



HARYANA REAL ESTATE REGULATORY AUTHORITY, PANCHKULA.

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Extract of the resolution passed by the Haryana Real Estate Regulatory Authority, Panchkula in its meeting held on 05.06.2024.

Item No. 256.08

Continuation of registration under Section 7(3) of the RERA Act, 2016.

Promoter: M/s Saubhagya Colonisers Pvt. Ltd.

Project: "Milap Estates - I", an Affordable Residential Plotted Colony under DDJAY on land measuring 14.90 Acres being developed at Sector 4 Naraingarh, District Ambala.

Reg. No.: HRERA-PKL-AMB-77-2018 dated 12.12.2018 which was valid upto 30.11.2019. First extension valid upto 30.05.2021, Second extension granted upto 30.08.2022. Third extension granted upto 30.08.2023.

1. The promoter vide letter dated 29.08.2023, has applied for forth year extension of registration of their project, which was placed before the Authority on 19.09.2023 vide item no. 227.10, wherein the Authority decided that as the promoter has failed to complete the project, further sale of the project is banned. Authority further decided that audit of project be got done from a CA firm empanelled by HRERA. A public notice be published in newspapers for inviting objections from general public.

2. In view of the above, Auditor S. Mehtani & Company were appointed vide letter dated 17.10.2023 as auditors. Public notice was issued in the Tribune and Dainik Bhaskar newspapers on which no 06.10.2023. However, no objections from general public have been received.

3. Now, vide letter dated 22.05.2024, Auditor has submitted its report which is reproduced as under:-

RESIDENTIAL PLOTTED COLONY (261 NO. OF PLOTS) Under this project, the auditee was required to undertake construction of infrastructure development of roads &



pavement, water supply system, sewerage treatment plant, garbage disposal area, electricity supply systems and other construction on 261 plots. The said project was commenced by auditee in the month of May, 2019 and as on the date of the audit, the construction activities were yet to be completed.

DETAIL OF SEPARATE RERA BANK ACCOUNT OF THE PROJECT IN WHICH SEVENTY PERCENT OF THE AMOUNT REALIZED FROM THE ALLOTTEES ARE BEING DEPOSITED. While examining, it was noticed that an account (bank account number 2733002100105527) was initially opened by the auditee with Punjab National Bank, Naraingarh on 01.08.2018 as RERA Bank Account. Subsequently, a new RERA bank account number 921020018268962 was opened by the auditee with Axis Bank Ltd, Naraingarh for collection of the sums from the allottees on 25.05.2021. The approval in respect said change of RERA Account from Punjab National Bank to the Axis Bank was granted by HRERA vide Memo No.376-2021 dated 24.08.2021. Also to comply with the provisions of HRERA Act, a bank account number 921020019568052 herein after referred as 'separate bank account' with Axis Bank Naraingarh was opened on 18.06.2021. On examination of the bank statements of the above bank accounts vis.-à-vis. statement of sums received from the allottees, it was observed as under;

-The auditee has started realising the sums from allottees from 13.05.2019 whereas separate bank account was opened by the auditee on 18.06.2021.

-That a sum of Rs.2,59,06,699.00 was realised by the auditee from the allottees during the period from 13.05.2019 to 19.06.2021 and the same was deposited in Punjab National bank (account no 2733002100105527). It was observed that seventy per cent of the sums received from the allottees has not been deposited in the separate bank account.

AMOUNT RECEIVED FROM THE ALLOTTEES SHALL BE VERIFIED I.E. RECEIPTS ISSUED SHALL BE VERIFIED WITH THE AMOUNT RECEIVED IN THE BANK.

It was noticed that sums received from the allottees have been deposited in the various bank accounts. This has been checked on the basis of receipt books, list of allottees and bank statements produced before us. A test check applied on these documents reveals that a sum of Rs.10,72,31,511.93 received from the allottees during the period from 13.05.2019 to 30.06.2023 was deposited in various bank accounts maintained by the Auditee.

THE AUDITOR SHALL CERTIFY THAT PROVISIONS OF SECTION-4(D) OF THE REAL ESTATE (REGULATION & DEVELOPMENT) ACT, 2016 ARE BEING FOLLOWED AND WITHDRAWALS ARE IN PROPORTION TO THE DEVELOPMENT WORKS UNDERTAKEN AT SITE. IF NOT THEN UTILIZATION AND DIVERSION DETAILS OF THE FUNDS SHOULD ALSO BE MENTIONED.

WITHDRAWAL MADE FROM SEPARATE BANK ACCOUNT FOR THE PURPOSE OF CONSTRUCTION OF THE PROJECT



It is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project

It was noticed that the withdrawals from the separate bank account were not supported by these certificates as withdrawals were made on regular basis whereas certificates from Chartered Accountant and Architect were obtained on quarterly/periodical basis and certificate from certified engineer was obtained only on 30.06.2023. From examination of withdrawals made from the bank from time to time vis. a-vis. certificates obtained from Chartered Accountant, Architect and Certified Engineer on quarterly /periodical basis, it has been observed that certificates have been obtained by the auditee after making withdrawal and not before making withdrawal as laid down under Proviso to sub-clause(D) of clause (1) of sub-section (2) of section 4 of The Real Estate (Regulation and Development) Act, 2016.

On examination of amounts withdrawn from separate bank account as per bank statement vis.-à-vis. certificates issued by Chartered Accountant, variations as well as excess withdrawals in the certain periods were noticed.

It has been noticed that withdrawals from separate bank account were not made in proportion to the percentage of completion of the project as certified by the Architect.

It was noticed that amounts were withdrawn from the separate bank account from time to time, whereas certificate from engineer was obtained only on 30.06.2023. Since certificate has not been obtained at the time of making withdrawals from the bank, they are unable to report whether amounts withdrawn from the bank from time to time were in proportion to the percentage of completion of the project certified by certified engineer.

The auditee did not get its accounts audited for the financial years 2018-19, 2019-20, 2020-21 and 2021-22 from its Statutory Auditors, M/s VP G S & Co., Chartered Accountants as per third proviso to sub-clause(D) clause (1) of sub-section (2) of Section 4 of Real Estate (Regulation and Development) Act, 2016. Also the report for the financial year 2022-23, which was required to be obtained by the auditee by 30.09.2023 (i.e. within six months after the end of financial year) has been obtained on 11.01.2024. Thus third proviso to sub-clause(D) of clause (1) of sub-section (2) of Section 4 of Real Estate (Regulation and Development) Act, 2016 has not been complied by the auditee.

SITE VISIT AND SITE DETAILS. ASSESSMENT OF WORK DONE DULY SUPPORTED BY THE PHOTOGRAPHS.

It has been noticed that construction activities were being carried out on the said project. Photograph of the site enclosed

VERIFICATION OF SURRENDERED/ RESUMED/ CANCELLED/ RESTORED PLOTS.

It is noticed from the information and explanations provided to us that there were eleven cases of plots surrendered by the allottees. Further observed that in case of one



allottee (Hitesh Kalra), the entire amount has not been refunded i.e. against a sum of Rs.9,40,000 realised from the said allottee, a sum of Rs.3,90,000 has been refunded to the said allottee.

OTHER OBSERVATIONS

- a. The auditee was required to transfer seventy percent of the sums received from allottees in the Punjab National Bank to the separate bank account opened with Axis Bank for utilizing the same for cost of project. However, it has been noticed that instead of transferring the sums received from allottees in the separate bank account opened with Axis Bank and utilizing the same for cost of project, the sums were withdrawn directly from Punjab National Bank account, which is totally in contravention to the provisions of the Act. Although the direct withdrawals made from Punjab National bank were in contravention to the provisions of Act, it was noticed that even while making direct withdrawals from the said bank account, provisions of section-4(d) of the Real Estate (Regulation & Development) Act, 2016 have not been kept into consideration by the auditee.
- b. It has been noticed that withdrawals from bank account were not made in proportion to the percentage of completion of the project as certified by the Architect.
- c. It was noticed that amounts were withdrawn from the said bank account without obtaining the certificate of percentage of completion of the project from the certified engineer. Since certificate has not been obtained at the time of making withdrawals from the bank, they are unable to report whether amounts withdrawn from the bank from time to time were in proportion to the percentage of completion of the project certified by certified engineer.
- d. On examination of the sums refunded to the allottees on cancellation/ surrender of plots it, was observed that a total sum of Rs. 68,96,625.00 was realised from the allottees who have surrendered the plots. These sums were deposited by the auditee in Punjab National bank account no 2733002100105527. Out of the said sums, no sum was transferred to the separate bank account, whereas refund of Rs.63,46,625.00 has been made from the said account, thus resulting into withdrawal of Rs. 63,46,625.00 for the activities other than for the construction activities from the said separate bank account.
- e. On examination of the sum refunded to the allottee on cancellation of plots it was observed that a total sum of Rs. 3,75,000.00 was realised from the allottee who have surrendered the plots. The said sum was deposited by the auditee in Axis bank account no. 921020018268962(collection account). Out of the said sum, only Rs.2,62,500.00 (being 70% of the amount received in Axis bank account no. 921020018268962) was transferred to Separate Bank Account no 921020019568052), whereas refund of Rs.3,75,000.00 has been made from the separate bank account, thus resulting into withdrawal of Rs. 1,12,500.00 for the activities other than for the construction activities.
- f. On examination of the bank statement, it has been noticed that the receipts from the allottees were continued to be deposited in the Punjab National Bank inspite of opening of separate bank account. Similarly, instead of transferring the sums received in Punjab National Bank to separate bank account and making withdrawals from the separate



bank account, withdrawals were continued to be made from Punjab National Bank, which is totally in contravention to the provisions of the Act.

- g. It was observed that UDIN has not been mentioned in the certificates issued by M/s VP G S & CO during the period between March, 2019 to September, 2021. It was also noticed that Certificates of withdrawals issued by M/s VP G S & CO for the quarter ending March, 2019 to June, 2023 were not dated.
- h. As per provisions of section-4(D) of Real Estate (Regulation & Development) Act 2016, Act, the amount from Separate Bank account can be withdrawn to cover the cost of project viz cost of construction and land cost. However, it has been noticed from the information and explanations provided to us that certain withdrawals have been made for the purpose other than for the purpose of cost of project. Similarly, certain withdrawals have been noticed to be made from Punjab National Bank other than for the purpose of cost of project.
- i. While examining the bank statement, it was noticed that a sum of Rs. 23,67,500.00 has been paid to Mr. Pawan Kumar on 11.10.2022 for purchase of certain portion of land for the said project. However, no agreement in respect of purchase of the said land was produced before them during the course of audit.

4. Authority observes that a number of discrepancies have been pointed out by the CA firm appointed by Authority. Hence, Authority decided that a copy of auditor report be sent to promoter for comments. Promoter should submit the reply atleast two weeks before the next date of hearing.

5. Adjourned to 28.08.2024



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11/6/24.

True copy

Executive Director,
HRERA, Panchkula

A copy of the above is forwarded to CTP, HRERA Panchkula, for information and taking further action in the matter.

A (Shubham)