



Complaint No. 2676 of 2019 & ors.

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 2676 OF 2019

Tuscan City Floors LX To CL

...COMPLAINANT

Residents Welfare Association

VERSUS

M/S TDI Infrastructure Ltd.

....RESPONDENT

2. COMPLAINT NO. 2627 OF 2019

RWA W Block TDI City Kundli

....COMPLAINANT/S

VERSUS

M/s TDI Infrastructure Ltd.

....RESPONDENT/S

3. COMPLAINT NO. 2629 OF 2019

Terrace Garden Kingsbury Apartments

....COMPLAINANT/S

VERSUS

M/s TDI Infrastructure Ltd.

....RESPONDENT/S

2

4. COMPLAINT NO. 637 OF 2020

Kingsbury B & D Tower

...COMPLAINANT

Residents Welfare Association

TDI CITY Kundli

VERSUS

M/S TDI Infrastructure Ltd.

....RESPONDENT

CORAM: Rajan Gupta

Member

Anil Kumar Panwar

Member

Dilbag Singh Sihag

Member

Date of Hearing: 28.01.2021

Hearing: 7th in Complaint No. 2676 of 2019.

9th in complaint No. 2627 & 2629 of 2019.

4th in Complaint No. 637 of 2020.

Present: - Mr. Deepak Dhaiya, Ld. Counsel for all the complainant through VC.

Mr. Shobit Phutela and Mr. Shubhnit Hans, Ld. Counsels for the respondent through VC.

Ms. Kanika Agnihotri, Ld. Counsel for M/s Cannes Management Property Pvt. Ltd. through VC.

ORDER (DILBAG SINGH SIHAG-MEMBER)

1. On last date of hearing i.e. 07.01.2021, Authority had given categorical direction to the respondent promoter to file revised minutes of meeting in compliance of orders dated 09.12.2020 containing comprehensive

action plan which has been agreed upon by the complainant association, since minutes of meetings earlier filed by respondent promoter were quite sketchy and did not disclose in detail precise manner and time by which required rectification will be carried out and be completed. Similarly direction was also given to M/s Cannes Property Management Services Pvt. Ltd. to file affidavit stating therein in a tabular form amount deposited by allottees and outstanding dues pending against resident and non-resident allottees on various accounts including CAM charges as well as electricity dues. Complainants were also directed to file counter affidavit stating amounts deposited by all allottees on account of maintenance services including CAM charges as well as electricity in a tabular. Besides, Authority had also granted complainants an opportunity to file reply to application for impleading, filed by M/s Cannes Property Management Services Pvt. Ltd.

2. Today, initiating his arguments, learned counsel for the respondent stated that respondent has already filed detailed minutes of meeting in compliance of order dated 07.01.2021. He further stated that some of deficiencies have already been removed/rectified by the respondent company whereas remaining are under process and could not be completely removed due to ongoing Kisan Agitation on the project site.

3. On the other hand, learned counsel for the complainants raised his objections against said minutes of meetings on the ground that respondent

company did not take complainants in confidence in any meeting and none of the issues were discussed with the complainants when so called minutes were prepared after last date of hearing i.e. 07.01.2021 and no consensus was arrived between the parties on said minutes. He further stated that he needs some time to file reply to application for impleading filed by M/s Cannes Property Management Services Pvt. Ltd. He also stated that none of the deficiencies have been removed/rectified by the respondent promoter as stated in the minutes.

4. After perusal of the documents filed by respondent promoter, it is evident that respondent promoter has only filed his action plan detailing steps taken or to be taken by the respondent company to remove/ rectify the deficiencies as stated by the complainants in their complaints and reported by the Local Commissioner. Respondent promoter has again failed to file revised minutes of meetings in compliance of order dated 09.12.2020 and 07.01.2021.

5. Learned counsel for the respondent admitted that respondent could not file minutes of meeting as agreed upon by the complainant association since he was unable to call a meeting with the complainants due to ongoing Kisan Agitation on the project site. H stated that respondent has filed his issue/item wise action plan for removal/rectification of deficiencies.

6. M/s Kanika Agnihotri, learned counsel for M/s Cannes Property Management Services Pvt. Ltd. stated that some of the deficiencies cited by

the complainants are related to maintenance which falls under domain of M/s Cannes Property Management Services Pvt. Ltd. She further stated that a huge amount on account of CAM charges is outstanding against all allottees including complainants and same is the biggest hurdle in meeting certain maintenance services. But she did not disclose the exact outstanding amount due from complainant allottees.

7. Learned counsel for the complainants while admitting non-payment of CAM charges against complainant allottees, stated that due to inability/deficiency on part of maintenance company to maintain project properly, allottees including present complainants had stopped making payment of maintenance charges to M/s Cannes Property Management Services Pvt. Ltd. and the same is justified.

8. After hearing all parties and perusal of the record, Authority observes and directs as follows :

- i. On the last date of hearing, Authority in its last order dated 07.01.2021 had expressed its prima-facie opinion that respondent promoter/maintenance company {responsible for providing and maintaining the essential services, on reasonable charges, till handing over of the maintenance of the project by Association of the allottees as per section 11(4) (d) of RERA Act, 2017} is entitled to

recover its dues, if any from the allottees as admittedly, tripartite agreements had been executed amongst allottees including present complainants, respondent promoter and M/s Cannes Property Management Services Pvt. Ltd. Therefore, by virtue of those agreements, all parties i.e. respondent promoter, complainant allottees and M/s Cannes Property Management Services Pvt. Ltd. are under contractual obligation to fulfil their responsibilities. Respondent promoter is bound to develop and maintain the project as per the agreement; M/s Cannes Property Management Services Pvt. Ltd. is bound to maintain the project till handing over of the maintenance of the project to the Association of the allottees as per section 11(4) (d) of RERA Act, 2017 and allottees including present complainants are bound to make payments to respondent promoter as well as M/s Cannes Property Management Services Pvt. Ltd. as per the agreement. In nutshell, parties are bound by statutory as well as their respective contractual obligations.

In the present complaints, allottees have raised their grievances regarding various deficiencies duly



confirmed by the local Commissioner as existing in the project, therefore, both respondent promoter as well as maintenance agency i.e. M/s Cannes Property Management Services Pvt. Ltd. will remain liable to remove/rectify those deficiencies. Similarly, complainant allottees are also liable to make necessary payments to M/s Cannes Property Management Services Pvt. Ltd. for better and speedy maintenance services in the project.

ii. In view of above, respondent company as well as M/s Cannes Property Management Services Pvt. Ltd. are directed to hold meeting with the complainants for consensual resolution of the issues.

iii. Further, for consensual resolution of the issues, Authority deems it necessary to consult local commissioner i.e. Pro-tech Consortium, Kurukshetra for determination of timelines for removal/rectification of various deficiencies in the complaints/project. Local Commissioner shall call a meeting of stakeholders i.e. respondent promoter, complainant allottees and M/s Cannes Property Management Services Pvt. Ltd for issue/deficiency wise discussion for determination of

estimated timelines for rectification/removal of the same. He shall file his report detailing various estimated timelines to remove/rectify each deficiency in consultation with respondent promoter, complainant allottees and M/s Cannes Property Management Services Pvt. Ltd. A copy of said report of Local Commissioner shall be supplied to all the parties, whereafter, present complaints shall be listed for appraisal of the progress achieved by the respondent promoter as well as M/s Cannes Property Management Services Pvt. Ltd. towards removal/rectification of the said deficiencies.

iv. Respondent promoter as well as M/s Cannes Property Management Services Pvt. Ltd. shall remove /rectify deficiencies within estimated timelines as per report of local Commissioner.

v. On the last date of hearing, learned counsel for M/s Cannes Property Management Services Pvt. Ltd. had stated that a huge amount on account of CAM charges is outstanding against all allottees and same is biggest hurdle in meeting certain maintenance services. She had also undertaken to file affidavit on behalf of M/s Cannes Property Management Services Pvt. Ltd. regarding

allottee-wise due pending against all the allottees on account of CAM charges as well as electricity connections. Despite of direction by Authority vide order dated 07.01.2021, M/s Cannes Property Management Services Pvt. Ltd. has failed to file affidavit in a tabular form detailing amount deposited and dues pending against resident and non-resident allottees on various accounts including CAM charges as well as electricity dues. Authority grants last opportunity to M/s Cannes Property Management Services Pvt. Ltd. to file affidavit with an advance copy to the complainants, stating therein in a tabular form amount deposited and dues pending against resident and non-resident allottees on various accounts including CAM charges as well as electricity dues.

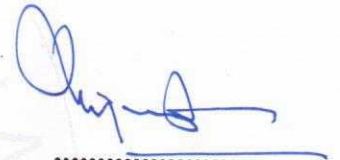
vi.

Complainants are also directed to file counter affidavit stating amounts deposited by all allottees on account of maintenance services including CAM charges as well as electricity in a tabular before the next date of hearing and supply advance copy to the respondents. Meanwhile, complainants are also directed to make payment of dues outstanding towards respondent promoter

as well as M/s Cannes Property Management Services Pvt. Ltd. including charges on account of maintenance services.

- vii. Complainants are given last opportunity to file their reply to the application for impleading M/s Cannes Property Management Services Pvt. Ltd as respondent no.2 with an advance copy to M/s Cannes Property Management Services Pvt. Ltd before next date of hearing

9. Case ^{is} ~~is~~ adjourned to 28.04.2021.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]



DILBAG SINGH SIHAG
[MEMBER]