



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 559 OF 2018

GLM Buyers Welfare Association

....COMPLAINANT

VERSUS

Global Land Masters Infratech Pvt. Ltd. erstwhile M/s Bhoomi Infrastructure
Company

....RESPONDENT

CORAM: Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Nadim Akhtar

Member

Geeta Rathee

Member

Date of Hearing: 07.09.2022

Hearing: 27th

Present: Mr. K.S. Saini, President of GLM Buyers Welfare Association.

Mr. Surjit Bhadu, ld. counsel for respondent through VC.

ORDER (RAJAN GUPTA - CHAIRMAN)

1. Authority after the hearing dated 18.05.2022 had handed over the project in question to the Association of Allottees for completion at their own level. Detailed guidelines were also given about further actions to be taken by the

association. As per policy, the Authority, after handing over of the project to Association of Allottees, closely monitors on periodic basis the progress of the project so that problems, if any, faced by the Association or any other connected party could be addressed by Authority and objectives of law are achieved in letter and spirit.

2. Progress of the project was first monitored on 30.06.2022 when submissions made by both the parties were recorded. The complainant association inter-alia was directed to submit a report of the actions taken by it in writing before the next date of hearing and send a copy of the same to respondent.

3. Today, President of Complainant association submitted status report of the project. Complainant association had earlier also filed an application dated 17.08.2022 wherein a request was made to the Authority that the respondent have handed over only part of the project to them whereas Authority had ordered to hand over all the project. They had not supplied copies of the same to respondents. Complainant association is directed that in future they must supply a copy to respondents well in advance.

4. Shri Surjeet Bhadu, learned counsel for respondents objected that copy of status report has not been supplied to him. Further, copy of the application dated 17.08.2022 had also not been supplied to him. He further stated that appeal

in this matter is also listed for hearing before the Hon'ble Appellate Tribunal later in the day today itself. For these reasons, he sought adjournment of the matter to be able to study the applications and also to await outcome of the appeal pending before Hon'ble Appellate Tribunal.

5. First to deal with objections raised by learned counsel Shri Surjit Bhadu, Authority agrees in principle that copy of the application filed by complainant association should be supplied to respondents well in advance so that they are prepared for arguments on the issues raised in the applications.

In the present context, however, Authority observes that final decision in the matter for handing over of project to the association had already been taken on 18.05.2022. At present no new decision is proposed to be taken. Present proceedings are only for monitoring of the directions already given to both parties. Therefore, no prejudice has been caused against the respondents by the two applications filed by complainants. Complainants association, however, is directed that in future a copy of all documents submitted to Authority must be supplied to respondents also well in advance.

In regard to pending appeal before Hon'ble Appellate Tribunal, Authority observes that said appeal is pending against the orders dated 18.05.2022. As already recorded, Hon'ble Appellate Tribunal had heard the matter on

04.08.2022 and the matter was listed for today. Further, whatever order is passed by Hon'ble Tribunal, same will be binding on this Authority. For this reason, the fact that matter is listed for further hearing before Hon'ble Appellate Tribunal today is not likely to cause any prejudice against the interests of respondents. Therefore, Authority decides to go ahead for hearing the matter.

6. Shri K.S.Saini, President of the complainant association submitted as follows:-

- (i) That in furtherance of orders dated 18.05.2022 and 04.08.2022 of this Authority, project was taken over on 06.08.2022 and a compliance report was submitted on 08.08.2022.
- (ii) That the respondent has handed over only 4 towers and not the total project as ordered by this Authority vide order dated 18.05.2022. He sought necessary directions against the respondent for full compliance of order dated 18.05.2022 and handing over of entire project.
- (iii) That General Body Meeting of the association was held at the project site on 21.08.2022 wherein several decisions were taken, the details of which have been cited in para 4 of the application.
- (iv) That, Contractor's team has arrived at the site and have started clearing the project area from 26.08.2022. Havan and Mahurat was

done on 03.09.2022, but since lot of trucks are parked and labour huts are locked by the respondent, contractor is not in a position to bring his labour as labour huts are locked.

(v) The contractor has proposed to complete entire construction work in phases, details of which have been given in para 6 of the application.

(vi) The association has asked respondent company to furnish details of 47 allottees who have filed cases in various courts for refund of money paid. Respondent has not yet given those details.

(vii) The complainant association alleges that respondent had illegally sold flat No.C-1/702 on 6.5.2019 to Mr. Konark Sharma and also allotted flat No.B1/403 and C1/1606 to M/S Just Build Infratech against their personal liabilities, on a later date. Name of those 3 allottees does not figure in the list of allottees.

(viii) By way of RTI application filed by Mr.Virender Gandhi, Town & Country Planning Department, Haryana vide their letter dated 25.08.2022 has informed that building plans of the colony have not been approved. However, as per statement of Col. S.S. Deswal, Director of respondent company, drawing and plans of four towers were approved in principle by the department but the same were not

released due to non payment of dues. This point needs clarification from Director of Town & Country Planning to avoid any legal complications later on.

7. Authority observes that a copy of letter dated 09.08.2022 written by District Town Planner (E), Panchkula to Senior Town Planner, Panchkula received, the operative part of which is reproduced below:-

“On the above matter, it is submitted that Directorate had intimated this office that notice under Rule 18(1) and Rule 18(2) of Haryana Development and Regulation of Urban Areas Rules, 1976 have already been issued to the developer on account of non submission of outstanding EDC, non compliance of Rules, 24, 26, 27 & 28 of Haryana Development and Regulation of Urban Areas Rules, 1976, non approval of service plan estimates, non renewal of license, non approval of service plan estimates, non submission of CA certificate, status regarding construction of community site and EWS flats etc. Further, building plan approval and unauthorized construction of building an observation of PAG(Audit) Haryana that the Licencee has not got the blocks have been raised without any approval of the department. Accordingly, the Directorate vide memo dated 14.07.2020 has directed this office to seal the premises of the project.

In-compliance to the aforesaid direction of Directorate project was got sealed by this office on dated 17.09.2020.

As per orders of Haryana Real Estate Regulatory Authority Panchkula dated 04.08.2022, the project is to be handed over to association, whereas, the project has already been sealed as per the direction of Directorate and this office is unable to make compliance of HRERA orders.

Therefore, a copy of HRERA orders is forwarded for appropriate orders of DTCP, Haryana in the matter so as to enable this office to proceed, accordingly.”

8. Authority has gone through the submissions made by respective parties, as well as the applications filed by association, the submissions made by learned counsel for respondents, and copy of the letter received from District Town Planner, Panchkula. It observes and orders as follows:

(i) First question is in regard to compliance of orders dated 18.05.2022 for handing over of full project to the complainant association, whereas respondent has handed over only four towers. Authority observes that in exercise of powers vested upon it by Section 8 of the Act, full project stands handed over to complainant association. Respondent has no option but to hand over entire project. In fact, it stands already handed over regardless of actions of respondents. Handing over of project by respondent to complainant is a non obligatory formality. This court of law has handed



over, full project to the complaint association, therefore, they shall be deemed to have taken over the entire project.

(ii) It is appropriate if respondent company removes their belongings from site which do not relate to construction of the project. If respondent fails to do so, complainant may prepare inventory of all material that belongs to respondent company and get it relocated at a convenient corner in the project site. Cost for such re-location shall be borne by respondent company. Complainant may give a notice of 15 days to respondent before doing so. If respondent do not take action at their level, complainant association will be free to take any reasonable action for taking peaceful possession of remaining part of the project.

(iii) The association states that contractor is not able to commence work because respondent has locked labour huts and has parked certain trucks etc. Complainant Association may give one week notice to the respondents that either they should remove locks from labour huts and remove trucks etc, or if they fail to do so, complainant association is well within their rights to break open the locks in front of a committee of members, prepare inventory of the material stored, secured that material at a safety place, at risk and cost of the respondent company.



Same action be taken in regard to the trucks and other equipments lying at the project site.

(iv) While ordering complainant association to take over entire project, Authority would clarify that remaining part of the site, leaving four towers aside, cannot be put to sale or to any consumptive use i.e., they cannot construct additional buildings. The vacant portions of the project site can be used only for facilitating construction of four towers or for laying such permanent or temporary infrastructure facilities as are already part of the approved plans/service plan estimates.

(v) Respondents are directed to give details of all those allottees who may have filed cases in various courts for refund of the money paid by them. If they failed to do so, complainants association may take further action under legal advice or by seeking guidance of this Authority.

(vi) Association has alleged that respondent had illegally sold 3 apartments in the year 2019 and there-after, which they were not entitled to do because project had not been registered with Authority. Respondent may submit their reply in regard to the allegations made by the association.

(vii) In the prayer clause of the application, association has requested to permit them to break seals of both gates for starting construction activity. Authority reiterates that association is in full possession of the entire project,

and usage of gates is necessary for carrying out construction activity. Nothing prohibits the association from breaking the locks of the main gate. However, all such activities must be supervised by a committee of members of the association.

(viii) In regard to letter addressed by District Town Planner, Panchkula addressed to Senior Town Planner, Panchkula, a copy of which has been endorsed to Executive Director of this Authority, Authority observes that the project has been handed over to the association in accordance with powers conferred upon the Authority by Section 8 of the RERA Act. RERA is a law of Parliament and as per law of the land, law of Parliament, would supersede any other law enacted by the State to the extent of contradictions, if any. Authority fails to understand the purpose of sealing of the project. The activity of sealing of the project may have been undertaken for enforcement of obligations of promoter towards Town & Country Planning Department. Those obligations will remain to be discharged by respondents. Department may get any of those obligations enforced on respondent at their own level. However, enforcement of such obligations will in no way adversely affect rights of the allottee-association to complete the project at their own level as provided for by Section 8 of the Act.

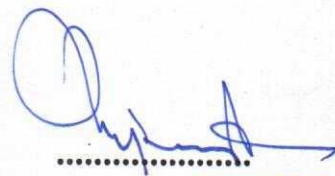


(ix) A reference has been made in respect of information obtained by Shri Varinder Gandhi from Town & Country Planning Department that building plans of the project have not been approved. A copy of the said letter dated 25.08.2022 issued by Director, Town & Country Planning Department under RTI has been annexed by the association with the application. The letter does not show if that building plans are not approved. It only states that the building plans of the colony has not been issued. Authority interprets that while the promoter had submitted the building plans, but because of certain disputes between the promoter and the department they have not been issued.

Authority observes that four twenty story towers have been constructed by respondents at a most prominent site at Panchkula. They are visible from any place in Panchkula city. It is incomprehensible that such huge towers were constructed without approval of the building plans. If so, what were officials of the department doing for the last over 15 years. Authority would assumed that the buildings have been constructed as per approved plans. If formally approved plans are yet to be issued by the department, DTCP is directed to expedite release of building plans of the project to ensure that association constructs remaining part of the project in accordance with such approved plans. The association may file an application for this purpose

before DTCP, Haryana. DTCP, Haryana further directed to get site plan inspected if there are any compoundable or non compoundable violations committed by the respondent, Those violations may be pointed out to the association for rectification at the cost of respondent company.

9. With above directions, adjourned to **10.11.2022.**



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]



NADIM AKHTAR
[MEMBER]



GEETA RATHEE
[MEMBER]