



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 Pvt. Ltd. erstwhile M/s Bhoomi Infrastructure Company

....RESPONDENT(S)

2. COMPLAINT NO. 1373 OF 2018

Rajesh Sood

....COMPLAINANT(S)

VERSUS

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

....RESPONDENT(S)

3. COMPLAINT NO. 603 OF 2019

Narinder Kumar Gupta

....COMPLAINANT(S)

VERSUS

Global Land Masters Pvt. Ltd.

....RESPONDENT(S)

4. COMPLAINT NO. 613 OF 2019

Madhu Aggarwal

....COMPLAINANT(S)

VERSUS

Global Land Masters Pvt. Ltd.

....RESPONDENT(S)

CORAM:

Rajan Gupta
Anil Kumar Panwar

Chairman
Member

Date of Hearing: 15.09.2020

Hearing:

14th (in complaint no. 559 of 2018)

11th (in complaint no. 1373 of 2018)

9th (in complaint nos. 603,613 of 2019)

Present: -

Ms. Rupali S. Verma, Counsel for the complainant through
video conference
(in complaint no. 559 of 2018)

Mr. Rajan K. Hans, Counsel for the complainants through
video conference
(in complaint nos. 603, 613 of 2019)

Mr. Nitin Sood, Representative of complainant through
video conference
(in complaint no. 1373 of 2018)

Mr. Jaswant Singh, Mr. Surjeet Bhadu and Mr. N.K. Bajaj,
Counsels for the respondent

ORDER (RAJAN GUPTA - CHAIRMAN)

1. An application has been filed on behalf of the respondent by Shri Surjeet Bhadu, Advocate, learned counsel for the respondent for reporting compliance of the directions given by this Authority to the respondent in its order dated 19.8.2020.



2. Shri Surjeet Bhadu, learned counsel stated that respondents are ready to provide all the documents to the auditor for carrying out forensic audit of the project. However, since the record is voluminous and bulky, the same was not feasible to be produced before the Authority today. It will be submitted to the Auditor whenever they wish to visit the office of the respondent. The respondent also handed over a sealed envelope containing certain documents of the project relating to the accounts of the project. The Authority directs the registry to hand over the sealed envelope to the auditors. The auditors are directed to keep the documents contained in the envelope confidential for perusal only by them and by this Authority. Further, the auditor should commence audit of the accounts of the project in the office of the respondent by giving them advance notice of atleast one week.

3. Regarding the direction to submit drawings and plans of the project, Shri Bhadu stated that all the documents are available in the office of the Authority as Annexures with their application filed for registration of the project.

The Authority directs the complainant to obtain a copy of the plans from the project section of the Authority.

4. Another application has been filed on behalf of the respondent by Shri Bhadu requesting for rejection of the request of the complainant association for handing over the remaining construction of the project to them.

The respondent pleaded that the complainants have not claimed the relief of handing over the project to them in their complaint. Further, the complainant cannot be permitted to get adjudication on the relief never claimed by them in terms of Section 31 read with Rule 28. There is no provision in the law to permit prayer without applying for under Rule 28 in form CRA. Shri Bhadu pleaded that there is no provision under the RERA Act to hand over the project for carrying out remaining construction/completion by an RWA. The respondents have also challenged the powers of the Authority to handover the project to RWA. Respondent has argued that sole jurisdiction to take control of the project is that of the Director, Town & Country Planning under Section 8 of the Act of 1975. Besides, there will be various practical difficulties in getting the project completed from the association because of lack of capabilities of the association to carry out such complex task. Shri Bhadu also pleaded that multiple associations have been found in the project. Such other associations are not party to the present proceedings, therefore, the claim of the complainant association as being the sole association is false.

5. In regard to the above submission of the respondent, the Authority refers to the provision of Section 8 of Real Estate (Regulation & Development) Act, 2016 as reproduced below:

Section 8 "Obligation of Authority consequent upon lapse of or on revocation of registration" - The Real Estate (Regulation and Development Act, 2016)

Upon lapse of the registration or on revocation of the registration under this Act, the Authority, may consult the appropriate Government to take such action as it may deem fit including the carrying out of the remaining development works by competent authority or by the association of allottees or in any other manner, as may be determined by the Authority:

Provided that no direction, decision or order of the Authority under this section shall take effect until the expiry of the period of appeal provided under the provisions of this Act:

Provided further that in case of revocation of registration of a project under this Act, the association of allottees shall have the first right of refusal for carrying out of the remaining development works.”

6. Further, Section 3 of the Act mandates that all ongoing projects should be registered with the Authority within a period of three months of coming into force of the Act. Section 7 of the Act deals with cancellation of the registration in the event of certain violations of the law.

Admittedly, the promoters have filed an application for registration of the project but the same has not been registered because of non-fulfilment of certain essential conditions prescribed in Section 4 of the Act as well as directions given by the Authority from time to time.

The Authority has ruled in several cases that those ongoing projects which as per law should be registered with the Authority but on account of non-compliance on the part of the promoters the projects could not be registered, such projects shall be treated at par with the projects in respect of

which the certificate of registration has been cancelled. Accordingly, all such projects in which the promoters are deliberately avoiding to fulfil the requirements of registration of the project shall be treated at par with the projects of which the registration has been cancelled. As such the provisions of Section 8 of the Act will become fully applicable on such projects.

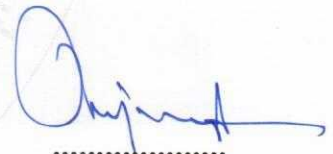
7. Looked at from above angle, this ongoing project in respect of which the promoters have not fulfilled the requirements for registration and have not complied with the directions of the Authority, can be handed over to the association of allottees. The Authority of course, will satisfy itself before handing over of the project to the association of allottees that such association has the backing of two-third allottees and also has requisite wherewithal and capability to complete the project. This Authority in similar circumstances has handed over a few projects to the associations and the associations are at advance stages of completion of those projects. The Authority in this case is still at the stage of exploring the feasibility of handing over the project to the association of allottees. The association has not yet shown that majority of the allottees with them. They are also yet to fulfil several other requirements prescribed by the Authority for them to prove their capability to complete the project.

8. In brief, the Authority is fully competent to hand over the project to the association of allottees. To that extent the application filed by the

respondent is rejected. The Authority however, will satisfy itself fully of the capabilities of the association to discharge the onerous responsibilities before deciding to hand over the project to them. Further decision in the matter will be taken as the situation evolves in the coming days.

9. Additional fact to be observed is that another association namely "Amazon Allottees Association" has also filed an application for impleading them as a party. The Authority summarily rejects the application of the said association. The second association may however file a separate independent complaint which will be examined on its own merit. The applicant association, however, is advised to join the larger group of the allottees and decide to pursue their remedies together. Multiple associations being formed will complicate the matters and this project may remain in doldrums.

10. With above observations, the matters are adjourned to 10.11.2020.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]