



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 89 of 2019

Piyush Heights Residents Tower J & K
Welfare Association

....COMPLAINANT

VERSUS

Piyush Buildwell India Ltd.

....RESPONDENT

CORAM:

Rajan Gupta
Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 05.08.2022

Hearing: 25th

Present:

Ms. Aishwarya Dobhal, Counsel for the complainant-
association

Mr. M. C. Jain, Ex-President of Piyush Heights Residents
Tower J & K Welfare Association for complainant-
association

Mr. Roop Singh, Id. Counsel for non-associated members

Mr. Rahul Rathore, Id. Counsel for non- associated RWA

None for the respondent

ORDER (DILBAG SINGH SIHAG-MEMBER)

During hearing, Mr. M C Jain, ex-president of the complainant-association has appeared with Advocate Aishwarya Dobhal and submitted that possession certificate for 8 non-associated members are ready and possession will be handed over shortly. She further submitted that surviving director of respondent company is out of jail now. Therefore, he may be directed to participate in execution of conveyance deeds of the allottees since they are already in possession of their respective apartments.

2. Besides above some minor issues have also been raised. It has been submitted that auction of scrap disposal had been obstructed by the main RWA of Piyush Heights. He further submitted that one application has been filed by the owners of flat no. J-112 namely, Kiran Taneja and Yogesh Taneja to change the ownership in the documents and to mention the name of only Ms. Kiran Taneja and delete the name of Yogesh Taneja.

3. Be a separate development, Mr. Roop Singh, counsel for non-associated members filed applications on behalf of three more non associated members/allottees namely, Ms. Rashmi Attri, Swarup Singh and Poonam Rathore for issuing directions to the association of Tower J and K to hand over possession of their respective apartments without any further delay that too without charging any additional amount as they have paid more than their

respective total sale consideration. But they are ready to pay any amount charged by the association from the members of the association on pro rata basis.

4. Further, Mr. Rahul Rathore appearing on behalf of Piyush Heights RWA submitted that scrap material sought to be auctioned by the complainant-association belongs to whole society not to the complainant-association only. So, a direction be issued that scrap material be auctioned in a transparent manner and amount so recovered from this process be deposited in account of association.

5. After hearing all and considering papers on record, Authority observed that two towers have been completed by the association and possession of flats has already been handed over to the members/allottees. Now, remaining responsibilities of the promoter is to execute conveyance deeds in the favour of allottees. Therefore, respondent is directed to cooperate in execution of conveyance deeds and to appear before competent authority within 45 days to do the needful. If respondent fails to do the same, Authority will authorise an official for the purpose of execution of conveyance deeds.

6. So far as issue of changing ownership/title of Ms. Kiran Taneja and Yogesh Taneja is concerned, Authority observed that generally name of the owner cannot be changed on a lawfully executed document without the consent of other(second) party executing the document. The allotment letter was issued by the respondent and association was formed to complete the construction



work and to hand over possession only. So, Authority is prima facie is of the view that association cannot alter/change the name/title of the allottee to another.

7. Another issue is regarding auction of scrap material, Authority in this regard orders that complainant-association should adopt a transparent mode for auctioning of scrap material and amount so recovered from that process shall be deposited in the account of complainant-association. Deputy Commissioner, Faridabad is directed to depute his representative to oversee the process of auctioning scrap material. Association shall maintain precise record of the process and shall deposit the amount in the account of association.

8. So far as issue of prayer of non-associated members is concerned, Authority has considered the same and is of the opinion that after paying nearly full sale consideration to the respondent company, these allottees have acquired a vested/legal right in the property in question. Such right cannot be denied to the allottees by the association. Mr. MC Jain submitted that these allottees are required to pay ₹1,53,274/- (₹1,39,340/- plus ₹13,934/- penalty), the amount which has been paid by the other non-member allottees on pro rata basis. Penalty has been imposed for not responding on time to become the member of the association at the time of completion of construction of Towers as per order dated 31.05.2022 passed by the Authority. Authority is of the view that the association is to hand over possession of allotted apartments to all non-

associated allottees on behalf of which applications have been filed on the same principles which have been advised in case of members of association. Association is entitled to recover outstanding dues from these allottees and the dues should be recovered on pro rata basis as has been paid by other members of the association.

9. Adjourned to 20.10.2022.



.....
(RAJAN GUPTA)
CHAIRMAN



.....
(DILBAG SINGH SIHAG)
MEMBER

