



## 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:** 31.05.2022

**Hearing:** 24<sup>th</sup>

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

Mr. Roop Singh, Counsel for non-associated RWA

Mr. Rahul Rathore, Counsel for non-associated RWA

None for respondent

**ORDER (RAJAN GUPTA-CHAIRMAN)**

Mr. M C Jain, ex-president of the complainant-association has filed compliance report and submitted that governing body of Tower J and K Association has been reconstituted on 15<sup>th</sup> May 2022 and Mr. Naresh Kumar Jain has been appointed as president, and Mr. M C Jain has been unanimously co-opted as patron for smooth functioning of Association. Its first meeting was held on 20<sup>th</sup> May 2022. He submitted action taken report as follows:

- i. Demand notices were issued to seven un-associated members for recovery of ₹1,39,340/- from each as charges on account of expenditure by the Tower J and K association for development of common area, infrastructure and utilities.
- ii. Clarification on regularization of occupation certificate has been made to Department of Town and Country Planning.
- iii. Mr. Roop Singh, learned counsel for un-associated members filed applications before Authority for providing membership of the association to un-associated members and offering them possession of their respective flats. Mr. MC Jain stated that association had been requesting un-associated allottees to become member of association but they failed to respond, and now when project is complete and possession to allottees/members have been handed over, they have come forward to claim membership, which should not be allowed.





2. Mr. M C Jain further submitted that Piyush RWA has disconnected DG power backup to J and K Tower. Complainant-association has prayed to issue directions to Piyush RWA/appropriate authority to provide DG power backup to Tower J and K. He sought direction to be issued to un-associated members to pay outstanding amounts spent on development of common areas and other infrastructure facilities etc.

3. Applications have been filed by 8 non-member allottees namely, Umesh Chander Gupta, Ashish Khanna and Deepa Khanna, Anupam Mishra, Chaturanjan Jha and Ranju Jha, Ashoo Arora and Kavita Arora, Rita Yadav and Chhabi Raj Yadav, Ashish Dhawan and Kamlesh Kumar Maurya for intervention and direction under section 37 of the RERA Act read with Section 151 of CPC 1908 for issuing directions to association of Tower J and K to hand over possession of their apartments without any further delay and not to charge any additional amount other than balance payable by intervenor/applicant on a pro rata basis on the same lines as other allottees have paid who have been offered possession of their apartments. Sh. Roop Singh, learned counsel for 8 non-member allottees appeared and prayed for issuing directions to the association of Tower J and K to hand over possession of their allotted apartments to them.

4. Authority is of the view that the construction of Towers J and K which was handed over to the Association under provisions of Section 8 of

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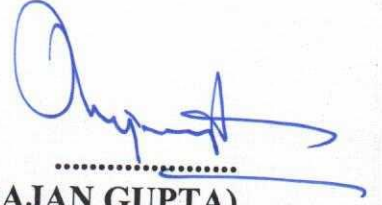
RERA Act has already been completed, and now there remains no reason for it to interfere in internal affairs of this association and RWA of rest of the project. The association may approach the appropriate forum to settle the issues which have been prayed for in the submissions dated 31.05.2022.

5. So far as issue of prayer of 8 non associated members is concerned, Authority has considered the same and is of the opinion that after paying nearly full sale consideration to respondent company, these allottees have acquired a vested right in the property in question. Such right cannot be denied to the allottees by the association. Mr. MC Jain had argued that they should not be allowed to take possession as they were earlier requested by the association to join, but they chose to remain silent and did not respond for a long time, and have not even paid due amounts for completion of the construction of Towers. Authority cannot accept the argument put forward by Mr. MC Jain. It directs the association to hand over possession of allotted apartments to 8 allottees expeditiously. However, association is entitled to recover outstanding dues from these allottees. The dues should be recovered on pro rata basis as has been paid by other members of the association. The association may levy penalty @10% of overdue amount on non-associated members for not responding for such a long time and for non-cooperation at the time of completion of construction of Towers in question.



6. Case is adjourned with a direction to the association to hand over possession to 8 non-member allottees on as and where basis subject to the payment of outstanding dues.

7. Adjourned to 03.08.2022 for further monitoring.



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**(RAJAN GUPTA)**  
**CHAIRMAN**



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**(DILBAG SINGH SIHAG)**  
**MEMBER**

