



## **HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA**

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

### **1. COMPLAINT NO. 3134 OF 2019**

Gloria Welfare Association Sec 80 Faridabad ...COMPLAINANT

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd. ....RESPONDENT

### **2. COMPLAINT NO. 2617 OF 2019**

Flat Buyers Welfare Association Gemini Grove Duplex ...COMPLAINANT

REGD Sector Eighty Faridabad

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd. ....RESPONDENT

### **3. COMPLAINT NO. 3062 OF 2019**

Flat Buyers Welfare Association Blue Solitaire ...COMPLAINANT  
Tower-C

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd. ....RESPONDENT  
& Sanjeev Dhingra

### **4. COMPLAINT NO. 2236 OF 2019**

Vinay Panwar ....COMPLAINANT

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd. ....RESPONDENT



**5. COMPLAINT NO. 71 OF 2020**

Tower E California Country Buyers Association ....COMPLAINANT/S  
Sector 80, Faridabad

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd. ....RESPONDENT

**6. COMPLAINT NO. 506 OF 2020**

Tower D California Country Buyers Association ....COMPLAINANT/S  
Sector 80, Faridabad

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd. ....RESPONDENT

**7. COMPLAINT NO. 614 OF 2019**

Leela Kanoi and Parmeswar L Kanoi ....COMPLAINANT/S

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd. ....RESPONDENT

**CORAM: Dr. Geeta Rathee Singh Member**

**Nadim Akhtar Member**

**Date of Hearing: 20.12.2022**

**Hearing: : 13<sup>th</sup> in COMPLAINT NO. 506 OF 2020**

**14<sup>th</sup> in COMPLAINT NO. 71 OF 2020**

**14<sup>th</sup> in COMPLAINT NO. 3134 OF 2019**



Complaint no. 3134, 2617, 3062, 2236, 614 of 2019 and 506, 71 of 2020

15<sup>th</sup> in COMPLAINT NO. 3062 OF 2019

16<sup>th</sup> in COMPLAINT NO. 2617 OF 2019

17<sup>th</sup> in COMPLAINT NO. 2236 OF 2019

17<sup>th</sup> in COMPLAINT NO. 614 OF 2019

**Present: -** Mr. Shobit Phutela, Ld. Counsel for the Complainants through VC, along with Vinod Kumar Malik (General Secretary) for Complainant Association of Tower C (In Complaint No.3062 of 2019)

Mr. Shobit Phutela, Ld. Counsel for the Complainants through VC, along with Mukesh Khanduja (General Secretary) for Complainant Association of Tower G (in Complaint No. 2617 of 2019)

Mr. Shobit Phutela, Ld. Counsel for the Complainants through VC, along with Kapil Bagga (Joint Secretary) for complainant Association for Tower E (in Complaint No. 71 of 2020)

Mr. Deeraj Malik, Joint Secretary for the Complainant Association of Tower D (in Complaint No. 506 of 2020).

Ms. Isha, proxy counsel for Advocate Rupali S. Verma, ld. Counsel for Complainant Association of Gloria Tower F (in Complaint No. 3134 of 2019)

Mr. Vinay Panwar, complainant in complaint no. 2236 of 2019

None for the complainant in Complaint No. 614 of 2019





Mr. Vivek Sethi, Ld. counsel for the respondents.

**ORDER** (NADIM AKHTAR - MEMBER)

1. Vide order dated 15.03.2022 Authority had handed over Tower 'Gemini Grove duplex' and Tower 'Blue Solitaire' to respective associations for completion of their towers at their own level. Detailed directions were given to the associations regarding mode of their functioning. Thereafter, Tower D of the project was handed over to the Flat Buyers Welfare Association of Tower - D vide order dated 18.05.2022. Tower E was handed over to the Flat Buyers Welfare Association of Tower - E vide order 02.08.2022. The associations of Tower-D and Tower E were also directed to strictly comply with guidelines and directions given in para-13 of the order dated 15.03.2022.
2. Today, Mr. Vivek Sethi, Ld. counsel for respondent stated during the hearing that all associations have gone into National Company Law Appellate Tribunal against the order dated 16.09.2022 passed by National Company Law Tribunal wherein they have initiated insolvency proceeding under NCLT Act and appointed Resolution Professional. The National Company Law Appellate Tribunal has by far stayed proceedings under NCLT but has not decided the matter. Mr. Vivek Sethi requested for adjournment till the matter is finally decided by the National Company Law Appellate Tribunal.





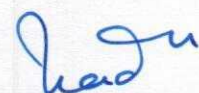
3. To this, Mr. Shobit Phutela, Ld. counsel for the flat buyers association of Tower C, Tower G and Tower E objected by saying that in this matter National Company Law Tribunal had ordered vide order dated 16.09.2022 for appointment of a resolution professional against which the flat buyers association of the towers went into appeal before NCLAT, Delhi. NCLAT while passing the order dated 24.11.2022 has categorically found that neither the builder who is the corporate debtor nor IRP brought forth the fact regarding handover of the project to the respective flat buyer associations. Now NCLAT has stayed the further implementation of the order dated 16.09.2022 of NCLT. Insofar today's proceedings are considered, there is no impediment on this Hon'ble Authority to proceed further with the matter.

4. Thereafter, Mr. Shobit Phutela, Ld. counsel proceeded to inform Authority regarding the progress made by the flat buyers association in completing construction of towers. Firstly, he apprised the Authority that 70% of the internal work of Tower C is complete. Progress report dated 07.11.2022 has been filed by the flat buyers association of Tower C wherein Income and Expenditure statement is appended along with construction progress report up to 31.10.2022. With respect to tower G Mr. Shobit Phutella stated that units of the tower are ready for fit outs and progress report dated 19.10.2022 has been filed by flat buyers association wherein Income and Expenditure statement is appended according to which till





date association has spent 77 lacs towards making payment to contractor, architect, chartered accountant, electricity connection fees and advance payment for lifts. Society account has a current balance of Rs. 50 lacs. In addition, the flat buyers association has two FDs of Rs. 1 cr. and 50 lacs. As per the directions of Hon'ble Authority, Rs. 50 lacs has been kept by the flat buyer association of Tower Gemini as its contribution towards completion of external work of the entire project. Public notice has been published in two newspaper on 31st May 2022 to all those buyers who have not yet become member of association. Annual General Body meeting was held on 18.09.2022 wherein governing body was selected. With respect to tower E, Mr. Shobit Phutella stated that the tower was 80% complete when it was handed over to the association. After handing over of the tower, further work has been started by the association. They have filed a progress report dated 16.12.2022 according to which after scrutiny and internal deliberations, the Letter of Intent has been signed with M/s SGN Universal Construction Company Pvt. Ltd. Final estimate for contract awarded to SGN excluding lift is Rs. 3.94 crore. Final negotiated price for lifts is Rs. 45.5 lacs. The total cost of Rs. 4.4 crore has been unanimously approved by the general body of members. Also despite many efforts and orders of this Hon'ble Authority, temporary connection has not been issued by DHBVN. Mr. Deeraj Malik, joint secretary of flat buyers association of tower D also apprised the authority about status of construction and stated that progress





report dated 19.10.2022 has been filed in the Authority according to which Letter of Intent was signed with M/s SGN Universal Construction Company Pvt. Ltd. and payment of Rs. 12 lacs has been released to M/s SGN. GBM meeting was conducted on 21.08.2022. It was stated that in compliance of the directions given by Authority vide order dated 09.12.2021, all the flat buyers association for Tower C, G, D, E have deposited requisite amounts in fixed deposit for carrying out common external works.

5. In view of above informations, Mr. Shobit Phutella, ld. counsel made request for handing over external common works to flat buyers associations because the entire process would be rendered futile. Even if entire internal works are complete and project has no external services, all efforts put in by the allottees to complete the project will go waste. Flat buyers associations of all the towers are very much interested in completing the project and therefore, a request was made to hand over all external common works to association for completion so that this legislation could have a meaningful conclusion.

6. Authority firstly hereby takes the issue of IRP proceedings. In these matters the Authority has by far handed over four towers to their respective associations for completion of internal works on different dates i.e., Tower C & G vide order dated 15.03.2022, Tower D vide order dated 18.05.2022 and Tower E vide order dated 02.08.2022. Thereafter proceedings before National Company



Law Tribunal were initiated and vide order dated 16.09.2022 Corporate Insolvency Resolution Process was initiated. Flat buyers association, Blue Solitaire, Tower C filed an appeal against order dated 16.09.2022 in National Company Law Appellate Tribunal. The Hon'ble Appellate Tribunal passed following order dated 24.11.2022, relevant part of the same is reproduced below:

*"Learned counsel for the Appellant submits that by the impugned order dated 16.09.2022 the Adjudicating Authority has admitted the CIRP on an application under Section 9 filed by an Operational Creditor. The Operational Creditor was claiming his outstanding dues from the Corporate Debtor pertaining to construction in the project. It is submitted that the project consisted six towers and the Appellants are homebuyer associations of four towers who have already been given the possession of the towers by HRERA order dated 15.03.2022 and construction of their towers has substantially been completed. It is submitted that before the Adjudicating Authority the Corporate Debtor did not appear and did not bring in the notice of the Adjudicating Authority that an order has been passed by HRERA on 15.03.2022 and in ignorance of those orders, CIRP has been admitted.*

*Learned counsel appearing for the homebuyer association of one of the tower namely Gloria Welfare Association' submits that 'Gloria Welfare Association' is a welfare association of one of the tower out of six, which may be allowed to be impleaded and intervene in the present appeal. Liberty is given to the 'Gloria Welfare Association' for impleadment and intervention in the appeal. Learned counsel for 'Gloria Welfare Association' submits that the CIRP order should be allowed to continue since the construction in the project related to their tower is not more than 65% as on date.*



*Learned counsel for the IRP submits that CoC meeting have been conducted and Form G has been issued.*

*From the above facts, it appears that it was not brought in the notice of the Adjudicating Authority the subsequent developments orders passed by the HRERA on 15.03.2022 and the Corporate Debtor deliberately choose to remain absent from the proceedings so that relevant facts could not be brought before the Adjudicating Authority. We are satisfied that the ends of justice ve served in issuing notice to the Respondents and further directing that order dated 16.09.2022 be not implemented any further."*

As Hon'ble NCLAT has granted stay against the order of NCLT dated 16.09.2022, there is no legal impediment for proceeding in the matter, therefore, the Authority can proceed in the matter. Meanwhile, if NCLAT gives any decision in the matter, we will abide by the same. Therefore, Authority rejects the argument of counsel for respondent and decides to proceed with the matter.

7. With respect to request of Mr. Shobit Phutella, ld. counsel for flat buyers association of allottees of Tower G, C, & D, Authority is inclined to handover external common services to associations for completion and directs associations to fulfill following conditions so that external services can also be handed over:

- (i) Flat Buyers Associations of all towers are directed to form a federation of associations to whom the external common works will be handed over.





(ii) The federation may prepare estimates of expenses (with escalation) for the common external works. These estimates be got approved by the federation in the AGM of the federation.

(iii) Members of the federation are directed to prepare schedule of installments for payment towards common external woks and schedule of development works. The same may also be got approved in the AGM.

On compliance with the above directions of the Authority, the external common development works will be considered for handing over to the federation of associations..

8. Cases are adjourned to 29.03.2023.

  
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**Dr. GEETA RATHEE SINGH**  
[MEMBER]

  
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**NADIM AKHTAR**  
[MEMBER]