



134, 2617, 2694, 3062 of 2019 & ors.

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 3134 OF 2019

Gloria Welfare Association Sec Eighty
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. 2694 OF 2019

Dhingra Jardine Suburban Resident Welfare
Association Sector Eighty Faridabad

.....COMPLAINANT

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd.

....RESPONDENT

4. COMPLAINT NO. 3062 OF 2019

Flat Buyers Welfare Association Blue Solitaire
Tower-C

...COMPLAINANT

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd.
& Sanjeev Dhingra

....RESPONDENT

5. COMPLAINT NO. 1073 OF 2018

Inder Pal Singh

....COMPLAINANT

VERSUS

M/s Dhingra Jardine Infrastructure Pvt. Ltd.
& M/s B. V. M. Projects Pvt. Ltd.

....RESPONDENTS

6. COMPLAINT NO. 614 OF 2019

Leela Kanoi and Parmeswar L. Kanoi

....COMPLAINANTS

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd.
& BVM Projects Pvt. Ltd.

....RESPONDENTS

7. COMPLAINT NO. 2236 OF 2019

Vinay Panwar

....COMPLAINANT

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd.

....RESPONDENT



8. COMPLAINT NO. 2361 OF 2019

Vineet Kumar

....COMPLAINANT

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd.

....RESPONDENT

9. COMPLAINT NO. 71 OF 2020

Tower E California Country Buyers Association
Sector 80, Faridabad

....COMPLAINANT/S

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd.

....RESPONDENT

CORAM: Rajan Gupta

Chairman

Anil Kumar Panwar

Member

Date of Hearing: 25.02.2020

Hearing: : 1st in COMPLAINT NO. 71 OF 2020

2nd in COMPLAINT NO. 3134 OF 2019

2nd in COMPLAINT NO. 3062 OF 2019

3rd in COMPLAINT NO. 2694 OF 2019

3rd in COMPLAINT NO. 2617 OF 2019

4th in COMPLAINT NO. 2236 OF 2019

4th in COMPLAINT NO. 2361 OF 2019



5th in COMPLAINT NO. 614 OF 2019,

9th in COMPLAINT NO. 1073 OF 2018,

Present: - Mr. Jagdish Ratra (President), for the Complainant
(in Complaint No. 71 of 2020)
Mr. Suresh Kumar for the Complainant
(in Complaint No. 2361 of 2019)
Mr. Vinay Panwar, Complainant in person
(in Complaint No. 2236 of 2019)
Mr. Rajan Kumar Hans, Counsel for the Complainant
(in Complaint No. 2694 of 2019)
Mr. Shobit Phutela & Mr. Shubhnit Hans,
Counsel for the Complainant
(in Complaint No. 2617 of 2019)
Mr. Vinod Kumar Malik, Gen. Sec.
(in Complaint No. 3062 of 2019)
Mr. Ajay Pandey & Mr. P.P. Gupta, Counsel for the Complainant
(in Complaint No. 3134 of 2019)
Mr. Vivek Sethi, Counsel for the respondent & Sh. Sanjeev
Dhingra, shareholder of Dhingra Jardine Infrastructure Pvt. Ltd.

ORDER (RAJAN GUPTA-CHAIRMAN)

1. In furtherance of the order dated 07.01.2020, a reply has been received from the Director, Town & Country Planning Department, the relevant portions of which are reproduced below:-

“3. That Department of Town and Country Planning has not granted any licence in favour of company Dhingra Jardine Infrastructure Pvt. Ltd. in Sector-80, Faridabad. However, Department has granted Licence No. 178 of 2007 dated

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13.04.2007 granted for setting up of Group Housing Colony on the land measuring 10.381 acres, Sector-80, Faridabad in favour of BVM Projects Pvt. Ltd.

4. That the Department has approved the building plans of Group Housing colony on 14.05.2008 and revised on 27.04.2010, but the licensee has not got the occupation certificate of any part of said group Housing Colony.

6. That the licensee without taking prior approval of competent authority transferred the marketing rights over group housing colony in favour of Dhingra Jardine Infrastructure Pvt. Ltd. When the licensee was asked in this regard, licensee has accepted this offence and requested to apply for composition of this offence as per provision of policy parameters.

7. That due to demise of CMD of company BVM Projects Pvt. Ltd. who is also director of company Dhingra Jardine Infrastructure Pvt. Ltd. after taking a lenient view, vide this office memo no 33036 dated 04.12.2018 the licence was renewed upto 12.04.2019 subject to following condition:-

a) This renewal will not tantamount to certification on your satisfactory performance entitled you for further renewal of license and you will get the licenses renewed upto the period till the final completion of the colony is granted.

b) That you shall submit the requisite documents to avail the benefit of policy dated 18.02.2015 alongwith applicable fees within a period of one month from this order.

c) That you shall be bound to adhere to the provisions of Section 3(3)(a)(iv) of Act No.8 of 1975 as amended from time to time regarding construction transfer of community sites.

d) That you shall submit the documents regarding ultimate power load requirement and service plan/estimates (for physical/public health as well as electrical infrastructure) within four months from issuance of renewal order.

e) That you shall submit the updated compliance of Rules 24, 26 (2), 27 & 28 of Haryana Development and regulation of Urban Areas Rules, 1976 and deposit the composition fee against delay compliance within a period of four months from issuance of this renewal order.

9. That though licence no. 178 of 2007 is not renewed after 12.04.2019, the licensee has fully paid the EDC and IDC charges and no grave violation of terms and condition of licence has been found. Hence, no action as per provisions of Rule 18 regarding cancellation of licence has yet been initiated. Therefore, as on date, there is no occasion at this stage to take over the project to carry out the development works in the colony as per provisions of Rule 19 of Haryana Development and Regulation of Urban Areas Rules, 1976. Further, STP/DTP Faridabad will provide required assistance to the Association as per the direction of the Hon'ble Authority."

2. As ordered by the Authority, comments of Chartered Accountant on the documents submitted by the respondents relating to constitution of their Board of Directors have been received, which have been taken on record. According to the report, both the companies are defaulter on several counts. They have not filed statutory reports. Accordingly, at present it cannot be said that a lawfully constituted Board of Directors is in place to look after the affairs of the company.

3. A fresh Complaint No.71 of 2020 titled "Tower E California Country Buyers Association, Sector 80, Faridabad Versus Dhingra Jardine Infrastructure Pvt. Ltd." pertaining to tower-E has been received. This complaint has been filed by an association constituted by the allottees of tower-E of the project. Shri Jagdish Ratra, President of the association is present personally. He stated that there are 76 units in tower-E. They do not have the information regarding the number of apartments sold in this tower, however, 50 allottees have become members of the association, out of which 34 allottees have submitted affidavits regarding the accounts statements etc. Further, the association has hired an Architect who has submitted the cost estimates for completion of the project.

According to Shri Jagdish Ratra, 60-70% of the tower-E is complete. An investment of about 6.5 to 7 crores may be required for completing remaining works in the tower. The association, however, is yet to estimate the amount which could be collected from the members of the association. He further stated that if unsold apartments are available in the tower, the same may be allowed to be sold by the association for supplementing finances of the association. He also stated that they are ready to cooperate with the other associations for contributing proportionate amounts for completion of the external services like electricity, storm water system, sewerage system, water supply system, road networks and other



common areas etc. Shri Ratra stated that they would fully abide by the directions issued by the Authority to them.

4. Next, the Complaint No. 2617 of 2019 filed by the Flat Buyers Association of Gemini Groove was taken up. Shri Shobit Phutela, learned counsel for the association submitted a project report got prepared by them from a technical consultant. Shri Phutela stated that as per the report, an amount of about Rs.8.30 crores is required for completion of the apartments of the towers belonging to their association. Further, it has been estimated by the consultant that for the completion of external services of the entire project, including infrastructure in respect of the towers of other associations as well as the tower-D in respect of which no association has not yet been formed, an investment of Rs.22.90 crores may be required.

Shri Phutela stated that against aforesaid projected requirement only, Rs.3.00 crores has been estimated to be receivable from the members of their association. In their portion of the project there are 128 apartments out of which 126 have been allotted and 89 allottees has become members of the association. It had been observed in the earlier orders dated 07.01.2020 that this portion of the project is complete to the extent of 90%. The project report submitted by the association has been taken on record.

5. Complaint No.2694 of 2019 which has been filed by the Resident Welfare Association formed by the allottees of Suburban Portion of the project was next taken up.

Learned counsel for the complainant association Shri Rajan Hans stated that their project is 95% complete. They have even got electricity connection. Some apartments have been occupied by the allottees. He requests that this portion of the project should be treated as a separate entity from the other portions of the project in respect of which complaints have been filed by the other associations. According to the estimate of the association, investment of Rs. 4.5 crores is required for completion of their towers including the cost of electricity as well as laying of common services. 133 allottees out of total 160 allottees of apartments have become members of the association. They are willing to cooperate and contribute the entire remaining cost, therefore, their portion of the project may be allowed to be completed expeditiously. Shri Hans requested that this portion of the project can be completed most easily and the Authority should facilitate the same.

6. Thereafter, Complaint No.3062 of 2019, which has been filed by an Association of Allottees of the Blue Solitaire (Tower-C) of the project, was taken up. Shri Vinod Kumar Malik, General secretary of the association, submitted a project report which has been got prepared by them from a technical consultant. Shri Malik stated that as per the report an amount of about Rs.9.89 crores is required for completion of the apartments of towers belonging to their association. Cost for the completion of external services for the entire project including the towers of all other associations as well as the tower-D has been estimated to be Rs.22.90 crores. It has further been

estimated by them that about Rs. 4.00 crores remains to be collected from the buyers of the tower. He further stated that 45 out of 60 allottees have already submitted their affidavits.

7. Then Complaint No.3134 of 2019 was taken up which has been filed by the Association of Allottees of "Gloria" portion of the project. Shri. Ajay Pandey, learned counsel for the association submitted a project report got prepared by them from a technical consultant. Shri Pandey stated that as per the report an investment of about Rs.9.84 crores is required for completion of the apartments of the tower belonging to their association out of which about Rs.4.00 crores are receivable from the allottees. He further stated that 93 out of 150 allottees have become members of the association. They are unable to contact other allottees as they do not possess their addresses etc. He requested that respondent should be asked to furnish address of all the allottees to the associations to enable them to contact them for becoming their members.

8. Thereafter, individual Complaints No. 614 of 2019, 1073 of 2018 and 2361 of 2019 were taken up together. They all pertain to Tower-D. Individual complainants were heard one-by-one. It has been submitted by them that it has not been possible for them to form association of the allottees of Tower-D. They all belong to Tower-D. They requested for appropriate directions to be issued by this Authority so that the allottees of these tower may come together to form an association otherwise their rights would be

trampled as they do not expect the respondents to be able to complete this project on their own.

9. In Complaint No. 2336 of 2019, the complainant was present personally. His apartment is located in Tower-E. He stated that before getting merged with Complaint No.71 of 2020 he will require consultation with his lawyer. He sought adjournment to be able to make any definitive statement on this account. The request is allowed.

10. Shri Vivek Sethi appeared on behalf of the respondent and stated that mother of Shri Sanjeev Dhingra, director of the respondent company, is unwell, therefore, he sought an adjournment for consideration of the entire matter.

11. The Authority after consideration orders as follows:-

- i) Request of Shri Vivek Sethi, counsel for respondent, for adjournment cannot be accepted because the Authority is simultaneously moving in the direction of handing over the project to the respective Association of the Allottees. The respondent, however, may make his submission in respect of the directions given to them in the order dated 07.01.2020 on the next date of hearing. In the meantime, the Authority will continue to explore the possibility of getting the project completed through the Associations of Allottees.



ii) Shri Rajan Hans learned counsel for the Association of Allottees representing Suburban Portion of the project has requested the Authority for treating them separately from rest of the associations because their project is almost complete and they would like to complete it at the earliest. Further, they will separately incur expenditure in respect of the external services to be laid.

The Authority will have no objection in handing over their portion of the project to them before the other associations but it is not understood as to how they will be able to separately connect the external services like water supply, storm water drainage, sewerage system and sewerage treatment plants, electricity substation etc of their towers with the main services of the colony. The Authority understands that the common service plan estimates in respect of the entire project have been approved by the State Government. These services have to be laid together for the whole of the project. The expenditure thereon also has to be borne by all the allottees in proportion to the super area allotted to them. It has been estimated that about Rs.22.90 crores is required for laying the said external services, therefore, the Association of this tower cannot avoid their liability for making their due contributions for laying the external services. Needless to mention that in case excess money is paid by



the allottees than agreed with the respondent company, they will have a right to be indemnified in the due course of law, but as an interim measure they will have to discharge their liabilities due from them proportionately. Pending such a determination of the liabilities of the allottees, the association may complete all other paper work for getting the remaining works completed inside the towers.

iii) The major issue which has now emerged is that how to collect money for laying external services costing Rs. 22.90 crores. The principle in this regard should be that this cost should be apportioned to all the apartments of the project in proportion to their super area. For this purpose some account experts will have to calculate the cost which should be apportioned to each portion of the project and thereafter to each apartment of each portion of the project. The Authority would like to receive consent of all the complainant associations to the cost apportionable to them and to each of the apartment, whether allotted or unallotted, for arranging funds to the tune of Rs.22.94 crores for laying the external services.

For this purpose, it is utmost necessary that the Presidents and Senior functionaries of all the associations get together and agree to cooperate with each other. They should create

a small pool of funds for paying to the professionals for working out details of all their issues. All the associations should have meeting of minds on the cost involved for laying external services as well as the methodology for getting works carried out through one or more than one contractors.

The Authority directs all the association to put up a joint action plan in this regard on the next date of hearing. Further, the stages of laying the external services for whole of the colony should be demonstrated to the Authority on a layout plan by the expert agency which had earlier prepared the cost estimates etc. He should be asked to be present personally for explaining various details of the matter to the Authority.

iv). All the associations should issue an advertisement ⁱⁿ a daily newspapers in circulation in the area asking therein the allottees of the respective tower of the project to come forward to become members of the associations. Further, a notice in this regard should also be put up on the notice board of the project.

The Authority would expect that by the next date of hearing that the precise position in regard to the number of allotted and un-allotted apartments is placed before it. The Authority also directs the respondents to provide this information to the

associations. The Authority also directs the respondents to provide a list of all the allottees to the respective associations to enable them to contact them directly for becoming their members.

v). The professionally prepared estimates of the cost involved for completing internal works of all the towers should be submitted by each association. It may be submitted separately in respect of the allotted apartments and separately in respect of the un-allotted apartments. The internal works of the un-allotted apartments can be carried out when the buyer for the same is found. Further, the mode of execution of remaining works should also be prepared i.e. whether a lump-sum contract is proposed to be made with one contractor for completing all the works or multiple contracts will be awarded for various works. The detailed plans in this regard should be prepared by each association in consultation with the expert agencies.

vi). After estimating the proportionate cost to be contributed by each association for completing the external works and for completing the other works of the towers, the cost apportionable to each apartment and to each allottee who is a part of the association should be worked out. Initially requisite funds



may have to be contributed by the members of the associations along with the funds to be generated by way of sale of un-sold inventory. The project can be handed over to the associations by the Authority only after satisfying itself that arrangement of sufficient funds has been made by the respective associations.

vii). Detailed affidavits should be submitted by all the members of the associations to their respective associations stating therein the amounts due to be paid by them in accordance with the builder-buyer agreement including the EDC, IDC charges and other applicable taxes & levies. Further, the members of the associations should express their readiness and willingness to contribute the entire cost which proportionately will be determined to be their contribution for completion of their tower and also for laying of external services. Further, 25% of the said apportioned amount should be agreed to be paid by them up-front so as to express their seriousness for taking over the project and completing it at their own level.

viii). No orders are being passed for the time being in respect of Tower -D. Should the allottees of Tower-D decide to form an association, they will also have to comply with the

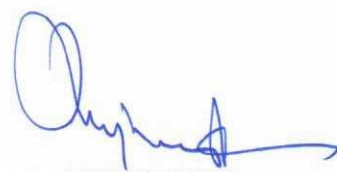


directions given by this Authority vide this order as well as in the order dated 07.01.2020.

12. All the complainants may obtain a copy of the letter received from the Director, Town & Country Planning Department and also copy of the report of the Chartered Accountant.

18. An application has been filed by the complainants in complaint no. 582 of 2018 titled Hemant Narula & Others vs M/s Dhingra Jardine Infrastructure Pvt. Ltd. & Ors. stating therein that his apartment is situated in Tower -D of the project but complaint has been inadvertently merged with Gloria portion of the project i.e. with Complaint No. 3134 of 2019. He has requested the Authority revive the same. His request is accepted. Office is directed to revive complaint no. 582 of 2018 titled Hemant Narula & Others vs M/s Dhingra Jardine Infrastructure Pvt. Ltd. & Ors. and list it for hearing with all other matters.

Adjourned to 25.3.2020.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]