



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	276 of 2023
Date of filing:	07.02.2023
Date of first hearing:	21.03.2023
Date of decision:	03.05.2023

Dwarkadhis Project Pvt. Ltd.

Through its authorised representative.

Mr. Rakesh Rohila, S/o Manohar Lal

Corporate Address- Building No. 433 Sector 31,

Gurugram

....COMPLAINANT

VERSUS

Department of Town and Country Planning Haryana

Plot No.3, Sector 18A Madhya Marg,

Chandigarh

....RESPONDENT(S)

CORAM:

Dr. Geeta Rathee Singh

Member

Nadim Akhtar

Member

Present:

Mr. Gaurav GS Chauhan, counsel for the complainant.

Mr. Alok Mittal, counsel for the complainant.

None for the respondent.

Geeta Rathee

ORDER (Dr. GEETA RATHEE SINGH - MEMBER)

1. Present complaint has been filed dated 07.02.2023 by complainant under Section 31 read with Section 32 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) against the arbitrary, unilateral and unjustifiable actions/ inactions/ decisions of the department of town & country planning (DTCP), Govt. Of Haryana, which adversely affected/ is affecting the regular development of the residential group housing project "Casa Romana" (license no.13 of 2013) wherein the DTCP even after receiving the excess EDC amount of more than 1.5 crore remained silent for years and did not renew the license for the period from 17.3.2017 till 06.12.2022 and also non-approval of its service plan estimates/ other approvals causing hindrance to the timely development of the project. Further to declare the period from march 2017 to december 2022, a force majeure period wherein license was not renewed by DTCP haryana without any fault of the company and further grant extension of RERA registration no. HRERA-PKL-RWR- 105-2019 for such time period.

A. DETAILS OF THE PROJECT

2. The particulars of the details of project are detailed in following table:

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S.No.	Particulars	Details
1.	Promoter/Developer	Dwarkadhis Projects Ltd.
2.	Name of the project	CASA ROMANA (Group Housing Residential Project)
3.	RERA registered/not registered	Registered - 105-2019
4.	Location of the Project	Maheshwari, Sector 22, Tehsil Dharuhera, District - Rewari, Haryana.
5.	Area of the project	13.23 acres
6.	Licence No. (granted by DTCP)	13/2013 on 18.03.2013
7.	Validity till	17.03.2017
8.	Applied for renewal on	17.02.2017 for period of 2017-2019 and 15.05.2019 for 2019-2024.

B. FACTS OF THE COMPLAINANT

3. The project "CASA ROMANA", a residential group housing project is being developed by the Complainant, on the land situated in the revenue estate of Village Maheshwari, Sector 22. Tehsil- Dharuhera District- Rewari, Haryana (the project). The project was launched in 2013-14 for the construction and development of group housing colony in accordance with building plans approved/ sanctioned by the DGTCP Haryana. Upon coming into force of RERA Act,2016, the complainant timely applied for

RERA registration for licence for phase 1 & 2, However the RERA registration was not granted until 21.05.2019 because of non-renewal of license by DTCP Haryana. Complaint No. 144-2020 was filed against DTCP before the Ld. Authority, Panchkula, Haryana and in that complaint the Ld Authority passed an order dated 09.11.2021 in favour of the complainant, directing Town and Country Planning Department to dispose of all pending requests of promoters by passing a detailed speaking order as per law within 30 days. The company did not have to deposit a single penny for renewal of the license and even approx. 1.58 Crore is shown as excess deposit in the CCMA DATA. The only thing done is that the DTCP-H has made rectification in its accounts. However the DTCP-H has still not approved service plan estimates.

4. The company has applied and re-submitted the service plan estimates many times but each time the officials raise different observations for the reasons best known to them. That, in absence of license renewal and RERA registration, the allottees/their lending banks arbitrarily stopped disbursement of instalments, which were to be paid as per construction milestones. Complainant has averred that the main issue to be addressed by DTCP-H is to declare the period March 2017 to December 2022 a force majeure period wherein license was not renewed by DTCP

HARYANA without any fault of the company and. further grant extension of RERA registration for such a time period.

C. RELIEF SOUGHT

5. The complainant in his complaint has prayed the following:
- a) Declare the above said period from 17.03.2017 till the approval of Service Plan Estimates as Force Majeure - Zero Period.
 - b) Grant renewal/ extension of RERA registration for such time period.
 - c) Grant Moratorium on all the cases in RERA for such time period.
 - d) Direct DTCP-H to grant approval of Service Plan Estimates, Revised Demarcation, Revised Zoning and Revised Site/ Building Plans in a time-bound manner of 30 days.
 - e) Request to send Recommendation to the Chief Investment Officer, SBICAP Ventures for expeditious sanction of SWAMIHH Fund for the completion of the project.
 - f) DTCP-H be held responsible and liable for the above situation and be directed to bear burden of interest and penalty leviable to be paid on account of delay in handing over the possession to the allottees.

- g) Direct the DTCP to compensate the company for assured rentals/ Pre EMI. Interest paid on unsecured loans/Customers from March 2017 till 06.12.2022.
- h) Direct the DTCP to compensate the company for the amount of interest paid to the banks and other sources for project under Lic.No.13/2013 from March 2017 till 06.12.2022.
- i) Direct the DTCP to waive the license Renewal fees of Lic.No.13/2013 for the un-renewed period from 17.03.2017 till 06.12.2022.
- j) Appoint an administrator on the project to closely monitor/ oversee the project execution/ progress, inflow and outflow of funds, lead the discussions with DTCP-H and banks.
- k) Any other order/ direction/ relief may kindly be passed keeping in view the facts and circumstances of the case in the interest of the project.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

6. Vide order dated 21.03.2023 respondent was provided an opportunity to file reply, if any, in the Authority. An application dated 02.05.2023 filed by the DG CUM SECRETARY TOWN COUNTRY PLANNING,- Haryana, was received in the Authority whereby the respondent has stated that the complaint has been filed by the complainant under section 31 of

RERA Act, 2016 which can be only filed against any promoter, allottee or the real estate agent. Respondent further contended that the department i.e. DTCP-H is neither a promoter nor an allottee or real estate agent. Furthermore, respondent in its reply submitted the Authority under the RERA Act of 2016 has powers to only issue directions to the promoters, allottees and the real estate agents and has no powers whatsoever to give any direction to the Government Departments.

7. Respondent has submitted that if complainant is aggrieved against any order passed by the Director, Town and Country Planning, the complainant has the liberty to opt for alternative and efficacious remedy of filing appeal before the Appellate Authority as provided under Section 19 of the Haryana Development and Regulation of Urban Areas Act, 1975 (in short called as the Act No. 8 of 1975). Since, the issues raised in the complaint relates to licence no. 13 of 2013 dated 18.03.2013 granted to Dwarkadhis Projects Pvt. Ltd (complainant) under Act No. 8 of 1975, therefore, the complaint filed against the Department is not maintainable/ relevant before the Hon'ble Authority. Respondent had requested to dispose off the subject cited complaint with the request to not entertain such complaints in future and direct the complainant to approach the competent court of law for redressal of their grievance.

E. ISSUES FOR ADJUDICATION

8. Whether the present case filed by the complainant is maintainable as per Act of 2016 or not?

F. OBSERVATIONS OF AUTHORITY ON RELIEFS CLAIMED BY COMPLAINANT

9. On perusal of complaint it is observed that the present case has been filed by the complainant under section 31 read with 32 of the RERA Act, 2016. Reading of section 31 is reproduced below;

31. (1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be. Explanation.—For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

(2) The form, manner and fees for filing complaint under sub-section (1) shall be such as may be specified by regulations.

Section 32 is reproduced below;

32. The Authority shall in order to facilitate the growth and promotion of a healthy, transparent, efficient and competitive real estate sector make recommendations to the appropriate Government of the competent authority, as the case may be, on,— (a) protection of interest of the allottees, promoter and real estate agent; (b) creation of a single window system for ensuring time bound project approvals and clearances for timely completion of the project; (c) creation of a transparent and robust grievance redressal mechanism against acts of omission and commission of competent authorities and their officials; (d) measures to encourage investment in the real estate sector including measures to

increase financial assistance to affordable housing segment; (e) measures to encourage construction of environmentally sustainable and affordable housing, promoting standardisation and use of appropriate construction materials, fixtures, fittings and construction techniques; (f) measures to encourage grading of projects on various parameters of development including grading of promoters;

(g) measures to facilitate amicable conciliation of disputes between the promoters and the allottees through dispute settlement forums set up by the consumer or promoter associations; (h) measures to facilitate digitization of land records and system towards conclusive property titles with title guarantee; (i) to render advice to the appropriate Government in matters relating to the development of real estate sector; (j) any other issue that the Authority may think necessary for the promotion of the real estate sector.

10. On bare reading of section 31 of the RERA Act, 2016 it is observed that as per section 31 “any aggrieved person” can file a complaint with the Authority. Any aggrieved person may include any promoter, allottee or real estate agent, association of allottee or voluntary consumer organization and categories mentioned in section 2(z)(g) of RERA Act, 2016. The expression “aggrieved person” means a person who has suffered a legal grievance. However, complaint can be filed only against a promoter, allottee or real estate agent. There is no provision whatsoever of filing complaint against competent authority or planning authority or any other authority from whom approvals relating to real estate project are required to be taken. In the present case the respondent is neither a promoter, real estate agent or an allottee.

- 11 Therefore, Authority is of the considered view that the complaint against the DTCP, Haryana is not maintainable and deems fit to be dismissed. However, if the complainant is aggrieved by any action of the respondent, he is at liberty to avail appropriate remedy as per law.

G. DIRECTIONS OF THE AUTHORITY

12. This complaint is **dismissed**. File be consigned to record room after uploading order on the website of the Authority.


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NADIM AKHTAR
[MEMBER]


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Dr. GEETA RATHEE SINGH
[MEMBER]