



Complaint No. 1089/2018

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1089 OF 2018

Savana Welfare Association

...COMPLAINANT(S)

VERSUS

RPS Infrastructure Limited

...RESPONDENT(S)

CORAM: Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Date of Hearing: 13.07.2022

Hearing: 21st

Present: Mr. Rahul Rathore, Ld. Counsel for the complainant.

Mr. R.C Gupta, for the Respondent.

ORDER (DILBAG SINGH SIHAG - MEMBER)

1. While perusing case, it is observed that this complaint has been filed by Resident Welfare Association of 'SAVANA' through its Joint Secretary and Authorized signatory, Mr. Mahesh Kumar, alleging various deficiencies in common amenities and infrastructural facilities in the project 'SAVANA' situated in Sector-88, Faridabad apart from seeking refund of

Interest Free Maintenance Security (hereinafter called IFMS) from the respondent. They alleged breach of contracts, false promises, gross unfair trade practices and deficiencies in the services and infrastructural facilities committed by the respondent.

Ld. counsel of the Complainant-Association pleaded that after obtaining license No. 1029-1031 of 2006, respondent advertised for booking of 2297 flats in 27 towers and highlighted the club, gym, swimming pool facilities etc. in the project. Accordingly, respondent allotted flats in the project. Occupation Certificates were issued from time to time to respective allottees, for groups of towers which were completed between July 2013 to June 2017. Allottees of the project have made full payments against their respective units. Respondent has also handed over possession apart from execution of conveyance deeds in their favour. But respondent has failed to provide basic facilities and amenities even after 12 years which were promised at the time of execution of BBA and illegally withheld 10 crores of IFMS amount collected from allottees which is to be paid to Association.

2. Various deficiencies pointed out by Ld. Counsel for complainant can be summed under 6 heads:

(i) Respondent has not yet obtained a domestic electricity connection from the concerned department for ensuring adequate electricity to the allottees of his project. Consequently, he and other allottees have been harassed to pay at commercial rates;

(ii) Respondent has not made arrangements for providing adequate electricity back up despite having already collected money from the allottees rather generators are taken on rent that too just half the number of the generating sets necessary to meet electricity requirement of the allottees;

(iii) Respondent has not yet transferred and illegally withholding the amount of IFMS collected from the allottees;

(iv) Respondent even after collecting money from allottees has not provided them the facility of club, swimming pool and GYM;

(v) Respondent has installed sewerage treatment plant having capacity to handle 1000 CUM per day against project's requirement of 2400 CUM per day, as mentioned in the environmental clearance document and

(vi) Respondent has encroached upon the green areas as demarcated in the approved building plans.

Ld. counsel for complainant also affirmed that the complainant-association is duly registered on 15.02.2017, copy of which has been annexed at page no. 151 of the complaint file proving that this Association is a genuine Association of the allottees and it has every right to defend overall interest of the allottees as per terms of agreement with allottees.

3. In reply, Ld. Counsel for the respondent had made following submissions while refuting alleged deficiencies which may be summarized as follows: -



(a) Respondent has duly sanctioned a connected load of 4472 KW and is in process of getting additional partial release as per the requirements.

(b) Respondent is ready to handover maintenance of the colony to the Complainant-Association but Association is deliberately avoiding it. Further, IFMS will be transferred to the Association when maintenance and administration of the colony is taken over by the Association.

(c) Club, Swimming pool, gym is in progress and in full swing and is expected to be operational in short span of time.

Ld. Counsel for the respondent also submitted that 2 MW domestic electricity connection has already been obtained and respondent is also in the process of having said connection upgraded to a capacity of 4 MW. Thereafter, requirement of all the allottees to have adequate domestic electricity supply would get satisfied. He further submitted that Sewerage Treatment Plant (STP), already in existence, is capable of serving the requirements of the allottees who are presently residing in the project as present installed capacity of STP is 1 MLD which is adequate as per actual requirement of the project. The contention of the complainants' counsel on the other hand is that the domestic electricity supply as well as capacity of present STP is not adequate to cater the need of the allottees residing in the project.

So long as providing facility of Club, Swimming Pool and GYM are concerned, respondent stated that facility of GYM is available from very beginning and residents have been using the same regularly. Further, club house is in the process of being upgraded and it will be operational soon. Swimming pool facility to allottees could not be provided due to COVID-19 restrictions imposed by the government. Learned counsel for complainant stated that facility of Club, Swimming Pool and GYM are not at all available.

4. Since, there was a contradictory stand in opinion of respondent and complainant about the existing status of amenities and facilities available for allottees, therefore, Authority had appointed M/s Space Ace Planners Architects and Designers vide order dated 11.11.2021 as a Local Commissioner for submitting comprehensive report on following points:

- (i) Whether the respondent had obtained domestic electricity connection?
- (ii) What is the sanctioned load of the domestic connection if any obtained by the respondent?
- (iii) What is the present need of electricity of the allottees already residing in the project as per the calculations prepared by an expert?
- (iv) Whether or not the already obtained domestic electricity connection meets the present need of allottees residing in the project?



(v) Whether STP had been installed in the project and if so, what is its capacity and if such capacity is capable of satisfying the needs of the allottees residing in the project?

(vi) Whether the facility of Club, Swimming Pool and GYM is in place in the project?

(vii) To what extent and form, the facility of Club, Swimming Pool and GYM is being provided to the residents residing in the project?

5. Thereafter, Local Commissioner has placed on record its comprehensive report on 13.06.2022. Relevant part of the same is reproduced hereunder on following points: -

(i) Whether the respondent had obtained domestic electricity connection?

Yes, respondent builder has obtained domestic electricity connection. From April 2022 demand of the entire society is fed on 4000 KW against Ultimate Sanctioned Load of 12321 KW or 13690 KVA.

(ii) What is the sanctioned load of the domestic connection if any obtained by the respondent?

Ultimate Sanctioned Load is 12321 KW or 13690 KVA against which 4000 KW is connected to RPS Savana by DHBVN as on date.

(iii) What is the present need of electricity of the allottees already residing in the project as per the calculations prepared by an expert?

a. **Conclusion on the peak load consumption data** (maintained by JLL and submitted by Clair Heights Estate Services Pvt. Ltd.): From the referred data, it can be concluded that maximum need of the allottees is approximately 6000-7000 KW (with +/-25% variation could be seen in peak and non-peak seasons.

b. In context to the above-mentioned data, a load sheet reflecting the present need of the allottees is calculated here below based on the DHBVN Sales Circular No. D-16/2017 Memo No. Ch-16/SE/Comml. /R-16/28/2004/F-11 dated 12/04/2017.

c. **Final Conclusion:** Load calculation sheet prepared on the basis of above mentioned circular (point no. b), it can be concluded that maximum need of the allottees is approximately 8.69MW (i.e., within the 25% variation clause of 7.0 MW as mentioned in point no. (a).

(iv) Whether or not the already obtained domestic electricity connection meets the present need of allottees residing in the project?

As per the peak load calculation sheets, it is observed that present connected load of 4000 KW meets the needs of the allottees residing in the project in non-Peak Seasons Like October to March. For Peak Seasons Like April to September load for the society must be enhanced to meet its demand. Load shall be as advised in answer to question no. (iii)above.



(v) Whether STP had been installed in the project and if so, what is its capacity and if such capacity is capable of satisfying the needs of the allottees residing in the project?

Yes, STP is installed at the site. Capacity of existing STP is 1.0 MLD.

STP Required as per Current Occupancy/ Full Occupancy:

- As per current occupancy, 1.25 MLD capacity of STP is required.
- For Full Occupancy Capacity, 1.5 MLD capacity of STP is required.

(vi) Whether the facility of Club, Swimming Pool and GYM is in place in the project?

a. Club with facilities of banquet, restaurant and indoor games play area is present at site and being operational. The same is operated and maintained by M/s Chander Jain Caterers.

b. The area of swimming pool is already assigned. The same is under process of construction as on our date of visit.

c. Gym is operational on site. The same is operated and maintained by M/s Be Fast fit.

(vii) To what extent and form, the facility of Club, Swimming Pool and GYM is being provided to the residents residing in the project?

a. The services of club with Restaurant, Banquet and indoor games play area are present at site. The services of Restaurant & Banquet are on chargeable basis for the residents.

b. Swimming Pool is under construction and non-operational as on our date of visit.

c. Residents are to take membership of the gym (non-chargeable basis as on our day of visit).

6. Authority has studied the report of Local Commissioner, and came to conclusion that respondent has mostly complied with the basic services and facilities as per the terms of agreement. It is required that load connection for the society need to be enhanced to meet its demand; capacity of STP need to be enhanced from 1 MLD to 1.5 MLD for Full Occupancy Capacity; swimming pool is under construction and remaining things have already been installed and are functional. Therefore, final directions are issued to the respondent to provide remaining facilities as per service plans estimates approved by the government.

7. Complainant- Association during hearing also states that they have already achieved membership of 2/3rd allottees, therefore they are qualified to take over the project. They have placed on record vide application dated 21.02.2022 against Dak Receipt ID 14276, list of members showing that owners of 1592 flats out of total 2344 flats had become its members and thereby acquired membership of 68% of flat owners. It has also been stated that complainant-Association is in progress of conducting elections to elect the executive body from the enlarged membership and the entire process of elections will be completed by 3rd week of August 2022. Therefore,



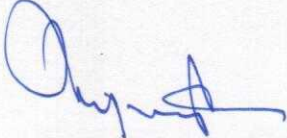
Authority considers that if stated strength has been achieved, project deserves to be handed over to Association of allottees as may be deliberated and Complainant- Association is directed to report to the Registrar of Societies to substantiate their claim that they have membership of 2/3rd allottees.

8. After hearing both parties, Authority is of the view that the respondent has failed in its duty to deposit IFMS amount of Rs. 10 crores collected from allottees in a separate bank account in non-compliance of various orders of the Authority dated 28.01.2020, 08.10.2020, 05.08.2021 and 11.11.2021. Therefore, final directions are given to respondent to return IFMS amount of Rs. 10 crores to the Association within three months of uploading of these orders.

9. Further, vide order dated 11.11.2021, both parties were directed to deposit an amount of Rs. 20,650/- each to meet out the expenditure of the Local Commissioner. Accordingly, complainant has deposited an amount of Rs. 20,650/- on 29.11.2021. Respondent has not yet deposited said amount. Therefore, respondent is directed to deposit an amount of Rs. 20,650/- in accordance with orders of the Authority dated 11.11.2021, to meet out the expenditure of the Local Commissioner.

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10. **Disposed of.** File be consigned to record room and order be uploaded on the website of the Authority.


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RAJAN GUPTA
[CHAIRMAN]


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DILBAG SINGH SHAG
[MEMBER]

