



Complaint No. 559, 1373 of
2018 and 603, 613 of 2019

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 559 OF 2018

GLM Buyers Welfare Association

....COMPLAINANT(S)

VERSUS

Global Land Masters Infratech Pvt. Ltd.

erstwhile M/s Bhoomi Infrastructure Company

....RESPONDENT(S)

2. COMPLAINT NO. 1373 OF 2018

Rajesh Sood

....COMPLAINANT(S)

VERSUS

Global Land Masters Infratech Pvt. Ltd.

erstwhile M/s Bhoomi Infrastructure Company

....RESPONDENT(S)

3. COMPLAINT NO. 603 OF 2019

Narinder Kumar Gupta

....COMPLAINANT(S)

VERSUS

GLM Infratech Pvt. Ltd

.....RESPONDENT(S)

4. COMPLAINT NO. 613 OF 2019

Madhu Aggarwal

....COMPLAINANT(S)

VERSUS

GLM Infratech Pvt. Ltd.

....RESPONDENT(S)

CORAM: Rajan Gupta
Anil Kumar Panwar

Chairman
Member

Date of Hearing: 03.09.2019

Hearing: 10th

Present: - Mr. Rajinder Singla and Mr. Pankaj Bali, counsel for
complainant

(in complaint no 559 of 2018)

Mr. Rajiv Malhotra, counsel for complainant

(in complaint no 603 and 613 of 2019)

Mr. Jaswant Singh, counsel for respondent

(in all the complaints)

Mr. Anuj Sharma, proxy counsel on behalf of Mr. V. K. Verma,
counsel for respondent no 2

(in complaint no 603 and 613 of 2019)



ORDER (RAJAN GUPTA- CHAIRMAN)

1. An application has been received from the Municipal Corporation, Panchkula for deleting their name from the array of the respondents in complaint no 603/2019 and 613/2019. Considering that the Municipal Corporation, Panchkula has nothing to do with this project. Considering their request, they are exempted from further appearance before this Authority in the said complaints.

2. In response to the orders dated 24.07.2019 of the Authority, a reply dated 03.09.2019 has been received on behalf of the Director, Town & Country Planning Department, Haryana signed by the District Town Planner Headquarter. In brief the Director has stated as follows:-

- (i) The respondent-licensee company has failed to comply with the terms and conditions of the license as well as various provisions of the Act of 1975 and the Rules made there-under. Accordingly, a show cause notice under Rule 18(1) of the Rules of 1976 was issued to the respondent on 12.06.2017 inter-alia pointing out that an amount of Rs. 38.02 crores is outstanding on account of EDC as on 06.06.2017. Further, the respondent licensee has not got the service plans/estimates approved.



- (ii) No response has been received from the respondent-developer. Accordingly, a show cause notice under Rule 18(2) has been issued as to why the licence granted to them be not cancelled.
- (iii) Repeated correspondence has taken place between the respondent and the Director. The respondent has been seeking time and relaxations from the department whereas the department has been asking them to comply with their requirements and also deposit the overdue EDC amount as per policy. The respondent-developer has been telling the department that they are trying to arrange funds for payments of EDC etc. Now for granting personal hearing, the matter has been adjourned to 01.10.2019.
- (iv) Regarding the query of this Authority as to why the project be not handed over to the Association of Allottees the department has replied that there is no such provision in the Act of 1975. It has further been stated that Section 8 of the Act of 1975 has been amended vide notification dated 31.01.2019. The amended provisions of Section 8 has been reproduced as below.

“8. Cancellation of licence:- (1) A licence granted under this Act, shall be liable to be cancelled by the director if the colonizer contravenes any of the conditions of the licence or the provisions of the Act or the rules made thereunder:

Provided that before such cancellation the colonizer shall be given an opportunity of being heard”

Provided further that upon issuance of such cancellation of licence the land and buildings involved in such licence, shall be deemed to vest with the Government, unless specifically relieved of this obligation by the Government.

(2) Upon cancellation of the licence, all necessary action shall be taken by the Director, either himself or through a third party agency identified by him, to secure the assets of the colony as well as to ascertain the claims and liabilities against the licensee.

(3) After securing the assets of the colony under sub-section (2) and without prejudice to the provisions contained in any other State law for the time being in force, the Director may, for the purposes of recovery of dues or for getting the balance development works completed for the purpose of granting completion certificate or otherwise, adopt all such measures, including alienation of the licence, or part thereof, along with the associated land to any third party after obtaining prior concurrence of the Government and adopting such procedure, as may be prescribed.

(4) Notwithstanding any of the provisions as above, any excess amount received from its allottees by the colonizer, shall be recovered by the Director. The Director shall recover any excess amount from the colonizer received from its Allottees and in case all attempts to recover the same directly from the colonizer fail, such recovery shall be made as arrears of land revenue from all the assets under the ownership of the colonizer.”

- (v) The Director has also conveyed the provisions of Section 19 of the Act of 1975 under which further action would be taken against the respondent-developers.

(vi) Concluding his statement, the Director has replied that, "The decision regarding how the project can be completed/developed and by which agency can only be decided after final decision is taken by the Department to cancel the licence in accordance with the provision of Act of 1975 and the Rules made thereunder. No commitment can be made at this stage as to whether the project is completed by the licensee company or by any other agency in case the licence is cancelled for failure of the licensee company to comply with the deficiencies as pointed above."

3. Learned proxy counsel for the GLM Buyers Welfare Association stated that the arguing counsel could not come today. He however, did not produce any document exhibiting compliance of the directions given in Para 5 of the order dated 24.07.2019 by this Authority. He verbally submitted that all the directions will be complied with as the Association is ready to take over the project. Continuing his arguments, he pointed out that 140 allottees are members of the Association and they have not been able to contact rest of the allottees because the respondent-developer has not given them their correct address, names and phone numbers. He also stated that a large chunk of about 40 apartments has been



allotted to a partner of the respondent. He reiterated his request that further action should be taken for handing over the project to the Association.

4. Mr. Rajiv Malhotra learned counsel for the complainants in Complaint case no. 603 of 2019 and Complaint case no. 613 of 2019 stated that it would be extremely difficult for the Association to take over the project for its completion. He also read out the provisions of Section 8 of the RERA Act and stated that since the project is neither registered with the Authority nor any revocation of the registration has taken place, it will be better if a binding direction is issued to the State Government to take over the project for its completion or get it completed through any agency as considered appropriate by them.

5. Even though on all the earlier hearings somebody had been present on behalf of the respondent-developers but today, probably deliberately, no one appeared on behalf of the respondent-developer. The Authority takes note of the statement made on behalf of the respondent during the last hearing that the company has not been able to arrange funds for commencing the remaining construction work, thus expressing their inability to complete the project.

6. The Authority observes as follows:-

- (i) Today is 10th hearing of this matter. First set of complaint against the respondent company was filed in September, 2018.



During 7-8 hearings spanning over a period of about one year the respondent developer has been taking the plea that he is negotiating with various financiers for arranging funds for completion of the project. As is evident, after a lapse of such a long period of time that the respondents have been making false statements about making arrangements for funds. Apparently, they do not have sufficient credibility in the market to be able to arrange finances for the project.

- (ii) All those arguments which the respondents have been making before the Authority in last one year, are now being stated before the Director, Town & Country Planning Department, as is evident from the letter dated 03.09.2019 received from the Director. Respondent has been assuring the Director that the EDC amount will be deposited after arranging fund. Evidently the respondent-developer is now trying to gain time from the Director as he has been trying from this Authority in last one year.
- (iii) The important thing to observe is that allotment of the apartments was done in the year 2010 and they should have been delivered within 3-4 years thereafter, but the work of the project is at complete stand-still for the last nearly 5 years.



Nearly 300 allottees have paid most of the consideration amount but their apartments are not even 50% complete. Even though the respondent has been claiming that they have invested more money than collected from the Allottees but the quantum of construction that has taken place does not substantiate their claim. It would thus be in order that a forensic audit of the accounts of the respondent company is carried out through an agency appointed by this Authority.

It is accordingly ordered that M/s Baldev Kumar & Co. shall conduct the forensic audit of the respondent-developer. The Law Associate concerned shall liaise with the auditor and the respondent company for facilitating the conduct of the audit. Appropriate administrative orders for this purpose should be got issued from the Executive Director of the Authority. The respondent shall fully cooperate with auditor for conduct of audit.

- (iv) For protecting the interest of the allottees and for completing the project, there are only two possible options available now. First, that the State Government should take-over the project after cancellation of the license keeping in view the conduct of the respondent-developer as exhibited before this Authority as



well as before the Town & Country Planning Department. The State Government should exercise its powers as conferred upon it by the recently amended Section 8 of the Act of 1975 for taking over the project.

The Authority would strongly recommend to the State Government that they should take a final decision about the matter after granting a hearing to the respondent-developer at the earliest. The Law Associate concerned shall send a copy of all the orders, including this order, to the Director, Town & Country Planning Department to facilitate making up their mind about the conduct of the respondent-developer and for taking over of the project for completing it at their own level as per amended Section 8 of the Act of 1975.

- (v) During the hearing of complaint case no 44 of 2018 titled Rameshwar Versus Aerens Gold Souk Projects Pvt. Ltd. dated 22.01.2019, Learned Director, Town & Country Planning Department had appeared before this Authority and had stated that the Town & Country Planning Department does not have adequate wherewithal and infrastructure to undertake construction works of group housing colonies. The statement made by the Director is quite understandable because taking



over a stalled project and to get it completed through the State Government agencies will be a very ticklish and difficult task. If the State Government/Director could organise resources to complete such stalled projects at their own level, that would be the ideal solution and this Authority would strongly recommend taking such a course of action.

However, alternate avenues have to be explored in case the State Government decides not take over the project. In that eventuality the Authority would explore the possibility of handing over the project to the Association of allottees. This Authority is at advanced stages of handing over two projects to the Association of Allottees the details of which may be seen by visiting the orders passed in complaint case no 14 of 2019 titled Sabiha Versus Anil Jindal (SRS Real Infrastructure Ltd.) and complaint case no 89 of 2019 titled Piyush Heights Residents Tower J and K Welfare Associate Versus Piyush Buildwell India Limited.

Even though Ld. counsel for the Association expressed seriousness of the Association to take over the project but he has not shown compliance of any of the directions passed by the Authority in para 5 of its orders dated 24.07.2019. On the next

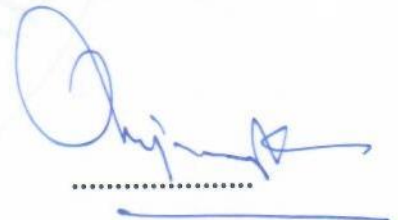


date of hearing all the directions already passed shall be complied with in order to express seriousness of the Association.

- (vi) Accepting the request of the Ld. counsel for the Association a public notice shall be issued by this Authority drawing the attention of all those Allottees who have not yet joined the Association to convey to this Authority in writing whether they are willing to join the Association or not. A suitable advertisement for this purpose shall be published by the Law Associate concerned in the newspapers having wide circulation in the area.

7. Expenses of forensic audit and publication shall initially be incurred by the Authority. However, the same shall be recoverable from the respondent later on.

8. Adjourned to 24.10.2019.



RAJAN GUPTA
[MEMBER]



ANIL KUMAR PANWAR
[MEMBER]