



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 2042 OF 2019

BPTP Park floor II sector LXXVI

....COMPLAINANTS(S)

Resident welfare Association, Faridabad

VERSUS

BPTP Ltd

....RESPONDENT(S)

(Hearing: 17th)

2. COMPLAINT NO. 1034 OF 2020

R P Uniyal and others

....COMPLAINANTS(S)

VERSUS

BPTP Ltd and Another

....RESPONDENT(S)

(Hearing: 10th)

CORAM: Rajan Gupta
Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 17.08.2022

Present: Shri Denson Joseph, Ld. counsel for the complainant complaint no. 2042 of 2019.

Shri Gaurav Gupta, Ld. counsel for the complainant in complaint no. 1034 of 2020 through VC.

Shri Hemant Saini and Shri Himanshu Monga, Ld. counsels for the Respondent.

ORDER: (DILBAG SINGH SIHAG-MEMBER)

This complaint has been filed by association of the project Park Floors II reporting a number of deficiencies in said project. Main deficiencies which have already mentioned in the order dated 29.07.2021 were as follows:

- (i) whether or not the IFMS amount has been kept separately and is utilized for the purpose it is meant for.
- (ii) whether or not the money collected for DG sets had been used for the purpose it was collected and whether DG sets provided is of required capacity.
- (iii) the condition of solar panels and security services.
- (iv) availability of Power Grid electric connection, Automatic Power Changeover Panel, Independent Power monitoring Display.
- (v) availability of Kids Park, jogging and walking track.
- (vi) status of occupation certificate, fitness certificate of buildings, NOC from fire department and lifts and approved plan of the society.
- (vii) the condition of the building with respect to plastering, seepage in buildings, leakage on roof from water tanks, back pressure in bathrooms of towers T24, T25 and T4, Quality of electric cables.
- (viii) condition of lifts.
- (ix) low maintenance of non-functional STP and its non-connection with main HUDA sewerage line.
- (x) communication system from gate to different flats.

2. Local commissioner was appointed on 29.07.2021 to prepare report on these deficiencies. Report has been submitted on 21.09.2021.

Copies of the same were supplied to the parties. Summary of the said report is also being recorded in these orders in following manner:

- (i) IFMS amount of Rs. 3.96 crore has been kept separately by the respondent's maintenance agency BPMS Pvt. Ltd. Further, there is an outstanding amount of Rs. 5.13 crore from the flat owners of this project.
- (ii) Money already collected by the respondent BPTP Ltd for power backup installation charges has been kept by the respondent.
- (iii) Two rented DG sets of capacity 500 KVA and 1010 KVA have been installed by the respondent and they have assured to provide new DG sets of required capacity at the time of handing over the project to RWA. Financial record of money collected for this purpose is given by respondent to the local commissioner.
- (iv) Solar panels are not functional for last 4 years.
- (iv) Security services are available and is part of maintenance and service agreement between BPMS Pvt Ltd and Individual Flat owners.
- (v) Power grid connection has not been provided to this project and electrical power is being provided from another site of the respondent situated in sector 75 Faridabad.
- (vi) Manual charge over is provided instead of automatic changeover panel.

(vii) Independent power monitoring display is not provided to the flat owners.

(viii) Children Park with an area of 0.5 acre is provided which amounts to 4.54% of site area. Same is less as per Haryana govt guidelines which requires park to be of 15% area.

(ix) Respondent has applied for Occupation certificate on 01.05.2012 but same was not granted by the concerned department as project was incomplete with respect to EWS flats and shopping complex in accordance with sanction plans. Project has got fitness certificate dated 16.02.2021, NOC from fire department dated 12.01.2017 valid up to 12.01.2022, NOC for lifts valid up to 12.01.2022 and approved building plan.

(x) Apart from above, he has also commented on condition of building in following manner:

- Plastering is of cheap quality and is in very bad condition.
- RCC quality is poor as it has been collapsed from balconies and paragola beams.
- Seepage in many flats inside and outside specially in ground floor flats.
- Leakage on many water tanks.

- Back pressure in bathrooms of T-24, T-25, T4 and many other blocks at ground floor due to blockage.
- Poor quality of electrical wires.
- Lifts are in working condition but out of 40 lifts only 4 lifts are high speed with automatic sliding doors and rest 36 are conventional ones with manual collapsible doors.

(xi) Contract of operation and maintenance of STP plant has been given to M/s Limetex India on 10.04.2021.

(xii) No sewer connection with HUDA and waste water is disposed off with tankers on the expenses of CAM charges. Sewer connection has been applied for on 15.02.2021 by respondent M/s Countrywide Promoters Pvt. Ltd.

(xiii) For communication systems one landline phone is available but intercom facility from gate to individual flats is not available.

3. Reply filed by the respondent on 22.09.2021. In said reply, it is stated that there were total 672 flats in project. Possession has already been offered to 656 flat owners whereas 564 have executed conveyance deeds. Jurisdiction of RERA is barred by limitation as 5 years have already been lapsed from the date of handing over of possession to the allottees. There is a chief administrator HUDA's report dated 18.03.2013 which shows that services had been laid. Occupation certificate had been applied for by the respondent on 01.05.2012. Said certificate was withheld by the department on the ground that EWS were incomplete. Respondent has already completed

building structure of EWS units and only finishing works are pending with respect to these units.

4. Apart from above submissions respondent has further submitted details given on following pages:

- i. IFMS amount of Rs. 3.96 crore has been kept separately by the respondent but there is an outstanding amount of Rs. 5.13 crore from the flat owners of this project.
- ii. In respect of peeling of plaster and seepage it is submitted that building tend to depreciate in due course after 5 years or so. Further, peeling of plasters or seepages of water is a natural occurrence. Allottees have not paid CAM amounting to Rs. 5.13 crores due to which major repair works like repairing of plasters or seepages of water from roof tops were pending. Complainant has also been informed that major repair works like repairing of plasters or seepages being cost intensive activity would be charged separately as additional CAM. Estimated cost of Rs. 2.50 crore would be incurred for these works. Decision with respect to same is pending with the complainant.
- iii. As far as issue of power grid electric connection is concerned, it is stated that complainant has been informed that location of the project is in a region where HUDA and DHBVN have still not completed, nevertheless electrical scheme has already been approved. However, there is sufficient power supply available to project.

- iv. DG sets: 3 DG sets of total 1830 KVA (one owned 320 KVA+2 rented DG sets of 500 KVA and 1010 KVA) are available at site. New DG sets of required capacity at the time of handing over the project to RWA will be provided.
- v. Automatic power changeover panel has been installed and commissioned. Further, independent power monitoring display (670) have also been installed.
- vi. There are adequate arrangements relating to children park, jogging and walking track. Estimated cost of repair of slides and swings has been handed over to association and pending for their decision.
- vii. Overflow of water tanks: All tanks are connected with single line as per design parameters. Occupants force the attendant to start the pump as and when their tanks get empty and this causes few tanks to over flow.
- viii. All the lifts are in working condition.
- ix. In respect of STP, it is stated that it has been functioning properly and treated water is being used for gardening and other purposes. With regard to its connection with HSVP's lines, it is submitted the lines are still non-functional and an application to the concerned department has already been made however decision on the same is awaited.
- x. In respect of solar heaters, it is submitted that some of the residents have intentionally broken the solar water heater and tanks with

malafide intention which resulted in damage of the same. However, respondent being customer centric company has invited tenders for cost of rectification of said water heater against which an amount of Rs. 6,52,000/- has been quoted for repairing and Rs. 18,99,000/- for replacement. Said quotation has already been shared with complainants on 24.11.2020 however decision of complainants with respect to the same is pending.

5. Ld. counsel for the complainant association has referred to the findings given by local commissioner and has sought relief for rectification of pointed deficiencies. Further, He argued that occupation certificate has not been received by the respondent till date.

6. Ld. counsel for respondent argued that complainants had not approached this Authority by forming a proper association and has not placed on record list of allottees. Further, he argued that complainants had already taken possession of their booked units around 5-6 years ago prior to filing of present complaint. Furthermore, he apprised the Authority that respondent after completing the construction work of the project had applied for occupation certificate on 01.05.2012 and had obtained report of Chief Administrator on 18.03.2013 wherein it was stated that internal and external services have been laid down.



7. After considering local commissioner's report briefly stated above in para 2 and hearing argument of both parties Authority observes and orders as follows:

(i) Complainant Association is directed to place on record list of allottees along with requisite proof of their membership in the present Association.

(ii) Regarding issue of maintainability of present complaint, it is observed that majority of allottees had already taken possession between the years 2013-2015. In majority of cases, even conveyance deeds have also been executed. The status of occupation certificate as submitted by respondent is that respondent after completing construction work had applied for occupation certificate on 01.05.2012, In support he is relying upon the report of chief Administrator dated 18.03.2013. However, said certificate was withheld by the department on the ground that EWS were incomplete. Respondent's submission in respect of EWS as of today is that they have already completed building structure of EWS units and only finishing works are pending with respect to these units. Considering the fact that majority of allottees had already taken possession of their booked unit and had also got their conveyance deeds executed without any protest around 5-6 years ago. So, Authority now has limited jurisdiction to deal with the grievances of the allottees

association specifically pertaining to deficiencies pointed out by the local commissioner and handing over of IFMS charges to the Association.

(iii) On perusal of local commissioner report it is found that IFMS amount of Rs. 3.96 crore has been kept separately by the respondent's maintenance agency BPMS Pvt. Ltd and there is an outstanding amount of Rs. 5.13 crore from the flat owners of this project. Complainant association is directed to provide justification as to why they are not clearing their outstanding dues. They shall also provide list of outstanding due of each allottee who is a part of this association. '

(iv) Respondent is directed to submit plan of action for rectification of the structural deficiencies pointed out by local commissioner one week before the next date of hearing with an advance copy to the complainant association.

8. Cases are adjourned to 02.11.2022.

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RAJAN GUPTA
[CHAIRMAN]

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DILBAG SINGH SIHAG
(MEMBER)