

PROCEEDINGS OF THE DAY

Day and Date	Tuesday and 26.03.2019
Complaint No.	2298/2018 Case Titled As Orchid Island Resident Welfare Association V/S Orchid Infrastructure Developers Pvt Ltd
Complainant	Orchid Island Resident Welfare Association
Represented through	Shri Rajinder Kumar on behalf of complainant with Shri Rajan Gupta Adv.
Respondent	M/S Orchid Infrastructure Developers Pvt Ltd
Respondent Represented through	Shri Ishaan Dang Advocate for the respondent.
Last date of hearing	First hearing
Proceeding Recorded by	Naresh Kumari & S. L. Chanana

Proceedings

Project is not registered with the authority.

Since the project is not registered, as such, notice under section 59 of the Real Estate (Regulation & Development) Act, 2016, for violation of section 3(1) of the Act be issued to the respondent. Registration branch is directed to do the needful.

Arguments heard.

In the present case, Orchid Island Resident Welfare Association has come forward with this complaint enlisting various issues vis-à-vis the developer-Orchid Infrastructure Developers Pvt. Ltd. through its Managing Director Level-II, Global Arcade, M.G. Road, Gurugram and other respondents

raising certain disputes w.r.t levy of the maintenance charges for which the respondent has already charged Rs.50/- per square feet of super area of the floor as maintenance security and further Rs.25/- per square feet of super area towards repairing of external façade of the building and approximately collected Rs.12 crores. As per the provisions of Sections 13 and 14 of the Real Estate (Regulation & Development) Act, 2016 respondent is supposed to hand over the maintenance after the formation of RWA through the residents for which the residents Welfare Association Society has come into being on 18.8.2015 and as per the provisions of RERA Act ibid the maintenance of the project has been handed over to the RWA on 1.4.2018. Now the residents have raised a pertinent questions w.r.t. handing over of Rs.12 crores approximately collected from the residents as corpus fund under IFMS so that they may perform day to day activities w.r.t maintenance of the project itself. However, in the meanwhile as per the assent of the residents and the respondent audit of the project was got done through M/s AAGN & Associates and report of previous three years has come on record which is Annexure-A. As per the audit report for the financial year 2013-14, 2014-15 and 2015-16 certain amounts have been shown to be arrears by the promoter/builder which are area in square feet (as certified by Management) i.e. Rs.3,700,881/- Rs.11,587,436 and Rs.17,721,786/-. However, it has also been alleged by the respondent vide Annexure R12 that builder/respondent in a very clever manner has shown each and every residents in arrears of maintenance charges which are available at page 236 and cumulative are to the tune of Rs.15,66,58,282/- which the residents have to pay.

It has also been alleged by the residents that builder/respondents have exorbitantly charged/raised maintenance charges from 1.25 per square feet to Rs.1.90 per square feet and also failed to provide electricity from DHBVNL and provided electricity at a very high rate from the generator sets at the rate of Rs.16/- per unit, as such the builder/respondent has to pay them back on this account.

Since the audit has already been concluded and audit report can not be challenged at this juncture. The matter turns out to be of civil in nature for which the association has approached the civil court and the matter is sub-judice before it.

In order to sort out the matter it is advisable that the court verdict in the civil matter may be awaited, once it comes out in that case the association can approach the RERA authority for its implementation.

It is a matter to be adjudicated by the Adjudicating Officer, both the parties are directed to get the matter adjudicated by filing the matter before the Adjudicating Officer.

Complaint stands disposed of in above terms. File be consigned to the registry.

Samir Kumar
(Member)
26.03.2019

Subhash Chander Kush
(Member)