeding Recorded by	S.L.Chanana

Subject: Personal hearing regarding show cause notice for non-registration of ongoing commercial project at Sector 82-A Gurugram under proviso to Section 3(1) of the Real Estate (Regulation and Development) Act, 2016.

1. It has come to the notice of HARERA, Gurugram that licence number 185 of 2008 had been issued vide Endst No. LC-1815/JD (BS)-2008/9346, dated 30.10.2008 by DTCP, Haryana to M/s Orris Infrastructure Pvt. Ltd. for development of a commercial project in Sector 82 A, Gurugram on an area admeasuring 9.5 acres. The licence for development of the project was issued to the promoter as back as in the year 2008 and in spite of lapse of 11 years nothing has been done on site so far. However, the commercial units/plots were sold by the promoter to number of buyers. Though on site nothing tangible happened. This omission on the part of promoter is cheating and defrauding the allottees/buyers. As evident from the reply of the promoter, the promoter is forcibly trying to transfer them to some other project.

2. When the matter came to the notice of the Authority, the Authority took suo -motu action against the promoter and when the record was examined it was found that builders is in complete defiance of the law and did not register the ongoing project in prescribed time, not even after the lapse of two and half year after that.
3. It is reiterated that as per the provisions of the RERA, Act ongoing projects where completion certificate has not been issued are required to be registered with the Authority within three months from the date of commencement of the RERA Act. The Real Estate (Regulation and Development) Act, 2016 came into force on 1st of May, 2017 in its entirety and promoters of ongoing projects were required to register their projects before 31st of July, 2017.
4. Accordingly, the promoter was issued a show cause notice vide dated 22.11.2018 and pursuant to that hearing was conducted on 13.12.2018, in which no one appeared. However, again, notice was issued vide dated 10.12.2019, in reference to which the authorized representative appeared before the Authority but apparently no initiatives have been taken to provide necessary information or to take any step to make an application for registration of the project.
5. Keeping in view the track record of the promoter, the Authority is of considered opinion to impose penalty so that errant promoters, who are not registering their project, are given a very clear signal that non-compliance of the provisions of the Act attracts severe penalty. Hence, the Authority decides to impose maximum penalty of 10% of the estimated project cost. The estimated cost of project has been calculated as Rs. 304.855 crores. Therefore, a penalty of Rs. 30.48 crores is imposed on the promoter, which shall be deposited with the Authority and shall be credited in the government account within a prescribed period as per rules. The promoter is again directed to apply for registration within a period of one month from the date of



HARERA
GURUGRAM

**HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM**

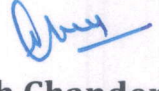
हरियाणा भूसंपदा विनियामक प्राधिकरण गुरुग्राम-

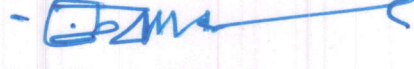
New PWD Rest House, Civil Lines, Gurugram, Haryana

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

this notice otherwise it may further attract penalty in terms of Section 59 (2) of the Act.


Samir Kumar
(Member)


Subhash Chander Kush
(Member)


Dr. K.K. Khandelwal
(Chairman)
20.01.2020

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, GURUGRAM**

Complaint no. : 6279 of 2019

Date of first hearing : 13.12.2018

Date of decision : 20.01.2020

HARERA, Gurugram
R/o New PWD Rest House, Civil Lines,
Gurugram.

Complainants

Versus

M/s Orris Infrastructures Pvt Ltd
J-10/5, DLF Phase-II,
MG Road,
Gurugram

Respondent

CORAM:

Shri KK Khandelwal
Shri Samir Kumar
Shri Subhash Chander Kush

**Chairman
Member
Member**

APPEARANCE:

Shri Rasendra Pathak
Shri Sachin Bhanot

Authorized representatives
for the respondent

ORDER

- The particulars of the project have been detailed in the following tabular form:

S.No.	Heads	Information
1.	Project name and location	"Commercial", Sector 82A, Gurugram.
2.	Project area	9.5 acres

3.	Nature of the project	Commercial
4.	DTCP license no. and validity status	185 of 2008 dated 30.10.2008 valid till 28.10.2018
5.	Name of licensee	Orris Infrastructures Pvt Ltd
6.	Registered/ not registered	Not registered

2. As per information available on website of DTCP, Haryana regarding issue of licence(s) it has been observed that licence numbering 185 of 2008 dated 29/10/2008 on an area measuring 9.5 acres for the development of CIC project titled ORRIS GUR-82-A CIC situated in sector 82-A of the village Shikhopur was issued in favour of Orris Infrastructure Pvt. Ltd. by DTCP, Haryana. It has been further noticed that the promoter has not obtained completion/occupation/part completion/part occupation certificate for the above commercial project in accordance with the terms and conditions of the licence (s). Accordingly, notices were issued vide no. HARERA/GGM/2018/Suo Motu/Non-Reg./180 dated 22.11.2018 and RERA-GRG-6279-2019, dated 10.12.2019 for registration of your project.

3. That as on today the promoter doesn't have completion/occupation/part completion/part occupation

certificate for the same. Therefore, the project is not saved under Section 3(2)(b) of the Real Estate (Regulation and Development) Act, 2016 and is covered under the definition of "on-going projects" as defined under Rule 2(o) of the Haryana Real Estate (Regulation and Development) Rules, 2017 of which provides as under: -

"ongoing project" means a project for which a license was issued for the development under the Haryana Development and Regulation of Urban Area Act, 1975 on or before the 1st May, 2017 and where development works were yet to be completed on the said date, but does not include:

(i) any project for which after completion of development works, an application under Rule 16 of the Haryana Development and Regulation of Urban Area Rules, 1976 or under sub code 4.10 of the Haryana Building Code 2017, as the case may be, is made to the Competent Authority on or before publication of these rules and

(ii) that part of any project for which part completion/completion, occupation certificate or part thereof has been granted on or before publication of these rules."

4. As per the provisions of the RERA, Act "ongoing projects" where completion certificate has not been issued are required to be registered with the Authority within three months from the date of commencement of the RERA Act. The Real Estate (Regulation and Development) Act, 2016 came into force on 1st of May, 2017 in its entirety and promoters of incomplete projects were required to register their projects before 31st of July, 2017.

5. Keeping in view the above facts, and as per the records of the Authority the project is registerable under Section 3 of the Act *ibid* and the promoter has not registered the project with the Haryana Real Estate Regulatory Authority as on date. This omission on the part of promoter is violation of proviso to section 3(1) of the Act *ibid* which provides as under: -

"Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:"

6. Though the licence for development of the project was issued to the promoter as back as in the year 2008 and in spite of lapse of 11 years nothing has been done on site so far.

However, the commercial units/plots were sold by the promoter to number of buyers. Though on site nothing tangible happened. This omission on the part of promoter is cheating and defrauding the allottees/buyers. As evident from the reply of the promoter, the promoter is forcibly trying to transfer them to some other project. When the matter came to the notice of the Authority, the Authority took suo -motu action against the promoter and when the record was examined it was found that builders is in complete defiance of the law and did not register the ongoing project in prescribed time, not even after the lapse of two and half year after that.

7. The authorized representative of the promoter appeared before the Authority and made submissions that reply to the show cause notice under reference No. RERA-GRG-6279-2019 dated 10.12.2019 may be considered and that they have nothing more to say in the matter.
8. The authorized representative was categorically asked whether as on date the project is scrapped, and licence has been surrendered to the DTCP. His reply was in negative.
9. He conceded that this project is an on-going project and as per provisions of the Real Estate (Regulation & Development) Act, 2016 and an application for registration of the project should

have been made within a period of 30 days from the date of commencement of the Act. However, as per the version of the authorized representative of the promoter no such application for registration of the above said real estate project has been made by the promoter and there is no such application on the record of the Authority.

10. The reply of the promoter was considered by the Authority and it seems that the promoter is non-compliant to the law and is trying to mislead the Authority by giving deceptive information and concealing facts. Nothing on record has been submitted with regard to scrapping of the project, a plea which has been taken by the promoter in the reply. Further, considering the material facts and documents placed on record, reply of the promoter and the explanation furnished at the time of hearing, this omission of the promoter is punishable under Section 59 (1) of the Act *ibid*. Section 59(1) provides as under: -

"If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent. of the estimated cost of the real estate project as determined by the Authority."

11. The Authority for the purpose of determining estimated costs has issued a circular wherein the estimated costs of the project is taken 32.09 crores per acre. Hence, estimated costs of the project as determined by the Authority comes out to Rs.304.855 crores. 10% of the estimated costs of the project comes to Rs.30.48 crores.
12. It is flagged that promoter was issued a show cause notice earlier also in this regard on 22.11.2018 and a hearing was also conducted on 13.12.2018, on which no one appeared. However, again, notice was issued on 10.12.2019, in reference to which the authorized representative appeared before the Authority but apparently no initiatives have been taken to provide necessary information or to take any step to make an application for registration of the project. Keeping in view the track record of the promoter, the Authority is of considered opinion to impose penalty so that errant promoters, who are not registering their project, are given a very clear signal that non-compliance of the provisions of the Act amounts to cheating and defrauding the allottees and attracts severe penalty. Accordingly, the authority decides to impose a penalty of Rs.30.48 crores on the promoter which shall be deposited with the Authority and shall be credited in the government



account within a prescribed period as per rules. The promoter is again directed to apply for registration within a period of one month from the date of this notice otherwise it may further attract penalty in terms of Section 59 (2) of the Act.


(Samir Kumar)
Member


(Subhash Chander Kush)
Member


(Dr. KK Khandelwal)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 20.01.2020