



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 230 OF 2021

RWA Mapsko Garden Estate

....COMPLAINANT

VERSUS

M/s Mapsko Builders Pvt. Ltd.

....RESPONDENT

CORAM: Rajan Gupta
Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 04.05.2022

Hearing: 18th

Present: Mr. Saurabh Sachdeva, Id. counsel for complainant.
Mr. Akshat Mittal, Id. counsel for respondent through VC.

ORDER (RAJAN GUPTA - CHAIRMAN)

1. Present complaint has been filed by Resident Welfare Association of Mapsko Garden Estate through its authorised representative Mrs. Vidyotma & Mr. Naveen Kumar, alleging deficiencies in common services in the project Project "Mapsko Garden Estate" situated in sector 26, 26 A & 27, Sonipat. Grievances of complainants are in respect of alleged breach of contracts, false promises, gross unfair trade practices and deficiencies in the services committed by the respondent. Allottees of the project have made full payments against their

respective units, and respondent has handed over possession and also executed conveyance deeds, but even after delay of more than seven years respondent has failed to provide basic facilities and amenities such as 33KV Electric Substation, STP, club/community sites, internal roads, parks and proper arrangement of water supply, sewerage, drainage, waste disposal, etc.

2. Learned counsel for respondent has challenged maintainability of this complaint. His plea is that since complaint has been filed by Mrs. Vidyotma & Mr. Naveen Kumar in respect of their personal disputes relating to their unit i.e., Plot no. 050, Block MB, therefore it cannot be pursued on behalf of the association. Even documents attached with complaint also pertain to personal problems of the complainant. No specific cause of action has been disclosed in the complaint on behalf of Residents Welfare Association, therefore, the present complaint is not maintainable.

3. Learned counsel for complainant addressing the Court qua maintainability of complaint stated that complainant is an Association, duly registered under the HARYANA REGISTRATION AND REGULATION OF SOCIETIES ACT, 2012 vide 'Certificate of Registration of Society' dated 11.10.2020. Said certificate is attached at page no 15-19 of the written submissions of complainant association. Further, as per section 31 of THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016, any aggrieved person can file a complaint against any promoter allottee or real estate agent for violation or contravention of the provisions of this Act or the rules and regulations. For the purposes of filing



complaint, as per explanation to section 31, a registered association of allottees is a 'person'. Thus, as per section 31 (1) of the RERA Act, 2016 complainant can file a complaint before the Authority for redressal of their grievances on account of violation of the provisions of this Act by respondent promoter. Relevant part of Section 31 of the RERA Act, 2016 is reproduced as below:

“Section 31- (1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be. Explanation. —For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.”

4. After hearing both parties and perusal of records of the case, Authority observes that complainant is a registered association, duly registered by District Registrar, department of Industries and Commerce, Haryana on 11.10.2020 as per 'Certificate of Registration of Society' which is annexed at page 15-19 of written submissions. As per section 31(1) read with explanation thereof, Complainant Association being a registered association of allottees, can file a complaint with Authority in case it is aggrieved on account of any violation or contravention done by the promoter of the provisions of RERA Act 2016 or the rules and regulations made thereunder. Therefore, Authority observes that present complaint is maintainable and decides to proceed on merits of the complaint.



5. After determining the preliminary issue of maintainability, Authority proceeds to decide the case on merits. Vide the complaint, deficiencies pointed out by ld. counsel for complainant can be summarised under eight heads:

- i. Non- provision of 33KV Electric Substation
- ii. Non- functioning of STP or connection of sewerage to the main line of the city
- iii. Non- construction of Club/Community sites
- iv. Inadequate water supply
- v. No development of parks and green belt
- vi. Non-construction of Internal roads
- vii. Non-functional storm water drainage system
- viii. Non-installation of Rainwater harvesting system

6. Learned counsel for the respondent has submitted his written statement whereby he has replied to each alleged deficiency separately. Submissions of respondent can be summarised as follows:

- i. Regarding 33KV Electric Substation; site for the substation had already been identified. Intimation qua same has been duly given to the concerned department. Respondent-promoter has fulfilled their obligation in regards to substation. Now electric substation is to be installed by UHBVN. Hence, any delay which is being caused, is at the departmental level and not by respondent.

- ii. Regarding STP or connection of sewerage to the main line of the city, it is submitted that responsibility of the respondent was limited to laying the internal sewer line, respondent duly discharged their liability as internal sewer lines have already been laid and are fully functional. The onus of laying the MAIN sewer line was on HUDA or other concerned authorities. After laying MAIN sewer lines, the department had to give permission to the respondent to connect internal sewer lines to the said MAIN sewer line. Said permission was granted vide letter/memo dated 02.08.2021, and subsequently the work has been done by the respondent.
- iii. Club/Community sites whereby it is in the final stage of completion and finishing works are in full swing. Schools are already functional and temple is constructed and fully operational.
- iv. Regarding inadequate water supply, it is submitted that overhead water tank is already operational and there is proper water supply. Furthermore, waste disposal is duly taken care of by the respondent. Municipality provides regular facility for disposal of waste/garbage.
- v. As far as allegation regarding non development of parks and green belt and internal roads are concerned, respondent has completely denied them on the ground of being false and baseless as parks, green belt and internal roads are fully constructed and properly maintained.




vi. Respondent also denied allegation regarding non-functional storm water drainage system and rain water harvesting system which are properly installed and fully functional.

7. After hearing arguments of both the parties and considering their written submissions, Authority is of the view that respondent has already received Part Completion Certificate qua the project from the Department of Town & Country Planning, Haryana on 26.02.2014 vide memo no. LC-1501-Voll-III-JE (BR)-2014/4182. Copy of the same was submitted by counsel for the respondent later on after the hearing. Grant of Part Completion Certificate creates a presumption that respondent has installed all infrastructural facilities as per the approved plans. Issue remains in regards to connection of those facilities with the external work. Responsibility to complete external work remains with the concerned departments such as HUDA, UHBVN etc. Hence, respondent-promoter has completed all the facilities at their own level, there is no deficiency as such at their level. Since the project has received Part Completion Certificate and complainant association has failed to place on record evidence to show deficiencies in the services by the respondent. Therefore, Authority considers this complaint is not maintainable.

8. Further, Authority directs the respondent to handover the possession of the colony to authorised Residents Welfare Associations. They should issue public notice calling upon registered RWA with 51% majority of allottees to take the possession of the colony and undertake maintenance activities of the colony.

9. **Disposed of** in above terms. File be consigned to record room.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]

