



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 556 of 2022

HRERA, Panchkula

....COMPLAINANT

VERSUS

Victory Buildestates Pvt Ltd.

...RESPONDENT

**CORAM: Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 09.05.2022

Hearing: 1st

Present: - None for the respondent/Promoter.

ORDER (RAJAN GUPTA-CHAIRMAN)

1. This Suo motu complaint had been generated on 01.04.2022 along with a show cause notice issued to the promoter for cancellation of registration as per the orders passed by the Authority on 14.03.2022 in complaint no. 2978/2019 titled as ABL Harmony Flat Allottees V/s Victory Buildestates Pvt. Ltd. The promoter has seriously violated the conditions of registration and has not completed the project by March'2020. In fact, it has been abandoned by him.

2. The orders passed by the Authority on 14.03.2022 is reproduced below for reference:

“These proceedings have been initiated by Complainant ‘ABL Harmony Flat Allottees Association’, hereinafter called ‘Association’ against Promoters of the project M/s Victory Buildstates Pvt. Ltd.’ This project is being developed over land area measuring 5.03 acres for construction of 352 apartments. Licence No. 133 of 2014 was granted to the project and the project is registered with this Authority bearing Registration No. HRERA-PKL-RWR-58-2018. 4 (Four) Towers were proposed to be constructed in the project, each containing 88 flats. More than 60% of apartments in the project have been sold. Most of the sales took place between the years 2014 to 2016. Completed apartments were supposed to be delivered by the year 2018-2019.

2. As per the records available, notice to the respondent was delivered on 30.12.2019. On request of the complainant, a substituted service of notice was effected by publication in newspaper “Indian Express” dated 14.03.2020. The presence of the respondent could not be secured by this method also, therefore, Authority vide order dated 16.09.2020 decided to proceed ex-parte against them.

3. Representatives of complainant Association state that Sh. Mukesh Modi and Sh. Virender Modi, are directors of respondent-company, who at present are in jail on account of certain criminal offences allegedly committed under Prevention of Money Laundering Act (PMLA). Representatives of Association further stated that they are behind bars for last more than 2 years.

4. Sh. Kamaljeet Dahiya, Advocate, learned counsel for complainant-Association pressed his case for handing over of project to the Association at the earliest because respondent-promoters have abandoned the project and no development in the project is taking place for last over 3 years. Learned counsel Sh. Dahiya further states that out of 352 flats 249 flats have been sold. Against total estimated cost of about Rs. 42 crores for the entire project comprised of 4 towers, allottees have paid an amount of about Rs. 16 crores. Some allottees may have paid more than average amount paid by the allottees.

5. Today is 11th hearing of the matter. The Authority has been trying to evaluate capabilities of complainant-Association to be able to take over the project and complete it at their own level. For proving their



capability, the Association has so far demonstrated the actions taken by them as follows:-

i) Out of total 247 allottees in the project 167 allottees have become members of the Association. In support of their contentions, it was stated that affidavits of all 167 members of the Association have been obtained and a copy thereof has been submitted to this Authority. (Law Associate shall confirm that affidavits of 167 persons are available on record). Representatives of the Association, however, stated that information in regard to membership has not been furnished to Registrar of Societies. The complainant-Association is advised that this information along with list of all members should be submitted to Registrar of Societies for record and after such submission, a copy of authentic information so submitted should be given for record of this Authority.

ii) Sh. Kamaljeet Dahiya, learned counsel stated that more allottees are willing to become member of the Association, but they will do so once an actionable order is passed by this Authority for handing over the project to them.

Authority hereby expresses its views that if the Association successfully demonstrates its capability to take over and complete the project, it is a duty of Authority to hand over the project to them. So far it appears that the Association is serious in taking over this project subject to arrangements of funds etc. The Association should try to increase its membership because that will be in the common interest of all the allottees.

iii) Association has got a project report prepared from M/s K.Y.A. Consultants Pvt. Ltd. Showing therein current status of the project as well as proposed plan of action for completion of the project. Sh.K.K. Bhugra, Director of M/s KYA Consultants Pvt. Ltd. is present today to assist the Authority in its deliberations.

iv) Regarding mobilization of funds, out of 167 members of the association, most of the allottees have contributed Rs.25,000/-, while some have contribute Rs.50,000/-. Total amount collected by the Association so far is Rs. 40.75 lacs.

Sh. Dahiya, learned counsel states that once an order indicating that the project will be handed over to this Association is passed, Association will collect requisite 25% of projected cost for completing Tower A & B in first phase.



In support of his contention Sh. Dahiya stated that each of 167 members have given an affidavit that they will be paying the entire amount due from them.

6. Director of M/s KYA Consultants, Sh. Bhugra and learned counsel Sh. Dahiya discussed relevant facts of the project report for completion of the project in detail. They submitted as follows:-

i) *The project is comprised of 4 blocks namely A, B, C, & H. Block-A is complete to the extent of about 80%, Block-B is complete to the extent of about 60%, Block-C is constructed to the extent of about 30% and Block-H is constructed to the extent of about 10%. Each tower has 88 flats out of which 63, 69, 57, 70 flats respectively in Tower A, B, C and H have been sold, and remaining 25, 29, 31 and 18 flats respectively are unallotted.*

ii) *Against estimated project cost of said 60.83 crores Rs. 16.38 crores have already been invested and remaining over Rs. 44 crores needs to be invested for its full completion.*

iii) *The Association upon detailed consideration of the matter, and in consultation with their consultants M/s KY Consultants, is of the view that first of all they may be allowed to complete tower A & B along with requisite external services for the entire project, i.e. roads, drinking water supply system, storm water draining system, sewerage disposal system as per approved plans and electricity supply system.*

iv) *That balance cost of completion of tower-A is about 4.50 crores and the balance cost of completion of tower-B is about Rs. 6.0 crores, thus total amount of about Rs. 10.50 crores, is needed for completion of the towers A and B. Further, about Rs. 8.25 crores is needed for laying 5 essential services for the entire colony. Thus total funds required for completion of tower A&B along with external services for entire project comes to about Rs. 19.75 crores, say Rs. 20 crores.*

7. The Authority after consideration of submissions made by learned counsel Sh. Dahiya, consultant Sh. Bhugra, and representatives of complainant-Association, and after examination of report of the consultant arrives at following conclusion:-

i) *In tower-A, 63 apartments have been sold and in tower-B 59 apartments have been sold thus leaving 25 and 29 apartments vacant respectively in these two towers. Since money paid by allottees of tower C & H may also have been invested in development of overall project, first right should*

be given to allottees of tower C & H to get themselves relocated in the unallotted apartments of tower A & B.

ii) For this purpose, the complainant Association shall send an offer seeking willingness of allottees of tower C & H for relocation in tower A & B. The money paid by them to promoter shall be automatically credited towards fresh allotment in Tower A & B. The balance amount payable by them should be worked out and conveyed to them. For this purpose, the Association is advised to hire services of an experienced accounts expert to assist them.

iii) The respondent-company is directed to handover all relevant record to the complainant-Association working out modalities for relocation of allottees of tower C & H in tower A & B.

iv) Existing allottees of tower A & B as well as those allottees of tower C & H who may choose to be relocated in Tower A & B shall contribute at least 25% of balance consideration amount payable by them as per Builder Buyer Agreement (BBA). In other words, by way of illustration, if Rs.20 lacs was agreed consideration of the apartment and the allottee has paid Rs.5 lacs to the promoter-corporation, then out of remaining consideration of Rs. 15 lacs, 25% i.e. Rs. 3.75 lacs will be contributed by the allottee towards showing his seriousness for participation in completion of the project by the Association.

Accordingly, it is expected that complainant-Association will arrange an amount of about Rs.5 crores, as 25% of the cost of completing tower A & B and laying the internal services in the project. It is decided that whenever the complainant-Association submits a proof of collection of this amount, tower A & B will be handed over to the Association for completion at their level.

v) After the exercise of relocation of allottees of tower C & H expires in Tower A & B and if still some apartments in tower A & B remains unallotted, the Association will be entitled to put them up for sales by way of open auction. A committee comprised of 3 members of the Association to be nominated in the General Body meeting of the Association, along with District Town Planner of the district concerned and one representative of Deputy Commissioner will constitute Auction



Committee for sale of unallotted apartments in Tower A & B. An advertisement in two different dates shall be issued in newspapers in circulation in the area along with a notice affixed on the notice board of the project.

vi) The complainant-Association has already opened an Escrow account in a designated bank bearing Account No.40428538955 which is being jointly operated by 4 signatory members of the Association. It was stated by learned counsel Sh. Dahiya, under the instructions from complainant-Association, that authorization to these 4 persons as signatories was granted by General Body of the Association.

vii) The representatives of the Association had stated that they will prepare detailed Bill of Quantities, estimated expenditure thereof including labour expenses, and thereafter select a suitable contractor/executing agency. It is added that, the contracts in respect of various works to be executed shall be awarded in front of General Body of Association. The Association is advised to evolve consensus while awarding contract to a suitable contractor/executing agency. The Association is further advised to select a suitable contractor and arrive at in principle agreement with them for execution of the work, and get an approval of the General Body meeting for such award of work and place the proceedings before this Authority on the date of next hearing.

8. The project is registered with this Authority bearing Registration No. HRERA-PKL-RWR-58-2018 dated 26.10.2018. It provided the scheduled date of completion of the project to be March 2020. As the respondents have violated the conditions of registration, accordingly a Show Cause Notice deserves to be issued to the respondents for cancellation of the registration granted to the project. Law Associate shall send a copy of this order to the Project Section with the direction of the Authority to issue a Show Cause Notice to the respondents for cancellation of the registration certificate.

9. Adjourned to 26.04.2022 for submission of compliance report on the above issues whereafter further decision will be taken."

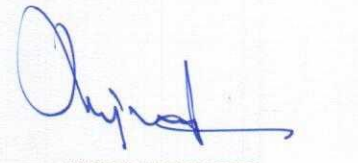


3. The show cause notice dated 01.04.2022 issued to the promoter was received back on 02.05.2022. However, another notice was sent by email dated 02.05.2022 which is duly served upon the respondent.

4. The Authority after going through above mentioned facts of the case observes that promoter has abandoned the project and a process has already been initiated to handover the project to association of allottees in complaint no. 2978 of 2019. In these circumstances, the registration no. HRERA-PKL-RWR-58-2018 dated 26.10.2018 which was valid up to March 2020 granted to M/s Victory Buildstates Pvt Ltd. is hereby cancelled.

5. Order be uploaded on the web portal of the authority and a public notice be issued informing the public of cancellation of their registration. Further, registration certificate uploaded on the portal of the Authority be withdrawn to avoid any misinformation to the public.

6. **Disposed of.** File be consigned to record room after uploading of this order on web portal of the Authority.



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RAJAN GUPTA
[CHAIRMAN]



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DILBAG SINGH SIHAG
[MEMBER]