

BRIEF OF THE CASE**DATED: 27.02.2023**

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| Complaint No. | RERA-GRG-6279-2019 (Suo- Motu Projects) |
| SUBJECT | Suo motu projects under Section 3 of the Real Estate (Regulation and Development) Act. |
| Details of the Suo-Motu | |
| Name of the project | Commercial Project, Sector-82A, Gurugram |
| Name of the promoter (Licensee) | M/s Orris Infrastructures Pvt. Ltd. |
| Date of last hearing | 20.02.2023 |
| Brief facts of the case | <p>The department of town and country planning had issued a license no. 185 of 2008 dated 29.10.2008 on an area admeasuring 9.5 acres for the development of Commercial project situated in sector-82A, Gurugram in favour of M/s Orris Infrastructure Pvt. Ltd. it has been further noticed that the promoter has not obtained completion certificate/occupation certificate and part completion certificate/occupation certificate for the above said project.</p> <p>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 the project.</p> <p>The promoter submitted the reply dated 10.12.2019 to both show cause notices issued to them was taken on record. The reply of the promoter was considered by the authority and the authorized representative was categorically asked whether as</p> |

on date the project is scrapped, and license has been surrendered to the DTCP. His reply was in negative. It seems that the promoter is non-compliant with 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 proceedings of the authority dated 20.01.2020 the authority imposed penalty of Rs. 30.48 crores. Further, directed the promoter to apply for registration within a period of one month from the date of this order otherwise it may further attract penalty in terms of section 59(2) of the Act.

The promoter has filed an application vide dak receipt no. 7272 dated 11.02.2020 for rectification of mistake in order dated 20.01.2020 passed by this Hon'ble authority under section 39 of the Real Estate (Regulation and Development) Act, 2016.

As per application submitted by the promoter mentioning that it appears from the order dated 20.01.2020 that the Hon'ble Authority proceed against the applicant under the impression that the applicant while filing the reply took a stand that project was not scrapped but was on going.

The specific stand of the notice in reply to show cause notice that the project has been scrapped and the allottees of the units have been shifted to other viable project of the applicant to protect their interest, somehow could not get consideration of the Hon'ble Authority and was not considered due to oversight. The oversight of this fact from knowledge of Hon'ble Authority lead to passing of order under rectification and imposition of penalty. It is submitted that had the submission of the applicant come to the knowledge of Hon'ble Authority, the present order would not have been passed in this shape.

Therefore, in the present case the order dated 20.01.2020 is required to be rectified after granting fresh hearing to the applicant. That the applicant is ready and willing to attend the hearing and to assist this Hon'ble Authority with all the information and records available at its humble command.

The application filed under section 39 of the Real estate (Regulation and Development) Act, 2016 which is reproduced as under: -

Sec 39 Rectification of orders; -

The authority may, at any time within a period of two years from the date of the order made under this act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act:

Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act.

Relevant paras of the order dated 20.01.2020 are quoted below:

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Para no. 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.

Para no. 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.

Para no. 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.

Para no. 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."

In this amply shows that the reply of the promoter was only considered but also submission of the Authorized representative of the promoter was recorded during the course of hearing.

Further, the promoter proceeded to Hon'ble High Court of Punjab and Haryana, Chandigarh and the court passed the order dated 12.12.2022 directing the authority to take decision and dispose off the case preferably within two months i.e., 11.02.2022.

Proceedings dated 13.02.2023

Ms. Avneet Kaur (AR) is present on behalf of the promoter and seeks a short adjournment as the senior counsel in the matter



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

has been recently engaged. One week adjournment is allowed.
No further adjournment shall be granted.

The matter to come up on 20.02.2023.

Proceedings dated 20.02.2023


Sh. Ishan Dang, Sh. Tapas Tyagi and Sh. Rasendra Pathak are present on behalf of the promoter. The promoter requests for a full bench hearing fixed for next week. The matter to come up on 27.02.2023.


Proceeding of the day dated 27.02.2023

Ms. Prachi Singh, Planning Executive is present on behalf of the Authority.

Sh. J.K. Dang (Advocate), Sh. Ishan Dang (Advocate) and Sh. Rasendra Pathak (AR) are present on behalf of the promoter.

Detailed arguments heard. Order reserved.


(Sanjeev Kumar Arora)
Member, HARERA, Gurugram


(Ashok Sangwan)
Member, HARERA, Gurugram

