



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 70 OF 2024

Parikrama Residents Welfare Association

....COMPLAINANT

VERSUS

1. Suncity Projects Private Limited
2. Santur Developers Private Limited

....RESPONDENTS

CORAM: Parneet S Sachdev
Dr. Geeta Rathee Singh
Chander Shekhar

Chairman
Member
Member

Date of Hearing: 24.10.2024

Hearing: 6th

Present: - Mr. Vivek Sethi, counsel for the complainant through VC.
Mr. Kamal Dahiya counsel for the respondent through VC.

ORDER (PARNEET S SACHDEV – CHAIRMAN)

1. Today, Mr. Vivek Sethi, counsel for the complainant appeared and pressed upon the fact that according to the last orders dated 26.09.2024 and 22.02.2024, the respondent was directed to file a detailed reply but the respondent has only

placed on record a short reply on 08.05.2024. However, detailed reply has not been filed by him till date.

2. In reply to the application filed by the respondent on 25.09.2024 for dismissal of complaint under order 7 rule 11 of CPC, the counsel for the complainant relied on page number 46 of the complaint file which deals with list of office bearers of governing body of association and stated that the contention of the respondent that Mr. Lalit Chopra is not an allottee is wrong and denied. Moreover, Mr. Lalit Chopra has been residing in the society since long. He added that it is not necessary that the authorised representative of the complainant needs to be an allottee to approach the authority. Hence, Mr. Lalit Chopra is rightly representing the Resident Welfare Association.
3. Whereas Mr. Kamal Dahiya, counsel for the respondent stated that he has filed an application challenging maintainability of complaint as per order 7 rule 11 of CPC on 25.09.2024. He argued on maintainability of the complaint stating that the representative of the complainant RWA i.e. Mr. Lalit Chopra lacks the necessary standing to file this complaint before the Authority. It is necessary for the RWA to act through a board resolution. However, Mr. Lalit Chopra is neither an allottee nor authorised representative of RWA. He apprised the Authority that the allotment in favour of Mr. Lalit Chopra was cancelled by the respondent vide cancellation letter issued by the respondent on 27.10.2017 and no conveyance deed was executed in his favour in respect of which he no more stands in the capacity of an allottee, hence he cannot be a member of the RWA. Moreover, he



stated that the deed of declaration which is being challenged by the complainant is a registered document and any change in respect of the registered deed of declaration has to be taken before the appropriate authority dealing with the Apartment Ownership Act, 1983. Thus, the RERA Act, 2016 does not apply to the said declaration.

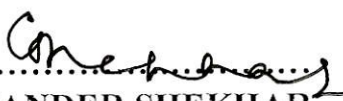
4. The counsel for respondent further stated the primary issue at hand is that the remedy to amend a deed of declaration lies in Apartment Ownership Act, 1983 only. To substantiate his point he relied over the case of "*Harshad Chiman Lal Modi v. DLF Universal Ltd*" stating that if court does not have jurisdiction over the subject matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order/ decree passed by a court having no jurisdiction upon the subject matter then every decree is null and void. Secondly, he stated that the present case at hand relates to the stage of post conveyance Deed matters, thus according to section 11(f) of the RERA Act individual rights cannot be entertained under the blanket of RWA. Once Conveyance Deed is done then promoters obligations under the RERA act are fulfilled and they stand discharged of their obligations as per RERA act and as such relation of promotor and allottee has come to an end.
5. He requested before the Authority that the complainant may be directed to file reply to the application challenging maintainability submitted by him on 25.09.2024 otherwise a statement be recorded that the complainant does not want to file reply.



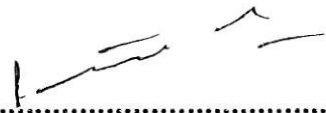
6. After hearing submissions/ arguments of both the parties and perusing relevant records, Authority observes that the complainant has attached a document which states the list of office bearers of governing body of RWA issued by Department of Industries and Commerce, Haryana which states that Mr. Lalit Chopra is holding the post as an executive member. Moreover, the complainant has also placed on record a resolution certificate signed by secretary of RWA in favour of Mr. Lalit Chopra which clearly reflects that there is no lack of standing in respect of the objection raised by the respondent regarding Mr. Lalit Chopra not being an authorised representative on behalf of the RWA.
7. The issue of maintainability under order 7 rule 11 of Civil Procedure Code, 1908 as discussed above, was raised by the learned counsel for the respondent during the last hearing, i.e., on 26.09.2024. Although Civil Procedure Code, 1908 in its entirety does not apply to RERA and proceedings are summary in nature, however, the complainant was asked to reply to the application of the respondent on the issue during the course of last hearing. The Authority is of the view that settling the issue of maintainability is a prerequisite to arguments on merits. Therefore, the complainant is once again asked to place a reply to the application of the respondent with respect to this issue, with a copy supplied to the respondent at least 4 weeks before the next date. If that is not done, the issue of maintainability will be heard on the next hearing and decided on merits.



8. Case is adjourned to 05.12.2024.


.....
CHANDER SHEKHAR
[MEMBER]


.....
DR. GEETA RATHEE SINGH
[MEMBER]


.....
PARNEET SINGH SACHDEV
[CHAIRMAN]