



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1205 of 2020

Anil Kumar

....COMPLAINANT

VERSUS

Mapsco Builders Pvt. Ltd.

....RESPONDENT No. 1

Jai Krishna Hi Tech Infrastructures Pvt. Ltd.

....RESPONDENT No. 2

CORAM: Nadim Akhtar

Member

Chander Shekhar

Member

Date of Hearing: 22.04.2024

Hearing: 15th

Present: Sh. Anil Kumar, complainant through VC

Adv. Pradeep Kumar, counsel for complainant through VC.

Adv. Akshat Mittal, counsel for respondent no. 1

Adv. Vishnu Anand, counsel for respondent no. 2 through VC

ORDER: (NADIM AKHTAR-MEMBER)

1. Relevant part of last order dated 12.10.2023 is reproduced below:

“1.Vide last order dated 19.07.2023, Authority directed respondent no. 2 to file an affidavit stating that said land on which 24mtr road is to be constructed does not belong to him. However, no affidavit has been filed till date. Today, during course of hearing, ld counsel for respondent no. 2 reiterated the earlier pleadings and said land does not belong to respondent no. 2 and said affidavit is emailed to the Authority, however hard copy of affidavit will be filed today in the registry.

2. Also, Authority directed respondent no. 1 to file reply to the application dated 10.04.2023 filed by the respondent no.2 and imposed cost of ₹10,000/- for non-compliance of earlier order.

As per office record no cost has been deposited nor has reply been filed to said application.

3. Ld counsel for respondent no.1 further states that certain portion of said unconstructed road might be falling under unlicensed land and same is subject matter of verification. Furthermore, it is mentioned that applicant applied to obtain license for the project vide license no. 49 of 2010 which was applied for, after the partition of land in question and was duly obtained from DTCP. Ld counsel for respondent no.1 further stated that land falling under said license has been duly developed by the applicant licensee and reiterated the same pleading that respondent no. 1 has duly completed and constructed the portion of road falling under their ownership. The reason that respondent no.1 cannot construct the unconstructed portion of said road is that it is not within the ownership of respondent no.1 and would in fact amount to trespass.

4. On the other hand, complainant stated that he is aggrieved for last 4 years due to non-development of proper road. Complainant further stated that road is basic need which was promised by the developer at the time of execution of builder buyer agreement. He further stated, that the respondent no.1, had shown this 24mtr wide road as part of the layout plan and based on this representation by the respondent no.1, the complainant decided to purchase the plot in the said real estate project. Further, respondent no.1 charged PLC charges on account of 24mtr wide road whereas no such facilities has been provided by the respondent by the side of his plot as promised by him. Since the agreement of sale was executed, money/amount was collected by the respondent no.1, the privity of contract is there between respondent no.1 and the complainant. Hence, it is obligated on part of the respondent no.1 to fulfill the promise made at the time of selling the said plot to the complainant and now at this stage respondent no. 1 cannot be allowed to take shield of an dispute inter-se respondent no.1 and respondent no.2. And, even if there is any dispute inter-se respondent no.1 and respondent no.2 the same shall not affect the rights of the complainant vis-à-vis the respondent no.1, who is the promoter. To rebut this ld. counsel for respondent no. 1 states that he is not aware about whether PLC charges were charged or not?.

5. After hearing all the parties, Authority observes that issue of construction of 24mtr wide road is inter se between the respondent no. 1 and respondent no. 2 and allottee cannot be



made to suffer due to that. Further, Authority is satisfied that there is no need for appointment of local commissioner as there is no question of determining the location and alignment of 24 mtr wide road vis-a- vis the plot of complainant as 24mtr wide road is very much part of sanctioned plan. The main averment is that builder Mapsko Pvt. Ltd, i.e., respondent no.1 had promised to provide 24mtr wide road as depicted in the layout plan of the colony to the allottee at the time of selling the plot to the allottee. Nowhere it is mentioned that part of land falling under 24mtr road belongs to a subsequent entity and it is to be developed by respondent no. 2. Further on scrutiny of conveyance deed, it is confirmed that respondent no. 1 had shown 24mtr wide road towards south of the plot of complainant and now respondent no.1 cannot run away from its liability of providing this road. Also the contention of respondent no. 1 that land falling under said 24mtr wide road belongs to M/s Wadia Hotels Pvt. Ltd cannot be sustained at this stage as there was no mention of the same in the allotment letter, plot buyer agreement and conveyance deed. The 24mtr wide road is part of internal circulation plan of the sector and its location and nature of land cannot be changed by any of the developer/licencee. This road has to be constructed at its location and alignment as per sanctioned plan to provide connectivity through this 24mtr wide road to all the areas/plots abutting the road by all the licensees in whose land portion of this 24mtr road falls. Therefore, Authority deems it fit to conclude that respondent no. 1 on whose's representation the complainant purchased the plot in question and executed an agreement for sale has the primary responsibility to construct the said 24mtr wide road as it has developed its licensed colony first and allotted plots to its allottees with a promise of connectivity through 24mtr wide road. Respondent no.2 is yet to develop its project but whenever it will develop the same, he has to construct the portion of road on the land falling in its licensed land. Thus, Authority directs respondent no.1 to construct the said 24mtr wide road as per its sanctioned/approved alignment, in consultation/collaboration with respondent no.2. Authority also directs respondent no.2 to facilitate construction of said 24mtr wide road by respondent no.1 and persuade its subsidiary company M/s Wadia Hotels Pvt. Ltd.

6. Authority further directs respondent no.1 to verify whether PLC charges are levied or not? Authority also directs respondent no.1 to file application in the registry on which he



relied upon during course of hearing and deposit the cost of ₹ 10,000/- imposed vide order dated 19.07.2023. Respondent no.1 shall, on an affidavit, file the details of steps taken and progress made for construction of 24mtr wide road, atleast 7 days before next date of hearing with a copy supplied to the complainant. Further, respondent no. 2 is directed to file the affidavit as directed vide order dated 19.07.2023 in the registry of the Authority.”

2. Today, Adv. Pradeep Kumar appeared on behalf of complainant and stated that respondent no. 1 has not complied with the directions given by the Authority vide order dated 12.10.2023 passed on last date of hearing.
3. On the other hand, Adv. Akshat Mittal, appeared on behalf of respondent no. 1 and stated that in compliance of last order, an application dated 02.02.2024 has been filed in the form of an affidavit in the registry wherein, it is clarified that whether PLC charges were charged or not from the complainant? Respondent no. 1 has specifically mentioned that no specific PLC charges were charged from the complainant Anil Kumar qua the 24 Mtr. wide road in question. Complainant is at liberty to file rebuttal to the application dated 02.02.2024 submitted by respondent no. 1 atleast two weeks before the next date of hearing with advance copy supplied to the opposite parties. Further respondent no. 2 states that he has not received a copy of application dated 02.02.2024. Authority directs respondent no. 1 to send the copy of application dated 02.02.2024 to respondent no. 2 within two weeks from today.




4. Authority further put a question to respondent no. 1 with regard to the steps taken for construction of 24 mtr. wide road. In this regard, learned counsel for respondent no. 1 replied that as per last order dated 12.10.2023, it was specifically mentioned in Para 5 of the order that *“Authority directs respondent no.1 to construct the said 24mtr wide road as per its sanctioned/approved alignment, in consultation/collaboration with respondent no. 2. Authority also directs respondent no. 2 to facilitate construction of said 24 mtr wide road by respondent no.1 and persuade its subsidiary company M/s Wadia Hotels Pvt. Ltd.”* However, respondent no. 2 has shown no efforts to construct the said road or to have any contact with respondent no. 1 in order to construct the road. Further he stated that, the land where 24 mtr. road falls belongs to respondent no. 2 and respondent no. 1 doesn't have any ownership to construct that road. Moreover, any interference to the said road would lead to the offence of trespassing. To which, learned counsel for respondent no. 2 replied that the said 24 mtr. wide road is not in any way connected to respondent no. 2 and complainant is an allottee of respondent no. 1 only. Therefore, the only person who is obliged to construct that 24 mtr road is respondent no. 1.
5. Authority observes that today is the 15th hearing in the matter and issue of construction of 24 mtr. road has not been resolved by respondent no. 1 and 2. Both the respondents are putting onus on each other without taking any effective steps for construction of the said road. Therefore, Authority



directs that Chairman/ MD's of both the respondent companies shall remain present physically on the next date of hearing to assist the Authority in resolving the issue failing which Authority will be constrained to impose heavy penalty on them.

6. Respondent no. 1 in his application dated 02.02.2024 has requested the Authority to waive of cost of ₹10000/- payable to the Authority imposed on him vide order dated 19.07.2023, Authority rejects the plea of respondent no. 1 and directs the respondent no. 1 to deposit the cost of ₹10000/- payable to the Authority within two weeks from today.
7. Case is adjourned to **12.08.2024**.


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CHANDER SHEKHAR
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]