



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: Nadim Akhtar

Member

Geeta Singh Rathee

Member

Date of Hearing: 09.05.2023

Hearing: 30th

Present: Mr. B. K. Sood, authorized representative of GLM Buyers Welfare Association.

Ms. Sanya Thakur, proxy counsel for respondent.

ORDER (NADIM AKHTAR - MEMBER)

1. Authority vide its orders dated 18.05.2022 had handed over the project in question "Amazon Defence County" of the respondent situated in Sector 30, Panchkula to the association of allottees for completion of the remaining

construction and development works at its own level. Detailed guidelines were also issued with respect to further actions to be taken by the association of allottees. The Authority, with the view to ensure completion of the construction work within the stipulated timeline, after handing over the project to the association of allottees, closely monitors the progress of the project on periodic basis 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. In the present case project was taken over by association of allottees on 06.08.2022. However, respondent had only handed over 4 towers and not the complete project as ordered by this Authority vide order dated 18.05.2022. Complaint-association of allottees vide application dated 17.08.2022, sought necessary directions against the respondent for proper compliance of order dated 18.05.2022 and also for handing over of the entire project. Vide order dated 07.09.2022, Authority observed that in exercise of powers vested upon it by Section 8 of the Real Estate (Regulation & Development) Act of 2016, complete project was handed over to the complainant association of allottees. Possession of the project was handed over to the association of allottees on 18.10.2022. Vide last order dated 09.02.2023, Authority issued several direction. Relevant part of the order is reproduced below:

“8. Authority has gone through the submissions made by respective parties, as well as the status report filed by association of allottees and the submissions made by learned



counsel for respondents. It observes in exercise of its powers u/s 36 of the RERA Act of 2016 and orders as follows:

(i) Respondent promoter is directed to provide a soft copy of the accounts ledger of the allottees, so that the association can address the queries, if any, raised by the allottees with respect to payment of outstanding dues.

(ii) Regarding the interest of non member allottees, association is directed to give publication in two newspapers with information that the project has been handed over to association for completion and they are requested to contact the association if they are interested in their respective units in the project. If association does not receive any response from these non member allottees within 30 days from the date of publication then association is at liberty to put their unit on sale. Association has to refund the paid amount by these non member allottees without any interest.

(iii) With respect to service drawings, architectural, structure, fire fighting and service drawings, Authority directs respondent to submit a copy of the covering letter through which he submitted the service drawings in the Authority. Further, Authority directs the office to make detailed reference to Director, Town and Country Planning and Director, Haryana Shehri Vikas Pradhikaran with a request to locate the service drawings submitted by the respondent i.e., GLM Infratech Pvt. Ltd. and provide the copy of the same to the association of allottees.

(iv) Regarding an extra key to the entrance gate of the administrative office, Authority direct both the parties to amicably settle this issue. No new lock is required to be made of the entrance gate of administrative office.

(v) Regarding the display board, Authority observes that Association in compliance of the order dated 24.11.2022 has



made the required changes in the display board and Authority is satisfied by the same. With respect to the request of ld. counsel for respondent that association should be directed to place above mentioned board in the area of four towers, Authority rejects the said request as the board should be placed at the administrative block for the information of general public.

9. Case adjourned to 09.05.2023."

2. Today during the hearing, Ms. Sanya Thakur, proxy counsel for respondent promoter apprised the Authority that directors of the company are in judicial custody, due to which none of the directions issued to the respondent above could be complied with.

3. Mr. B. K. Sood, authorized representative of the association submitted that association has filed an application dated 03.03.2023 wherein association is seeking cancellation of flats allotted by respondent illegally against his personal liability to partners and land owners. Relevant part of the application has been reproduced below:

"2. That, it is submitted that the GLM Infratech Pvt Ltd was initially created as Bhoomi Infrastructure Company as a partnership firm with 10 partners in September 2006, to develop a Housing Project in 16.8 acres of land in sector 30 Panchkula. The project was to be completed in 2 phases. In first phase-, 456 units were to be constructed and handed over by 2012.

3. That, due to differences 5 parteners left in June 2011 and other 4 partners left in November 2013. On dissolution of partnership the share of partners were purchased by the Respondent and his son and partners were given 226 flats in the



project against their dues. Out of these 226 flats, 54 flats are located in 4 towers handed over by the Hon'ble Authority to the Association for completing the construction and handover possession to allottees by your order 18/05/2022. Annexure-1.

4. That the Bhoomi Infrastructure Company was reconstituted as GLM Infratech Pvt Ltd in December 2014 with Respondent Lt Col SS Deswal and his son Abhimanyu Deswal as directors.

5. That the Respondent acquired the share of partners to enhance his equity in the project and gave them 54 flats in 4 Towers for Zero payment in September 2016 whereas the partnership had been dissolved in 2011 and 2013. Details of partners and flats given to them are at Annexure -2. Since these flats have been given to Partners by the Respondent against his personal liability at Zero payment for having acquired their investments in the project. Hence they are not bonafide allottees and these should be cancelled. More over the Partners were the promoters of the project and are equally responsible for failure of the project and present state of affairs of allottees and deserve no leniency.

6. That, the Respondent acquired the project land from farmers through sale deeds which were registered in the court. As per sale deeds the farmers have received the full and final payment. However it is seen that the farmers have also been given 12 flats for Zero payment. The details are at Annexure-3. Since the 12 flats have been given to land owners at Zero payment, in spite of having made full and final payment as per Sale deeds hence they are not bonafide allottees and the allotments be cancelled.

7. That, the Respondent has not been fair and honest with allottees, partners and landowners right from the beginning and he is in the habit of violating his own affidavits, hiding important information like Sealing of Project by DGTCP and making illegal sales of flats when he is not competent/authorised to do so. His, this conduct of showing no respect to Law of the land should be viewed seriously.



8. That as per para 10(ix) of Hon'ble Authority order of 18/05/2022, vacant apartments of the project may be put to auction for generating funds after all the members have contributed 75% of the amount due to be paid by them in respect of balance sales consideration. The GBM of the Association held on 01/01/2023 has ruled that all members should pay 75% of their outstanding dues by end Feb 2023. In view of above it is prayed before the Hon'ble Authority to constitute a committee to fix the sale price of units available for sale as per prevailing market price and these rates may be reviewed after 6 months to keep parity with the market rates. An early action in this matter will ensure that the project construction is not delayed due to paucity of funds."

He further prayed that allotment of these flats should be canceled for the reason that respondent has made illegal allotment.

4. Shri. B. K. Sood, further submitted a progress report during the hearing and also verbally apprised the Authority regarding the progress made towards completion of the remaining construction/development work and problems/challenges that are being faced by the association. The same is reproduced below:

"3. That, in compliance of the Hon'ble Authority's order dated 09/02/2023 which was uploaded on 03/03/2023 the following actions have been taken.

a. That, as per para 8(1) of the above order respondent promoter was directed by the Hon'ble Authority to provide soft copy of the accounts ledger to resolve the queries of allottees regarding dispute in payments made, but the same has not been provided till date on the plea that both directors are in jail. The office staff of respondent refused to even accept a letter on this

had

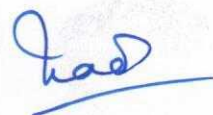
account. Annexure-1.

b. That, in compliance to para 8 (ii) of the order Public Notice was published on 04/03/2023 in two news papers to notify the non member allottees that HRERA Panchkula vide its order dated 09/02/2023 has directed all non member allottees who are interested in their flats should contact the association within 30 days of the publication this notice. In case of no response it will be assumed that you are not interested in the flat and same will be put on sale under orders of Hon'ble Authority. Annexure -2.

c. That, the Public Notice was sent to non members through mail as well as by post to safeguard their interest. Response was received from 18 non members and 1 partner. Details of response received from non members is placed at Annexure-3.

d. That, as directed in para 8 (ii) of the above order, no architectural structure. fire fighting and service drawings were provided by the respondent. As a last resolve the association has hired the services of an architect to prepare service and fire fighting drawings to ensure that the construction work is not stopped by the contractor due to non availability of service drawings. The latest progress of construction up to 05/05/2023 is placed for information of Hon'ble Authority. Annexure -4.

e. That, the Respondent has resolved the discrepancy in payment in case of 219 members as submitted in last hearing vide letter dated 25/11/2022 which has reduced the outstanding payment liability of member by Rs 3,58,85,600.00 Cr. This will further increase the shortfall by more than Rs 7.0 Crs which is a huge amount. This type of financial accounting cannot be accepted from a Pvt Ltd Co. Besides, this anomaly had not been detected/ pointed out in the forensic audit ordered by the Hon'ble authority because the respondent did not produce the



accounts for the period 2007 to 2014 for audit. We had submitted in the last hearing that association will not accept the revised outstanding dues report unless the Respondent gets it approved from the Hon'ble authority with supporting justification. Since it will increase the shortfall in funds from Rs 32 Crs to 40 Crs. No action has been taken by the respondent so far to justify the anomaly. Annexure-5

f. That, the addresses of 23 untraceable allottees who have been allotted 33 flats, provided by respondent during last hearing vide letter dated 02/12/2022 are not correct. With our best efforts we have not been able to contact these allottees and letters addressed to them have been received back undelivered and they have not responded to public notice either. Annexure 6.

ADDITIONAL POINTS FOR SUBMISSION

4. Construction Stopped by Wide life Department. That on 30/03/2023 Wide life warden visited the project and stopped the construction on the plea that this project falls under Eco sensitive Zone of Khol-Hi-Raitan sanctuary and any construction activity is banned as per Supreme Court Order of 03 July 2022. However this ban has been removed by the Supreme Court on 23 April 2023 and construction activities at the project has started again.

5. NCLT Cases. That, there are 7 creditors of respondent promoter who have filed cases in NCLT, Chandigarh for liquidation of the project. Association has Impleaded itself as a party. The main creditors are:

a. FUJITECH. This company has supplied 3 lifts to the respondent and are claiming Rs 1,72,86,547.00 including interest and litigation charges. The association has taken the plea that since the project has been handed over by Hon'ble Authority free of all



encumbrances vide its order dated 18/05/2022, hence we have no liability towards FUJITECH. However the company can either take back its stores which we have taken over during handing taking over of the project from the respondent or the company should check the serviceability of these lifts and association will be willing to buy the same at negotiated rates without any interest / legal charges which the company may claim from the respondent promoter.

b. That, the second claimant is Just Build Infra Tech. The respondent promoter has signed and (MOU) memorandum of understanding with Just Build Infra Tech on 15/08/2021 and allotted him 2 flats against his pending payment knowing the fact that he cannot make any sales in the project. The application filed by Just Build Infra Tech in Hon'ble Authority to honour this allotment was merged along with 4 other complaints with the association's complaint, while handing over the project. The association has already filed an application in the Hon'ble Authority to cancel the illegal allotments made by the respondent promoter which will also be heard during the hearing today.

c. That the next date of NCLT hearing is on 10/07/2023.

6. Fresh Electricity Connection at the Project site. *That, Hon'ble Authority vide para 6 (iv) of its order dated 24/11/2022 directed Superintending Engineer & Xen of UHBVN Panchkula to provide fresh electricity connection to the association at the project site immediately and recover the outstanding unpaid bill from the respondent. Accordingly the association applied for fresh connection alongwith copy of order dated 24/11/2022 of Hon'ble Authority but our application was rejected on 15/02/2023 Annexure 7. Subsequently we approached the Superintending Engineer UHBVN Panchkula vide our letter*



dated 30/03/2023 Annexure-8. On inquiry we were told that the matter has been forwarded for opinion of legal cell and response is awaited. In the absence of electricity connection the contractor is not able to use heavy machinery.

7. Removal of 3 hydra cranes hindering finishing of towers. That, there are three 90 meter Reggar & Supervision Hydra Cranes. These belong to respondent promoter and were taken over by the association during taking over of the project. These are placed close to the project and are hindering the construction work. These hydra cranes are self-dismantling, but presently are unserviceable and need to be made serviceable first, which is likely to cost approx Rs 7,00,000.00. Since these have been purchased by the respondent out of the money collected from allottees, hence it is prayed that association be permitted to sell these unserviceable cranes and its sale proceeds be credited in ESCROW account and used for completion of the project.

8. Increase in GST from 12 to 18 percent by Haryana Govt from Feb 2023. That, Government of Haryana has increased the GST rate from 12 to 18 percent vide notification No.12/04/20233FG1A which will add an additional burden of more than Rs 6.0 crs thus increasing the shortfall to approx Rs 46.0 crs.

9. Fund Shortage. That, the main problem being faced by the association is shortage of funds. Due to apprehensions of NCLT and negativity spreaded about the project, the members are reluctant to pay the outstanding amount till the fate of the project becomes clear. So far as against the outstanding payment of Rs 34.34 crs from the members we have received only Rs 8.0 crs. In the present situation, It is prayed that as ruled vide para 10 (ix) & (x) of order dated 18/05/2022 of Hon'ble Authority regarding sale of vacant flats to generate funds for the construction of project, be executed. The



association vide application dated 23/02/2023 has requested to constitute a committee to fix the sale price for the vacant flats and the same is placed for decision of the Hon'ble Authority in today's hearing.

10. That, it is also prayed that B1 & B3 towers which are constructed up to 17 floors only should also be constructed up to 20 floors and association be permitted to sell the super area of 57,000 square feet to the existing contractor. This will help in three ways. Firstly the contractor will construct the water and fire fighting tanks at these towers at his cost. Secondly money generated from the sale of super area will reduce the shortfall of funds and help in speeding up pace of construction and thirdly contractor will finish these towers speedily as his own interest is involved. This will help in restoring allottee's trust as well as that of potential buyers and will contribute in early completion of the project.

5. After taking into consideration, the submission made by Shri. B. K. Sood, Authority in exercise of its powers u/s 36 of the RERA Act of 2016 that Authority observes and directs as follows:

- (i) After perusing the application dated 03.03.2023, Authority is of the considered view that association of allotted is seeking cancellation of allotment of units in favour of erstwhile/retired partners and land owners, such relief, if granted will adversely affects the rights of erstwhile/retired partners and land owners (hereinafter referred as third parties). In the interest of justice, this application can only be decided after getting a reply from the respondent with regards to facts on what consideration these flats



were allotted to the retired partners and land owners. Therefore, respondent is directed to file reply and details regarding the allotment made in favour of retired partners and land owners.

- (ii) Respondent-promoter is again directed to provide a soft copy of the accounts ledger of the allottees, so that the association can address the queries, if any, raised by the allottees with respect to payment of outstanding dues.
- (iii) With respect to the issue regarding discrepancy in accounts of respondent of the payment received from 2019 members, respondent is directed to give details of accounts maintained by respondent and receipts generated to allottees for the payment made by them.
- (iv) Respondent is directed to comply with directions no. (ii) and (iii) within 30 days of uploading of this order failing which Authority will be constrained to impose penalty u/s 63 of the Act, 2016.
- (v) With regards to issue of removal of hydra cranes from the site, Authority observes that actual cost of cranes is not mentioned in the application to evaluate their present price, even if, these are disposed of as scrap. In view of the same, respondent is directed to get these hydra cranes removed



from the site. He is further directed to submit roadmap for removal of these hydra cranes from the site in a time bound manner.

(vi) Regarding the issue of contacting untraceable allottees, association of allottees is directed to publish a notice in two newspaper, one english and one hindi newspaper calling these untraceable members to clear status of rights and entitlement in respect to their units.

(vii) With respect to request of association of allottees for constituting a committee to fix sale price of vacant flats, it is suggested that association should seek services of two independent valuers to determine the market price of vacant flat on as is where is basis and the amount required for completion of these flats. Thereafter submit these documents to the Authority for passing appropriate orders.

6. With above directions the case is adjourned to 27.07.2023.


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Dr. GEETA RATHEE SINGH
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]