



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1205 OF 2020

Anil Kumar

....COMPLAINANT

VERSUS

M/s Mapsko Builders Pvt. Ltd. &

....RESPONDENT

CORAM: Dr. Geeta Rathee Singh

Member

Nadim Akhtar

Member

Date of Hearing: 24.11.2022

Hearing: 11th

Present: Mr. Pradeep Kumar, ld. counsel for complainant through VC
Mr. Akshat Mittal, ld. counsel for respondent through VC.
Mr. Vishnu Anand, ld. counsel for respondent no. 2

ORDER (NADIM AKHTAR - MEMBER)

1. In present complaint, the complainant is aggrieved on account of non-construction of 24 mts. road shown to be aligned on the south side of his plot in the project plan.

2. Today, during the hearing Mr. Akshat Mittal, Id. counsel for respondent apprised the Authority that this matter was last heard in length on 01.09.2021 and detailed order was passed. Said order is reproduced below for ready reference:

"1. Complainant had purchased a residential plot bearing no. MG-076 over with an area of 208 Sq. Yds. in the real estate project namely 'Mapska Garden Estate' situated in Sector-26, 26A & 27, Sonipat. Said plot was allotted to the complainants with a right to use the common areas and facilities including all casementary rights and on the terms and conditions as contained in the builder buyer agreement dated 26.12.2017. Further, a deed of conveyance has been executed by respondent no. 1 in favour of complainants on 05.07.2018. Accordingly, physical possession of the plot was handed over to the complainants on 13.07.2018.

2. However, complainants are aggrieved against non-construction of 24 mts. wide road situated on south side of the plot. Complainant had purchased the plot, getting access from 24 meters road.

3. On the last date of hearing, both parties were directed to place documents showing facts establishing the responsibility for construction of this 24-meter road. Complainant was further directed to place any document before the Authority to demonstrate that he was given the understanding that his plot would be located on 24-meter road and he could get access to his plot from this city road.

4. Today, Id. counsel for the respondent no.1 placed a copy of layout plan before the Authority which clearly shows that part of 24-metre road has to be developed jointly by respondent no. 1 & 2. He stated that share of road in question which had to be constructed by them has already been constructed at site. He has placed few photographs before the Authority in this regard. Remaining share of the said 24-metre road has to be constructed by respondent no.2.



On the other hand, Id. counsel for the complainant failed to produce any document before the Authority which proves that his plot is getting access from 24-metre road.

5. *Taking note of the above facts, Authority observes that since respondent no. 1 has fulfilled his obligation towards construction of road in question within his colony. Hence, Authority inclined to discharge respondent no. 1 from his obligation casted vide this complaint. A fresh notice be sent to ed vide its complain respondent no. 2 for submitting reply in the matter. Complainant is also directed to place on record any relevant documents which proves his allegation of non-discharge of promoter obligation.*

6. *With these directions, case is adjourned to 11.11.2021."*

2. Vide order dated 27.04.2022, Authority expressed its view that the matter deserves to be pursued against respondent no. 2. Vide order dated 07.07.2022 a show cause notice u/s 63 was issued to respondent no. 2. Respondent no. 2 filed its reply to the show cause notice and sought time to file reply in the matter.

3. On the last date of hearing, respondent no. 2 i.e., Jai Krishna Hi Tech Infrastructures Pvt. Ltd. filed its reply dated 13.10.2022. In the reply respondent no. 2 submitted that the present complaint is not maintainable against respondent no. 2 and is liable to be dismissed as respondent no. 2 has no relation, whatsoever, with the complainant or with the subject matter of the captioned complaint. Complainant is admittedly not the allottee of respondent no. 2. Further, there is no privity of contract between the complainant and respondent no. 2. He has never



met the complainant nor he has executed any agreement with complainant in relation to any service, whatsoever, as alleged in the complaint. Moreover, complainant has not made any allegation in the complaint against respondent no. 2, no relief has been sought by complainant against respondent no. 2.

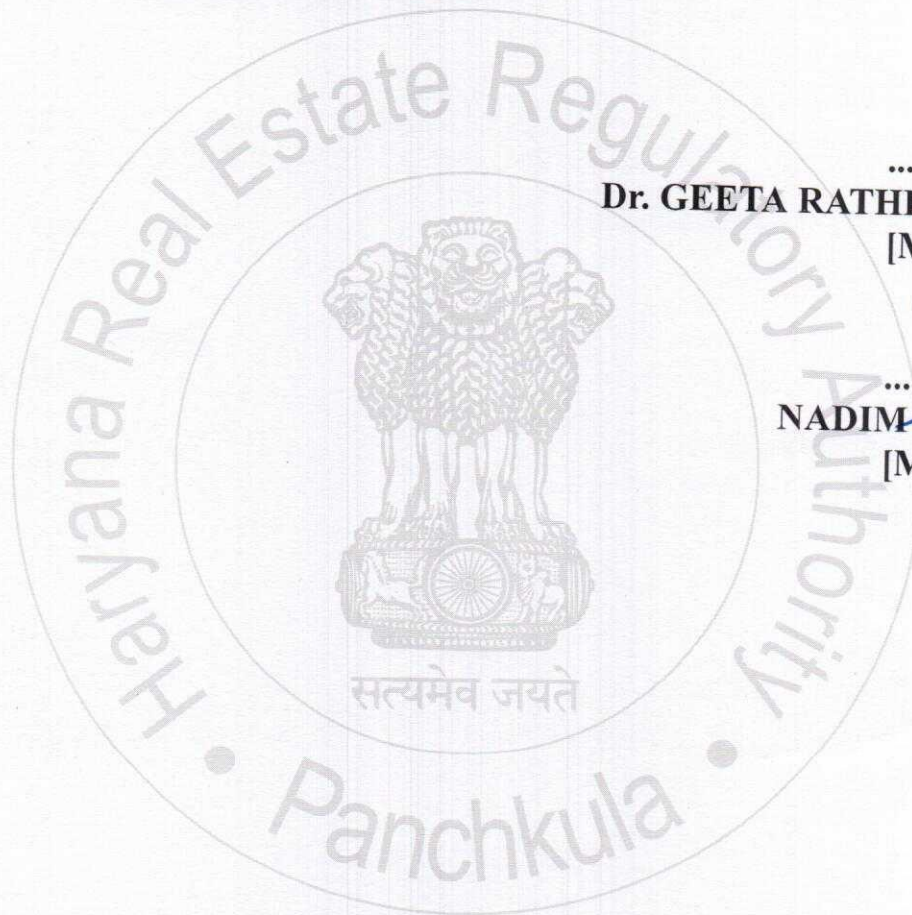
4. Today, Mr. Pradeep Kumar, Id. Counsel for complainant stated that complainant took possession of the unit on 13.07.2018. It has been more than 3 years but the 24 mtr wide road as promised at time of execution of the Plot Buyer Agreement dated 26.12.2017 has not been constructed. He further stated that as per the layout plan both respondent no. 1 and 2 are jointly liable to construct the said road, therefore, the onus is on both of the respondents to construct the road.

3. Mr. Kustubh Singh, Id. counsel for respondent no. 2 stated that they have filed their reply in the Authority on 17.10.2022. On this Mr. Akshat Mittal, Id. counsel appearing on behalf of respondent 1 stated that he has not received a copy of the same. He requested that a copy of reply filed by respondent no. 2 be supplied to him. Both counsels agreed that the case be adjourned for final arguments on the issue.

4. Authority observed that the issue regarding construction of 24 mtr road at the south side of the complainant's plot is inter se respondent 1 and 2. Respondent 1 is the developer promoter whereas respondent 2 is the landowner promoter.

Therefore, project was to be developed by both the respondents unless they prove otherwise. Authority, hereby, directs both respondents to submit a schedule for completion of the road to the Authority with an advance copy to complainant before the next date of hearing.

5. On the request of ld. counsel for respondent no. 2 case is adjourned to 21.02.2023 for final arguments in the matter.




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Dr. GEETA RATHEE SINGH
[MEMBER]


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NADIM AKHTAR
[MEMBER]