



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

(REOPENED FOR RECTIFICATION)

COMPLAINT NO. 2156 OF 2022

RWA Mapsko Garden Estate Sonapat
through its Authorised Representative

....COMPLAINANT(S)

VERSUS

Mapsko Builders Private Limited.

....RESPONDENT(S)

CORAM:

Dr. Geeta Rathee Singh
Nadim Akhtar

Member
Member

Date of Hearing: 09.05.2023

Hearing: 3rd (Reopened)

Present: - Mr. Saurabh Sachdeva, Counsel for the complainant.
Mr. Akshat Mittal, Counsel for respondent.

ORDER (NADIM AKHTAR- MEMBER)

Captioned complaint was disposed of by the Authority vide order dated 04.05.2022, granting relief of possession. Relevant part of order dated 04.05.2022 is reproduced below for reference:

"4. After determining the preliminary issue of maintainability, Authority proceeds to decide the case on merits. Vide the complaint, deficiencies pointed out by Id. 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 server lines, the department had to give permission to the respondent to connect internal server 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



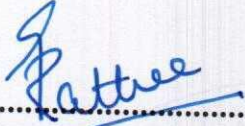
*Associations. They should issue public notice calling upon registered RWA with 51% majority of allottees to take the possession of the colony and undertake maintenance activities of the colony. **Disposed off.** File be consigned to record room and order be uploaded on the website of the Authority."*

2. Thereafter, complainant filed an application for review of order dated 04.05.2022 on the ground that complaint was held not maintainable for the reason that respondent had obtained part completion certificate. It was recorded in said order that complainant association has failed to place on record evidence during the case hearing whereas respondent in its reply accepted that deficiencies raised by the complainant association are at their pending stage. Vide aforesaid application, complainant is requesting to direct respondent to make club functional within the specific time period and install STP as per the terms and conditions of the HSVP memo dated 02.08.2021 and submit the bank guarantee to UHBVN in regard to 33 KV electric substation.
3. Upon perusal of the application file by the respondent, it is observed that the respondent is seeking amendment of substantive part of order dated 04.05.2022 which amounts to review of the impugned order. It is pertinent to mention that under section 39 of the RERA Act of 2016, the Authority may, with a view to rectify any mistake apparent from the record, amend any order passed by it. However, proviso to section 39 further provides that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of the RERA Act, 2016. Authority



cannot review its order, therefore the application filed by the respondent is rejected. Respondent is at liberty to avail other remedies available as per law.

4. So, Application filed by the respondent for review of the order dated 04.05.2022 is dismissed.



.....
Dr. GEETA RATHEE SINGH
[MEMBER]



.....
NADIM AKHTAR
[MEMBER]

