



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: Dr. Geeta Rathee Singh
Nadim Akhtar

Member
Member

Date of Hearing: 27.07.2023

Hearing: 31st

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

Lt. Gen. DDS Sandhu, authorized representative of GLM Buyers Welfare Association.

Mr. Mandeep Khillan, Advocate, counsel for applicant.

Mr. Sudarshan, Advocate, counsel for Impleader (UHBVN)

Mr. Rajeev Garg, representative of respondent company.

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.



2. Today initiating the proceeding, Mr. Mandeep Khillan, Advocate, submitted that he has filed an application under Order 1 rule 10 of CPC r/w section 151 of CPC & section 37 & 38 (2) of RERA Act, 2016 for impleading applicants (Karman Raghu Patel, Sohal Navin Gala and Sunil Keshavji Gala) as respondent no. 2 to 4 as necessary party in the matter. Applicants are the erstwhile partners of the directors of respondent company in erstwhile firm M/s Bhoomi Infrastructure Co. vide partnership deed dated 17.09.2006. At the time of the retirement of the applicants-erstwhile partners, respondent company was not in a position to payback the retirement dues in liquid form as in lieu of the retirement dues the applicant were allotted flats in the project. Flat buyer agreements of the allotted flats were duly executed by the then continuing partners. Since, the project has been handed over to the association of allottees for completion of the project, there is a likelihood that the Authority may pass some orders viz. 'Cancellation of the allotment' which is detrimental to the applicant. Hence, this application has been filed for impleadment so that applicants can defend their rights.

3. Mr. Sudarshan, Avocate, counsel on behalf of UHBVN appeared and submitted that that as per direction of this Hon'ble Authority vide order dated 24.11.2022 para 6 (iv) directed the superintending engineer and Xen, DHBVN concerned to immediately grant a fresh electricity connection to association of allottees for the project and claim the outstanding bill, if any, from the



concerned consumer; though department is not a party to the matter. Therefore, his requisition for impleading applicant-department as a party be allowed. He stated he will be filing the application and memo of appearance today in the registry.

4. Another application has been filed by Advocate Rajkumar Narang on behalf of applicant Mr. Suresh Ambavi Vavia who was one of the partners of the erstwhile firm M/s Bhoomi Infrastructure Co. through partnership deed dated 17.09.2006. At the time of retirement, applicant was allotted 36 residential flats in the project in lieu of the retirement dues. Flat buyer agreements of the allotted flats were duly executed by the then continuing partners. Now the project has been handed over to the association of allottees for construction in 4 towers, in the said 4 towers a total of 24 residential flats are the allotted flats of the applicant. Therefore, this application has been filed with the prayer that the association of allottees be directed to admit the applicant as an allottee and member of complainant association.

5. On the other hand, Ms. Sanya Thakur, Advocate counsel for respondent company stated that Rajiv Garg, representative of the respondent company is submitting written submission in compliance of the order dated 09.05.2023 of the Hon'ble Authority along with a pendrive containing soft copy of the of the accounts ledger of the allottees.



6. Thereafter, 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 09/05/2023 which was uploaded on 23/06/2023 the following update is submitted for information, consideration and orders of the Hon'ble Authority.

4. That, the Association's application dated 14/02/2023 for cancellation of illegal sale of flats made by the respondent even after having submitted an affidavit to the Hon'ble Authority that he will not do so, was discussed in details but the order is still awaited. It is prayed that the order of the Hon'ble Authority be announced. ANNEXURE-1.

5. That, in response to association's application dated 03/03/2023, Hon'ble Authority vide para 5(i) of it's order of 09/05/2023 has directed the respondent to file reply and details regarding the allotment made in favour of retired partners and land owners at zero cost. It is submitted for the information of the Hon'ble Authority that this illegal llotment has also been pointed out in the forensic audit ordered by the Hon'ble Authority. The auditor has observed that flats allotted to ex partners and land owners at zero cost is neither governed by the Retirement deed / Registered sale deed nor by any agreement. This amounts to diversion of funds of the project. Extract of Forensic audit is at ANNEXURE-2.

6. That, it is prayed that notice be issued to ex partners who have been given flats at zero cost in 4 towers to explain this illegal allotment and same be cancelled. The addresses of ex partners are given at ANNEXURE- 3.

7. That, the respondent has not complied with any directions of Hon'ble Authority's order in para 5(i) to (v) and a serious view must be taken as it is hampering the construction of the project.



8. That as directed by Hon'ble Authority Public Notice was published in two news papers to contact the untraceable allottees ANNEXURE- 4 and response was received from one allottee only who has 5 flats.

9. That, since the flats which can be put on sale to generate funds for the completion of construction are under construction and located on different floors of 20 story towers and can not be sold on as is where is basis. The association has obtained the costing evaluation from the Evaluator and it is recommended that the minimum sale rate of Rs 5,500.00 per square foot be approved, since the flats will not be registered in the name of buyers due to legal hurdles. Evaluator report is ANNEXURE- 5.

10. That, as per page 11 of Forensic Audit report under the head CANCELED FLATS there are 13 flats where booking amount is standing in the books under the head Booking From Customer but as per verbal information from the developer their flats have been canceled but amount is pending for refund. ANNEXURE-6. We have requested the respondent to provide the details of these 13 flats so that they are included in unsold inventory. Copy of letter is at ANNEXURE-7.

11. That, as regards Temporary Electricity connection, we met MD and Superintending Engineer UHBVN, they agreed in principle but wanted details of builder's License, Approved plan and Approved Electrification plan. We have requested the respondent to provide the same vide our letter at ANNEXURE- 8.

It is prayed that since respondent is not likely to provide the required documents. suitable directions be issued to UHBVN to provide the Temporary electricity connection on priority to the association.

ADDITIONAL POINTS FOR SUBMISSION

12 A Show Cause Notice was pasted on the wall of the office by Municipal Corporation Panchkula for recovery of property tax amounting Rs. 89,21,730 00 Staff of respondent refused to accept the notice. ANNEXURE-9. We met the Deputy Municipal Commissioner explained him the situation and have replied the notice vide our letter at ANNEXURE- 10.



13. The construction activities are going on smoothly and latest progress as on 25/07/2023 is at ANNEXURE- 11.

14. Receipt of outstanding payment from members is very slow due to negativity about the project. So far we have received Rs 7,27,36,172/-in ESCROW ACCOUNT and paid bills amounting to Rs1,53,18,395/- and bills amounting Rs 2,68,00,000/- are Pending for payment. It is prayed that permission for sale of flats of non-paying allottee be granted and base selling price as recommended be approved.

15. Necessary negotiations with the present contractor M/s Gawar Construction Ltd about the sale of super area of two towers to be constructed are in progress. Final quotes will be intimated for approval of the authority

PRAYER

Hon'ble Authority is humbly prayed that the relief requested above please be accorded for successful completion of the project."

7. Shri. B. K. Sood, further orally submitted that association is facing deficiency of funds and most of the allottees have already paid 75% of the total sale price as per their respective builder buyer agreement. Deficiency of funds can be met by sale of unallotted flats and flats of untraceable allottees in respect of whom notice has been issued in two newspaper by the association as directed by the Authority. He prayed that association be given permission to such flats on sale for generating funds for completion of the construction work.

8. 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 observes and directs as follows:



(i) With respect to application of impleadment, it is observed that since, Karman Raghu Patel, Sohal Navin Gala and Sunil Keshavji Gala and Mr. Suresh Ambavi Vavia were the partners of the respondent promoter and also have stakes in the project, therefore, they deserves to be impleaded as parties and hence, their application for impleadment dated 27.07.2023 and 30.05.2023 are allowed. Accordingly, Karman Raghu Patel, Sohal Navin Gala and Sunil Keshavji Gala and Mr. Suresh Ambavi Vavia be impleaded as respondent 2 to 5. Further, requisition of Mr. Sudarshan, Avocate, counsel on behalf of UHBVN for impleading applicant-department as a party is also allowed to facilitate compliance of directions given by Authority vide para 6(iv) of order dated 09.02.2023 and direction given thereafter by this Authority. Accordingly, UHBVN is impleaded as respondent 6.

(ii) With respect to that request of association of allottees that directions be issued to UHBVN to provide the temporary electricity connection on priority to the association for completion of construction work, it is observed that case undoubtedly falls under special circumstances where the licensee (respondent-promoter) was unable to complete the project, and Authority by virtue of the provisions of the RERA Act, 2016 has



handed over the project to the association for completion. Now the association is facing hurdles as UHBVN has refused to provide them connection because association has not submitted documents pertaining to licence of respondent, service drawings and other documents. These documents are not in possession of the association, during the course of the proceeding, it has been seen that association has made serious efforts to obtain these documents from respondent-promoter, however they have not been able to obtain the same. Since it is a case that falls under special circumstances, therefore, Authority directs Superintending Engineer and Xen, DHBVN concerned to consider exempting the association from submission of such documents and immediately grant a fresh electricity connection to association of allottees.

(iii) Regarding the request of association for permission of auction of unallotted flats and flats of untraceable allottees, it is observed that association has made all endeavors to continue with the completion of the remaining construction works, however, it is now facing severe financial crunch/fund shortage as to continue construction work in the project, most of the members of association have already paid 75% of the total sale price, they being middle income group people are not capable of bearing



more financial burden to get the project completed. Authority is of the view that the association with its limited resource/ non cooperation from the staff of the builder w.r.t. Providing necessary documents, is making every possible effort to get the construction of the project completed, there is no reason to doubt the bonafide efforts of the association. Hence, the Authority is of the view that to meet the financial requirement of association, sale of unallotted flats and flats of untraceable allottees is a necessary step. With following direction association is permitted to sell 25 unallotted flats and flats of untraceable allottees;

A committee consisting of the DTP, a representative of Deputy Commissioner (who shall be in Class-I officer in the district) and two representatives of the RWA (including President of RWA) shall be constituted which shall issue an advertisement in the leading newspaper for sale of the unallotted apartments and flats of untraceable allottees on as and where basis. The sale shall be made only by way of open auction after making wide publicity by way of advertisements in the newspapers. Association shall submit the recommendation of the committee to the Authority for its approval and only thereafter the allotment shall be made.



9. With above direction the case is adjourned to 19.10.2023.


.....
Dr. GEETA RATHEE SINGH
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]