HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 559 OF 2018

GLM Buyers Welfare Association ....COMPLAINANT

VERSUS

1. Global Land Masters Infratech Pvt. Ltd. Erstwhile Bhoomi Infrastructure Company and Ors
2. Karman Raghu Patel
3. Sohal Navin Gala
4. Sunil Keshavji Gala
5. Mr. Suresh Ambavi Vavia
6. UHBVN ....RESPONDENT(S)

2. COMPLAINT NO. 1319 OF 2020

Bijender Singh ....COMPLAINANT

VERSUS

1. Bhoomi Green Infrastructure Co.
2. M/s GLM Infratech Pvt. Ltd.
3. Col. Surinder Singh Deswal ....RESPONDENT (S)

3. COMPLAINT NO. 1320 OF 2020

Punam ....COMPLAINANT

VERSUS

1. Bhoomi Green Infrastructure Co.
2. M/s GLM Infratech Pvt. Ltd.
3. Col. Surinder Singh Deswal ....RESPONDENT (S)

CORAM:	**Parneet S Sachdev**	**Chairman**
	Nadim Akhtar	**Member**
	Dr. Geeta Rathee Singh	**Member**
	Sh. Chander Shekhar	**Member**

Date of Hearing: 04.04.2024

Hearing: 35th in complaint no. 559/2018

28th in complaint nos. 1319,1320/2020

Present: Mr. B.K. Sood, Authorized representative of complainant association (in complaint no. 559/2018)

Sh. S.S. Deswal, Managing Director for respondent no.1 (in complaint no. 559/2018)

None for respondent no. 2 to 4 (in complaint no. 559/2018)

Ms. Isha Goyal, counsel for respondent no. 5 (in complaint no. 559/2018)

Ms. Sonia Madan, counsel for respondent no. 6 through VC (in complaint no. 559/2018)

None for Piramal Capital and Housing Finance Ltd. (in complaint no. 559/2018)

Sh. Bijender, Complainant (in complaint no. 1319/2020)

Sh. Bijender, Representative for complainant (in complaint no. 1320/2020)

None for respondent no. 1 and 3 (in complaint nos. 1319, 1320/2020)

Sh. S.S. Deswal, Managing Director for respondent no.2 (in complaint nos. 1319, 1320/2020)

ORDER: (PARNEET S SACHDEV-CHAIRMAN)

1. The project under reference in this complaint was handed over to the association of allotteess for completion at their own level vide order dated 18.05.2022. Authority is monitoring progress of the association on regular basis. In reference to last order dated 01.02.2024, the association has submitted its latest report by way of an application filed on 27.03.2024 in registry. Association has also filed reply to the application of Piramal Capital and Housing Finance Ltd for impleading as respondent in complaint no. 559/2018. Both the documents are taken on record. Firstly, Association has submitted the following progress report:

    i. Respondent no.1 was granted 2 month's time at his request to arrange investor/ builder to complete the project. Mr. Sood, representative of association stated that a letter dated 05.02.2024 containing certain guidelines to keep in mind while negotiating with the investor was given to respondent no.1. But till date nothing has been heard from respondent no.1.

ii. Further, he stated that as per order dated 27.07.2023, a committee was constituted by Authority to fix basic selling rate for the flats to generate funds to complete 4 Towers allotted to the association. However due to non-cooperation on part of DTP and DRO, association is unable to conduct the meeting and fix the rate for flats. Due to non-fixation of base selling rate, association is unable to infuse funds for the construction of the project and hence, construction at site has been halted since 15th January, 2024.

iii. Further Authority had handed over four towers to association vide order dated 18.05.2022 free from all encumbrances but the office of District Town Planner(Planning) Panchkula, had issued direction to association to get the license renewed and get all drawings approved from competent Authority. Letter dated 14.09.2023 has been annexed as Annexure 3 with the application/ status report.

iv. Reply to the application of Piramal Capital and Housing Finance had already been filed on 04.03.2024 in registry of the Authority.

v. Lastly, a rejoinder has yet not been filed by respondent no. 5.

2. Association has further made certain prayers as listed below:

i. To cancel the illegal allotted flats by respondent no.1, application for which is pending with Authority since Feb 2023.

ii. The status of flats of partners and land owners should be decided to infuse funds either by partner allottees or by sale of these flats. Since retaining their dues on retirement by respondent no.1 is legally sole responsibility of respondent no.1.

iii. Authority to clarify whether the association should accept or not accept the revised outstanding details submitted by respondent no.1 which show difference of Rs. 6 Cr, as anomalies in the books of accounts.

iv. Association prayed for use of power invested with Authority under Section 8 of RERA Act 2016 for directing State Govt. to take over project for its completion to safeguard interest of home buyers or grant a loan to association for completion of project.

v. Lastly, respondent no.1 has failed to honor the commitment made to Authority, he should not be given any additional time to give his action plan for completion of project or details of investors.

3. Further, during hearing, Mr. B.K. Sood (representative of association of allottees) reiterated all the submissions made in above para 1 and 2 of this order. He further stated that since construction has been stopped at site, contractor had also vacated the site. To safeguard the material lying on project site, association is paying from their own pocket to security guards

and a manager at site to keep check on lying stuff. Therefore, association also prayed before Authority to allow them to take some money out of total amount of 60.35 lacs lying in escrow account and make an FD of said amount and have interest on the same for paying salary to guard and manager at site.

4. On the other hand, respondent no.1 has stated that written submission was filed on 02.04.2024 in registry of Authority, wherein respondent has annexed DD amounting to ₹ 3,20,000/- paid in name of Authority in compliance of last order dated 01.02.2024. He stated that in compliance of last order, respondent has done best his efforts to make a plan of action with investor to complete the project. However due to following reasons, matter could not be concluded with the investor:

   i. Major stumbling block in discussion with investors was multiple litigations pending with ex-partner, namely; "Mr. Virender Gandhi" in Panchkula Court, Hon'ble Punjab and Haryana High Court and Hon'ble NCLT, Chandigarh. Respondent no.1 was putting efforts first to resolve these cases with ex-partner, which in result becomes fruitful as all these litigation were withdrawn after settlement with ex-member but these settlement took time and all these cases were withdrawn on 09.03.2024; 13.03.2024 respectively. He clarified that even after taking all necessary steps, two months granted by Authority went into solving these litigation because only after withdrawal of these cases, further development could be discussed with the investors.

ii. Due to financial closure of the accounts in the month of march, investors are more keen to start new business ventures towards the end of April or May next year.

5. After discussing the above stated points during hearing, respondent no.1 made a statement that he is at advance stage of discussion with 2 investor who are ready to invest in the project but he requires a month's time to make final plan of action. He also stated that he is ready to present investors before Authority. Lastly, he seek a month's time to finalize the action plans to be presented before Authority for completion of 4 towers handed over to association at priority.

6. Ms. Isha, appeared for respondent no.5 and stated that the rejoinder has been filed on 02.04.2024 in registry to reply filed by complainant to the application filed by respondent no.5. To encapsulate the matter in brief, she apprised the Authority that respondent no.5 was the partner in the firm M/s Bhoomi Infrastructure Co. (now GLM Infratech Pvt. Ltd.) vide partnership deed dated 17.09.2006. The share of respondent no.5 was 21.5% as duly mentioned in said partnership deed. Respondent no.5 retired from said firm

vide retirement deed dated 27.06.2011, while retiring respondent no.5 received no consideration on account of his retirement in monetary form, which is clearly shown in said retirement deed. Subsequently, all the 5 continuing partners had executed an irrevocable power of attorney dated 27.06.2011 stating that in lieu of 21.5% share of respondent no.5, in the profit and loss of firm, respondent no.5 is entitled to total saleable area admeasuring 65,180/- sq.ft and was given right to deal with same. Certainly, said area covers 36 flats as same were legally allotted in name of respondent no.5 and duly executing builder buyer agreements for those flats. Respondent counsel put forth two fold arguments to prove that respondent no.5 is legally having 36 flats for following reasons:

i. As per irrevocable power of attorney executed on 27.06.2011, which clearly states that 36 flats were allotted to respondent no.5 for not merely on account of capital investment made by him but also on account of him giving up his 21.5% share in the firm.

ii. Secondly, when continuing partners now as "developers" decided to allot said flats to respondent no.5 in lieu of his investment ,share, good will etc. Respondent no.5 becomes an "allottee" as defined under Section 2(d) of the RERA Act 2016, as respondent no.5 got the agreement executed for each flat with developer. She also made reference to a judgment passed by

Hon'ble Bombay High Court in second Appeal bearing no. 92626 of 2020 titled as **" M/s Renaissance Infrastructure Vs. Shri. Parth B. Suchak**":

> *"wherein it was held that " it may be that the allottee was an erstwhile partner of the promoter firm and the agreement was executed with a view to satisfy the allottees's claim towards his share in the partnership upon retitrement. that does not, however, make the agreement any less and agreement for sale. After all, consideration of an agreement for sale instead of money, may well be any valuable consideration including satisfaction of the alottee's share in the promoters's partnership*".

When questioned regarding the exact financial contribution of respondent no.5 to the partnership. Ms. Isha expressed her inability to produce such information. She added that 36 flats were allotted to respondent no.5 due to his "Goodwill". When questioned how the good will had been quantified or even acknowledged, she could not provide any information.

7. Ms. Sonia Madan, counsel for respondent no. 6 i.e. UHBVN stated that case has been filed before HERC and notice has been issued for 10.04.2024.
8. Lastly, association has filed reply to the application filed by Piramal Capital and Housing Finance on 04.03.2024 in registry of the Authority for impleading them as respondent in complaint no. 559/2018. Mr. Sood, representative of association has stated that Mr. Dinesh Gupta is not a member of association. However, as per details provided by respondent no.1, Mr. Dinesh has been allotted 5 flats in the project, i.e., A-1/103; A-1/404;

A-1/501; A-1/701; and B-3/1005. It is admitted fact that Mr. Dinesh had approached respondent no.1 vide letter dated 26.10.2023 with a copy to association, that ownership of his flat no. 501 be transferred to M/s Oxford Finvest Ltd. Said request was declined by respondent no.1 for the reason that Mr. Dinesh Gupta has obtained home loans from different banks against the same properties vide letter dated 09.11.2023.

Now, as per Piramal Capital & Housing Finance Ltd., company had advanced a housing loan of ₹ 65,33,400/- to Mr. Dinesh for purchase of 2 flats i.e. Flat no. 404 and 501 in Tower-A-1.

He stated that series of these acts self speaks about fraud committed by Mr. Dinesh Gupta, as he mortgaged the flat no. 501 to Piramal Capital & Housing Finance Ltd. as well as to M/s Oxford Finvest Ltd. Therefore, Association requested Authority not to allow the application of Piramal Capital & Housing Finance Ltd.

9. None appeared for the Piramal Capital & Housing Finance Ltd.

10. After hearing all the parties and going through records available, Authority observes and orders as follows:

I. Authority considering the present situation as stated by the association and respondent-builder, is of the view that respondent no.1 had stated his part of story and placed on record all pleading as written submissions attaching orders passed by all three courts relating to litigation pending with ex-partner; namely Virender Gandhi. Authority took notice of the fact that respondent no.1 was allowed two month's time to provide strict action plan along with details of investor but respondent no.1 has failed to do so. Nonetheless Authority is also aware that litigation and withdrawal of matters from Hon'ble Courts takes time. Therefore, in the interest of all home buyers, Authority allows respondent another one month time to finalize everything subject to following conditions:

i. Firstly, respondent no.1 will make resolution plan after discussing the same with investors for completion of 4 towers on priority and file copy of the same by 15.06.2024 in registry of Authority along with all necessary details of investor, their financial credentials.

ii. Secondly, respondent no.1 will not alienate any part of the total project land/ structure in question till pendency of the captioned cases.

iii. Lastly, respondent no.1 is suggested to take association in their confidence and co-jointly try to complete the project on priority.

iv. Furthermore, respondent no.1 should keep three things in mind before making resolution plan, i.e., completion of 4 towers handed over to association; clearance of government dues; clearance of any financial liability on the project from banks/ financial institutions/partners including erstwhile partners.

II. Further, Authority observes that as per last order, cost imposed for non-compliance of the order was ₹ 4,85,000/-, which was to be paid within two weeks to the Authority. Today, Mr. S.S. Deswal, Managing director of the company stated that they had paid an amount of ₹ 3,20,000/-. Respondent no.1 is directed to pay the pending cost within one week from uploading of this order on the website of the Authority.

III. After hearing arguments put forth by Ms. Isha counsel for respondent no.5, Authority asked her to specify the quantum or consideration that respondent no.5 had paid to respondent no.1 for purchasing 36 flats. As per records available with the Authority and facts recorded in past orders, respondent no.5 had paid only ₹35,47,578/- which was mentioned in accounts provided by respondent no.1 to association. Authority observes that such a meager amount cannot be taken as consideration money for 36 flats. Respondent no.5 is directed to justify how a good will of the company or other measures should be quantified for the consideration of 36 flats holded by respondent no.5.

IV. Since no one appeared for the Piramal Capital and Housing Finance Ltd. They are given last opportunity to appear and prosecute their case.

11. With the aforesaid directions, case is adjourned to **18.07.2024**.

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CHANDER SHEKHAR
[MEMBER]

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DR. GEETA RATHEE SINGH
[MEMBER]

....
NADIM AKHTAR
[MEMBER]

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PARNEET S SACHDEV
[CHAIRMAN]