



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 826 OF 2018

M/s Ferrous Infrastructure Pvt. Ltd.COMPLAINANT(S)

VERSUS

M/s Maximal Infrastructure Pvt. Ltd.RESPONDENT(S)

2. COMPLAINT NO. 1402 OF 2018

M/s Maximal Infrastructure Pvt. Ltd.COMPLAINANT(S)

VERSUS

M/s Ferrous Infrastructure Pvt. Ltd.RESPONDENT(S)

3. COMPLAINT NO. 1343 OF 2018

M/s Heritage Cottages Private Ltd.COMPLAINANT(S)

VERSUS

M/s Maximal Infrastructure Pvt. Ltd.RESPONDENT(S)

4. COMPLAINT NO. 1344 OF 2018

M/s ORS Infrastructure Private Ltd.COMPLAINANT(S)

VERSUS

M/s Maximal Infrastructure Pvt. Ltd.RESPONDENT(S)

**CORAM: Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag**

**Chairman
Member
Member**

Date of Hearing: 01.10.2019

Hearing: 10th (in Complaint No. 826 of 2018)

8th (in Complaint No. 1402 of 2018)

9th (in Complaint No. 1343 of 2018)

9th (in Complaint No. 1344 of 2018)

Present: - Mr. Gaurav Chopra, counsel for the complainant
(in Complaint No.826 of 2018)

Mr. Sanjay Chhabra, for the complainant
(in Complaint No.1402 of 2018)

Mr. Sanjeev Kumar, proxy counsel for the complainant
(in Complaint No.1343 of 2018)

Mr. Sanjeev Kumar, proxy Counsel for the complainant
(in Complaint No.1344 of 2018)

Mr. Sanjay Chhabra, for the respondent
(in Complaint No.826 of 2018)

Mr. Gaurav Chopra, counsel for the respondent
(in Complaint No.1402 of 2018)



Mr. Sanjay Chhabra, for the respondent
(in Complaint No.1343 of 2018)

Mr. Sanjay Chhabra, for the respondent
(in Complaint No.1344 of 2018)

ORDER (RAJAN GUPTA- CHAIRMAN)

1. All the captioned matters were last heard on 02.09.2019 when arguments of all other parties except M/s Maximal Infrastructure Pvt. Ltd. (Maximal) were recorded. The matter was adjourned for today for recording the arguments of Maximal. In the orders dated 02.09.2019 the Authority had disclosed its mind regarding the approach it proposes to adopt for resolution of the disputes between the parties and for protecting the interest of the allottees.

Arguments put-forwarded on behalf of Maximal

2. Learned Counsel Mr. Sanjay Chhabra for the respondent Maximal in complaint No.826 submitted as follows:

(i) Vide agreement dated 15.6.2007 Maximal had assigned development and marketing rights upon M/S Ferrous (ferrous) in respect of land area measuring 10.270 acres with FAR equivalent to 14.80 acres. Ferrous was under an obligation to complete the project




on or before the year 2009, whereas even till now only 4 out of 12 towers have been stated to be ready for possession. Even in respect of these 4 towers the Local Commissioner appointed by this Authority has pointed out multiple serious violations.

(ii) Even now Maximal does not wish to obstruct the work of Ferrous subject to the condition that the dues which have to be paid by Ferrous to them should be paid. A reference was made again to the disputes raised before the Hon'ble Supreme Court which had been dealt with in detail by this Authority in its orders dated 30.4.2019.

(iii) Maximal agrees with the line of action proposed by this Authority in its orders dated 02.09.2019 for resolution of the disputes between the parties. Maximal agrees that developers should be held liable to pay the balance amounts to be determined by the department in respect of due EDC etc.

(iv) In Para 16 of the written arguments a table has been presented according to which remaining amount of EDC dues which have to be paid by respective developers to the department are as follows:



Developer	Amount paid by respective Developers	Balance EDC amount payable
Ferrous (Zone-A)	Rs. 9,40,00,000/-	Rs. 26,36,97,078/-
Triveni (Zone-B)	-	Rs. 35,76,97,078/-
Pal (Zone-C)	Rs. 9,18,68,000/-	Rs. 16,08,88,381/-
ORS (Zone-D)	Rs. 4,73,98,000/-	Rs. 7,32,59,182/-
Heritage (Zone-E)	Rs. 2,13,11,000/-	Rs. 5,08,70,188/-

- (v) As pointed out by the Local Commissioner Ferrous has committed serious and grossed violations of the building plans, as a result, now it is going to be extremely difficult for them to obtain occupation certificate.
- (vi) M/s Ferrous has further allotted a portion of the FSI to M/s Zion for development which is not only violation of the license but also of the agreements between the licensee and the developer companies.

The report of the Local Commissioner.

3. Vide orders dated 11.6.2019 M/s Planner plus were appointed Local Commissioner by this Authority for visiting the site of the project and submitting its reports on the terms of reference. The Local Commissioner has



submitted the report dated 29.8.2019. All the parties to the disputes were asked to obtain a copy of the report from the Registry. As per Registry all the parties had obtain a copy of the report. No one has filed any objection, in writing or verbally to the report submitted by the Local Commissioner. Important features of the report are as follow:

- (i) Licenses No.34 to 36 of 2007 was granted by DTCP on 24.1.2007 for developing a group housing society on area measuring 48.038 acres. Initially the license was valid up to 22.1.2009. Later it was renewed up to 22.1.2016. No information is available regarding further renewal of the licenses.
- (ii) Building Plans of the site were sanctioned by the department on 29.2.2008. The plans were valid for a period of 5 years i.e. upto 28.2.2013. The plans have not been revalidated thereafter.
- (iii) No approval of the competent Authority is available for sub division of the licensed project whereas the licensee has sub divided the project amongst five developers. Approval of the competent Authority for this purpose has still not been obtained.
- (iv) Site falling in Zone-B which belongs to M/s Triveni Infrastructure Development Co.(TIDCO) could not be inspected because the site is in the legal possession of Hon'ble Delhi High Court. The Security Guards deployed by the Hon'ble Court



prevented the Local Commissioner from visiting the site of Zone-B.

- (v) In whole of the project out of 3700 dwelling units (3132 main plus 568 EWS), 2532 are partly constructed (2352 main dwelling units and 180 EWS). The status of construction of dwelling units in each Zone is as follows:

Particulars	Zone A	Zone B	Zone C	Zone D	Zone E	Total
Main dwelling units (As per sanctioned building plan)	964	1012	628	328	200	3132
Main dwelling units partly constructed at site (not fully completed)	994	338	552	268	200	2532
Sanctioned EWS	180	180	112	64	32	568
EWS Units Constructed at site (not Fully Completed)	180	0	0	0	0	180

There is no apartment for which occupation certificate has been issued by the department.

- (vi) Services plans estimates of the project have not been got approved from the competent Authorities by the licensee.



Without service plan estimates the extent of services laid are not possible to be assessed.

- (vii) For the reasons that the apartments are partly complete and major violations of the building plans have been committed and due to lack of services plan estimates, occupation certificates to the project are not possible to be issued.
- (viii) At Annexure -5, the Local Commissioner has given a list of mandatory sanctions required to complete the licensed project but in respect of none of the requirements requisite sanctions/approvals were presented before the Local Commissioner.
- (ix) Poor quality of construction has also been pointed out. The Local Commissioner has annexed the photographs in support of their functions to prove poor construction work.
- (x) In Annexure C-1 and C-5, the Local Commissioner has discussed in detail the status of construction activities as well as of the violations committed by the various developers. The zone-wise status of construction and violations committed, as pointed out by the Local Commissioner, is as follows: -



Major Violations In "Zone-A"

- i. Extra flats have been constructed in the stilt areas at the project site which were not sanctioned in the approved plans.
- ii. Licensee/ developer have arbitrarily increased number of floors in towers.
- iii. Licensee/ developer have arbitrarily Changed the layout of the floors in Tower A.
- iv. Licensee/ developer have constructed new tower known as Tower B which is not part of the sanctioned plan.
- v. Basement not constructed as per the sanctioned plan resulting into reduced parking.
- vi. Ramp slope towards the basement is too sloppy and has been constructed at 90 degree. Further only one ramp in basement has been constructed.
- vii. At site, some external columns have been provided which are not sanctioned in the approved building plans thus affecting the FAR of the pocket.
- viii. Shops/ commercial constructed within the 16 Mt setback area between the residential tower and commercial complex.

OTHER VIOLATIONS COMMON TO ALL ZONES

- i. Service estimates and drawings are not approved for the project.



- ii. No electric connection or power sub-stations exists at site to make the project habitable.
- iii. 100% standby eclectic arrangement for water supply and drainage pumps not provided at site.
- iv. LIFT's are note installed in all Towers at site to make the project habitable.
- v. Solar power panels not installed at site.
- vi. Adhoc arrangement have been made for the mandatory services like water supply, sewerage, storm water drainage, firefighting etc. does not exist at site to make the project habitable.
- vii. No environment clearance subsists for the project.
- viii. No fire safety NOC subsist for the project.
- ix. Valid NOC from airport authorities was not provided by the licensee.

Zone-B

The site could not be inspected because it was under the legal possession of the Hon'ble Delhi High Court.

Zone-C

Out of 628 main dwelling units, 552 are partly complete. RCC framed structure and brick work has been completed partly but finishing is pending.



Zone-D

Out of 328 main dwelling units, 268 are partly complete. RCC framed structure and brick work has been completed partly but finishing is pending.

Zone-E

Out of 200 main dwelling units, 200 are partly complete. RCC framed structure and brick work has been completed partly but finishing is pending

Conclusions and Recommendations of the Authority

4. All the captioned complaints have been heard on 8th /9th and 10th time by the Authority. On each date various findings of the Authority were duly recorded and the orders thereof have been uploaded on the website of the Authority. The three important orders are dated 30.4.2019, 22.8.2019 and 2.9.2019. All these three orders shall be read as a part of this final order. A gist of all these orders and the final directions of the Authority in this matter are as follows:

- (i) Two hundred and eight complaints have been received against the five developers of the entire licensed project. Majority of the complainants are seeking refund of the money paid by them to the developers because their projects are stuck,



inordinate delay has already been caused, and there is no hope for their completion in foreseeable future on account of the dispute pending between the licensees and the developers. While some bunches of the complaints were being considered by the Authority, orders dated 15.10.2018 passed by the Hon'ble Punjab & Haryana High Court in CWPs No.8667 and 10272 of 2016 and CWP No.31 of 2017 and CWP No.25173 of 2018 were received. Those orders have been reproduced in the order dated 30.4.2019. It was on account of these orders dated 15.10.2018 passed by the Hon'ble High Court that this Authority proceed with hearing the disputes between the parties of the captioned complaints. The Authority has analysed the matter, the details of which have been recaptured in the afore-referred three orders passed on different dates and the same have been uploaded on the website.

(ii) The disputes between the parties in the captioned complaints pertain not only to the Group Housing Project licensed vide licenses No.34 to 36 of 2007 but also to several other properties and dealings between the parties. The disputes pending before the Hon'ble Supreme Court as well as before the Hon'ble High Court pertains to the entire gamut of disputes



between them which includes the disputes relating to the project in question as well as to other lands and dealings of the parties.

(iii) This Authority in para 14 of the orders dated 30.4.2019 had observed as follows: -

“14. In the light of the foregoing analysis of the fact situation, the Authority orders as follows:

(i) Complex legal disputes are going on between the parties. Both the groups are at logger heads with each other. The disputes among them pertains not only to the lands of the project in question but also to certain other lands in sector-70, Faridabad. Both the groups have also initiated criminal proceedings against each other. The reference before the Hon'ble Justice R.V. Ravindran as mediator was for resolution of overall disputes between both the groups, and not for settling only the dispute between them relating to the Real Estate project in question before this Authority.

(ii) The jurisdiction of this Authority extends only to the subject of the real estate projects being developed in the areas under its jurisdiction and not to the other dispute between the parties. Therefore, this Authority would only deal with the dispute between the parties pertaining to the land of the project under licenses' no. 34 to 36 and not with other disputes. Other disputes do not fall within its jurisdiction. The jurisdiction of this Authority would not extend to other disputes between the parties. This matter will have to be separately resolved between the parties in the civil court. This Authority will only examine the rights and liabilities of the respective parties in the real estate projects being developed in pursuance to the licenses' no. 34 to 36.

(iii) The parties in violation of the law of the land then prevailing, at their own level had sub divided the license and assigned its development rights to 5 different companies which they could have done only with the approval of the state Government. If they had obtained approval of the department, while dividing the licence the department would also have separated their



other rights and liabilities. Now, as the things stands, the clock cannot be put back in time. Now, appropriate and practical solution has to be found keeping in view the interest of allottees of the project.

It is to be kept in view that one of the company M/s TIDCO is under Liquidation and that company may neither be able to discharge its own liabilities towards payment of EDC and construction of Infrastructure, nor would any other company discharge its liabilities. The liabilities of M/s TIDCO therefore, would have to be separated. Town & Country Planning Department may however, lodge their claim before the Official Liquidator for the recovery of their dues in respect of this company. Making TFIPL, the original licensee to discharge liabilities of TIDCO would only complicate the matter and resolution of this complex dispute will become difficult. The Town and Country Planning Department should finalise its views in this regard.

(iv) Allegedly some compoundable and some non-compoundable offences have been committed by the respective developers. The Town and Country Planning Department should cause a detailed inspection of all the projects carried out and thereafter offences which are compoundable should be separated, in respect of which appropriate decision as per law should be taken. Similar action in respect of non-compoundable offences should be taken as per law. The guiding principle before the Town & Country Planning Department should be that, one way or the other, by creating exceptions or otherwise, the projects should be completed and the possession should be handed to the allottees. The department may impose whatever penalties it may think just and fair on the violators. Central role in this entire matter now has to be assumed by the Town & Country Planning Department.

First of all, they have to facilitate bifurcation of the licensees' by creating exceptions in the law / instructions. Secondly, they have to separate the liabilities / dues to be paid by each of the 5 developers. Those liabilities should be conveyed to each of them. Further, licensee of each sub divided project should be



renewed subject to appropriate conditions. Suitable committees of technical officers should be constituted which on the spot should order compounding of the compoundable offences and regularisation or demolition of non-compoundable offences. The Town and Country Planning Department should finalise its views in this regard as well.

(v) It appears fair and just that the four remaining companies are treated as a separate group for resolving their complex problems. Eventually, it appears that relaxation in rules may have to be granted by the Town & Country Planning Department so as to treat each of the companies as separate licensee. Their rights and liabilities accordingly have to be re-determined. This extra-ordinary measure of granting relaxation in the policy of the constructions may have to be resorted to for protecting interest of the allottees. In fact, the relaxation may have to be granted only to the extent of protecting the interest of the allottees. This Authority in several cases like complaint cases No 1121 of 2018 titled as Mrs. Nalini Sharma Vs. M/s ABW Infrastructure Ltd. & Ors. and complaint case No 491 of 2018 titled as Ritu Rana Vs. IREO Fiverivers Pvt. Ltd. have ordered that once third party rights are created the expression "license" attains a very different meaning. The State cannot refuse to renew such license in which third party rights have been created, because those rights have been created under the authority and instructions of the state government. Now the Government is duty bound to protect those third-party interests. The State has to either renew the license or takeover the project themselves for completion. One of the two measures are necessary for protecting the interest of the third party allottees."

(iv) The Authority reiterates that it will and can intervene in this dispute only to the extent of the disputes amongst the parties pertaining to the real estate project in question. Other disputes between the parties may be resolved by due process of law

through an appropriate court/forum. This Authority does not have jurisdiction to deal with other civil or criminal disputes pending between the parties outside the scope of the real estate project in question.

(v) The most important question to be addressed is how to protect the interest of more than 2000 allottees of the project who have invested their life's savings in it. Such a vast number of Allottees cannot and should not be made to suffer perpetual agony for no fault of theirs, especially on account of disputes between the licensee company and the developer companies which does not pertain to the project in question in which they have invested their money. Allottees have nothing to do with the private disputes between the licensee and the developer. Separation of the different complainants of the disputes between the parties to the complaints, therefore, is of utmost importance without accepting this philosophy, interests of allottees will remain jeopardised.

(vi) The next question is what shall be the way forward to resolve the matter and to protect the interest of the Allottees of the Project. The Authority in its orders dated 22.8.2019 had expressed its views as follows: -

“5. Learned counsel for Ferrous Infrastructures accepted the aforesaid submissions made by the learned counsel for M/s Maximal. Based on these submissions the Authority makes following observations for resolution of this complex problem:

(i) The Town & Country Planning Department has consciously approved the colony to be developed in five distinct zones because each zone has its own independent lay out plan, drawings, design etc in respect of the buildings as well as in respect of the internal infrastructure to be laid in the Zone. Separate plans for development of infrastructures within each zone has been prepared. Separate FAR has been approved by the department of each zone. It has been agreed and approved that essential services of each zone shall be independently connected with the external services to be provided by the State agencies.

It is thus abundantly clear that right from the beginning the whole project was conceived as five separate and distinct zones/colonies within the same licensed colony. It was implied as well as express understanding while approving the Plans that the colony will be developed in five zones and by five separate individuals. The intention of the colony to be developed by five distinct entities was abundantly clear right from the beginning.

Now the only way forward for resolution of this complex dispute is to formally treat them as five independent, separate and standalone colonies, which are factually being developed by five different promoters-developers. These five independent promoters have floated five independent colonies and have executed agreements for sale of apartments separately with different sets of Allottees. The most important thing now to be achieved is that the Town & Country Planning Department must upfront recognise this fact, which has impliedly been accepted repeatedly at the time of the approval of the plans etc.

(ii) The first and foremost requirement, thus for resolution of the dispute is that beneficial rights should be transferred in favour of each of the developer companies in respect of the zone which has come into

their share. The Town & Country Planning Department must review their decision of declining the request of the licensee and developer companies for transferring beneficial rights in their favour for development of respective zones of the colony. The successor/developer companies had approached the Town & Country Planning Department for transferring beneficial interest in their favour so as to treat them as separate and independent licenses responsible for development of their own zone irrespective of the liability of the promoters of the other zones. This course of action must be approved by the department in the interest of allottees as well as in the interest of real estate projects. This proposition is permissible as per laws and the rules of the Town & Country Planning Department. This fact has also been recognised by Hon'ble High Court in Complaint No. 24568/2018 titled as M/s Landmark Apartments Pvt. Ltd. V. State of Haryana & Ors. Relevant portion of the said judgment is reproduced below:

"Interim order dated 29.10.2018 shall continue to enure to the petitioner. The petitioner is also directed to deposit sum proportionate to the area for which licence is sought and not the entire 10% as a measure of satisfaction of requirement of proviso to Rule 17, considering that prayer is for bifurcation of licence against some area which is now to be developed by the petitioner.

We are acutely conscious of the fact that this project since its inception was lawful and the only dispute that has emerged is from the concern of the State regarding impermissibility of bifurcation of the licence which would mean that the petitioner would develop some additional area out of the composite area, already a part of the project when conceptualized.

We have noticed that proviso to Rule 17 does permit transfer in part and, therefore, it is not a case where licence necessarily has to be transferred as a whole only as is argued by the State. Evidently, there are certain conditions prescribed to such a transfer. Assuming for the sake of argument that such a transfer is totally impermissible as the State contends, then the



question that needs attention is whether the residents of the area who have invested in the project considering it to be lawful as it was indeed, can be made to suffer on account of technical objection of the respondents in not permitting such a transfer of licence against some portion of the land, which originally was a part of the land owned by the developer in agreement for development with the petitioner. Needless to say, the State is very well within its right to see that the project as conceptualised and executed is not flouted for which what has to be ensured is the execution. Bifurcation of a licence is a procedure between the developer and the State. Law permits it either in complete or in parts with a stipulation of payment, an accompanying amount, provided under Rule 17 which the petitioner indeed would be bound to satisfy through payment but is proportionately as per the area mentioned. We permit the petitioner to seek occupancy certificate which the respondents shall not deny after the payment as above so as to ensure that the interest of flat owners does not suffer particularly when no objection has been raised by the State regarding the lawful character of the project and its execution”.

This Authority is of the considered view that technicalities cannot be allowed to come in the way of protecting the interests of thousands of allottees of the project who have invested their hard-earned money in the project on the basis of licenses and approvals granted by the State Government. Now, the state Government is duty bound to protect their interest. It is a sovereign duty of the State.

(iii) The entitlement rights and liabilities of each Zone have to be determined separately and independently. the promoters of each zone have to be held answerable to their allottees in respect of their contractual obligations. The big mistake, which is complicating the matters, being committed by the Town & Country Planning Department is that inspite of the ground realities being very different, they are treating all the five zones together as one licensed colony. Accordingly, the liabilities of the promoters are being determined jointly. As per facts of the matter,



those liabilities are neither sole responsibility of the licensee company nor jointly of the five developer-promoter companies. This fact has to be recognised that five separate & independent zones have practically nothing to do with each other.

(iv) Unless rights and responsibilities of five promoters in respect of their own zones are determined separately, the matter will never be resolved. The Town & Country Planning Department therefore should recognise this fact and review their earlier decision and take actions to effectively consider the license having been divided into five parts or the rights of beneficial development having been devolved from the licensee company to the five developer-promoter companies.

It is relevant to observe that department have already accepted this position in respect of the zone 'b', which is largest zone of the colony, being promoted by M/S Triveni Infrastructure Development Company Ltd. (TIDCO). If this position could be accepted in respect of TIDCO, then what prohibits the same logic being accepted for other zones of the colony as well. It has already been held by this Authority that this Authority will have jurisdiction to resolve the dispute between the parties only pertaining to the real estate project in question. If there are disputes pertaining to the subjects outside the purview of the RERA, those disputes cannot be resolved by this Authority for the want of jurisdiction. If after the resolution of disputes relating to the colony in question, any other disputes remain pending between the parties, those will remain pending as they are, to be resolved by due process of law at the level of appropriate court or forum. RERA will not have any jurisdiction to deal with those issues which do not pertain to the real estate project in question. Principle objective of RERA Act at this stage is to protect interest of thousands of allottees who are awaiting possession of their dream homes for last nearly 10 years."

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(vii) The Authority in its orders dated 22.7.2019 had also expressed a view that in case the promoters of the project do not fulfil their obligations towards the Allottees, the other course of action provided under the RERA Act is to either ask the State Government to take over the project and complete it at their own level or ask the Association of Allottees to come forward and take over the project for its completion. Keeping in view, however, the complex legal tangle in which the project is stuck, either of the possibilities may not be easy to follow. In fact, they may be equally and extremely difficult. A way forward however is possible if the Town & Country Planning Department develops a



compassionate understanding ~~and~~ of the fact situation and, by usage of the existing provision of the law or by creating a new law, divide the license amongst the developer companies; re-determine their liabilities; re-sanction their development plans; and let the project move forward. Despite communications made no response whatsoever has come from the town & Country Department in this regard.

As observed by the Authority earlier also, the department is witnessing the situation as an uninterested by-standers. With this approach nothing will move forward. Since these proceedings have been taken up in by this Authority in pursuance of the above quoted orders dated 15.10.2018 of the Hon'ble High Court passed in 5 Civil Writ Petitions, the Allottees or any of the interested parties may approach the Hon'ble High Court for getting a direction issued to the Town & Country Planning Department Haryana for resolving the matter in terms of these orders or any other terms deemed appropriate. This Authority does not see any other way out except, to begin with, division of the license into five parts.

(viii) This Authority would once again reiterate the principles it has laid down repeatedly that it is on account of the assurance of the State Government held out to the general public by way of granting license to the colony and approving its development plans that thousands of



allottees have booked apartments in the colony. Had such a license been not granted nobody would have invested their hard-earned money in it. The license for developing a colony should be treated as a sovereign guarantee of the state government to the general public that in the event of the failure of the project State Government would step in to safeguard their interests. This principle dictates that if substitution for the developer is not possible it should atleast facilitate the resolution in every other possible way which in this case is division of licenses against the developer companies.

Accordingly, this Authority would reiterate that the Town & Country Planning Department, Haryana must divide the license in five parts and determine liabilities of each party towards them individually and separately. They should also separately sanction development plans in respect of each part and let the matter proceed further. In fact, the department should even defer recovery of their overdue EDC so as to leave some cash flow in the hands of the developers for investing in the project. In line with these guidelines the Authority had expressed its views in para 9 of its orders dated 2.9.2019 is reproduced below:

“ While adjourning the matter for hearing arguments of M/s Maximal Infrastructure Pvt Ltd, the Authority would reiterate its line of thought that a solution to this complex problem can be found only by adopting the following step-wise approach:



(a) That Town and Country Planning Department should realise its own responsibility for getting the projects completed because it is by virtue of the license granted by them that the projects have come into existence. Further the conditions of license, the provisions of the Haryana Urban Development Act and the Rules framed there-under obliges the department to take all steps necessary for monitoring the progress of projects and getting it completed. The Town and Country Planning Department has to adopt a pro-active approach in such matters. This approach is necessary for protecting the interests of thousands of allottees who have invested their hard-earned money on the basis of the licence granted by the State Government. The department shall be well advised to visit the sites of the project again and decide whether the development works are being carried out in accordance with law. The Local Commissioner of the Authority has pointed out several defects and violations. Those also should be appropriately taken into account.

(b) Since the main licensee companies have disposed of all the lands of the project to five developer companies and they retain no further interest in it, either such an action on the part of the licensee company should have been stopped and prohibited well within time by the Town & Country Planning Department in the year 2008 itself, or now they have to appreciate the ground level realities and decide to bifurcate the license in favour of the five developer companies in the interest of thousands of allottees. Without this bifurcation of license nothing can move further.

(c) Bifurcation of the license in favour of five developer companies would logically lead to separate determination of the liabilities of each of the developer companies towards the State Government. The liabilities on account of overdue license fee, EDC, IDC, penal interest and other charges will have to be and should be separately determined in respect of each of the developer companies by the department. Since principal responsibility for not acting in contravention of the conditions of license was that of the licensee company. Town and Country Planning Department should credit the EDC/IDC and other duties received from the license in favour of four developers only, namely M/s Ferrous



Infrastructure; M/s ORS; M/s Heritage Cottage and M/s Pal Infrastructure. No credit deserves to be given to M/s TIDCO because that company is in liquidation before the NCLT. The amounts of EDC/IDC due from TIDCO may be claimed from the Resolution Professional and the Official Liquidator as the case may be.

(d) The amounts already received by the department from the licensee should also be appropriately credited into the accounts of each of the developer companies. Alternatively, the amount which the developer company proves to have paid to the department or to the licensee should be credited into their account. After crediting such amounts, remaining liabilities should be determined separately in respect of each developer company for division of the license.

(e) Each of the developer companies thereafter should be asked to submit their plans for development of the colonies after duly recognising the development work already carried out. The revised plans then should be approved by the department in accordance with law and policy.

(f) After completing the above process, five applications for registration of project with RERA will be examined and the projects will be registered with appropriate conditions and stipulations with an overall objective of protecting the interests of the current and future Allottees.

(g) Regarding disputes between various developer companies in respect of any amount receivable/ payable, they may continue to prosecute their cases before the appropriate courts of law. This order will essentially be aimed at completing the project and protecting the interest of thousands of Allottees. This order shall be without prejudice to the claims and counter claims of the opposite parties towards each other to be prosecuted before appropriate court of law.”

(ix) As pointed out by the Local Commissioner, there has been serious violation of the building plans by some of the developers. The Town & Country Planning Department should visit the site of the



project immediately. All the compoundable and non-compoundable offences should be dealt with strictly in accordance with law. Some indications have also been given by Local Commissioner regarding poor quality construction which may affect safety of the building. The Town & Country Planning Department is advised to get the structural strength of the buildings re-examined with the help of experts and take suitable action as per law. It must ensure that only those buildings are granted occupation certificate which have been developed as per approved plans and are safe in all respects.

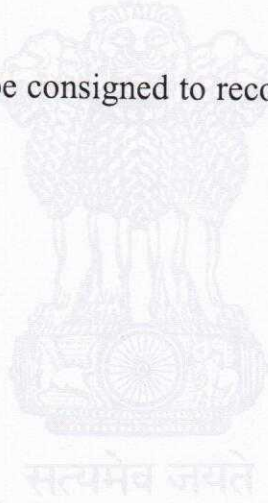
The developers are strictly prohibited from offering possession to any allottees without first obtaining the occupation certificate from the Town & Country Planning Department.

(x) The Authority is separately dealing with the application filed by various developers for registration of their projects. The Authority has held the application in abeyance pending appropriate action by Town and Country Planning Department for division of the license in accordance with earlier orders of the Authority. The developers hereby are prohibited from selling any further apartment without obtaining registration certificate from this Authority. In the event of violation of these directions, it may also invite penal action including criminal proceedings in accordance with Section 59 of the RERA Act.




(xi) In above terms the captioned complaints are **disposed of**. All the parties should immediately file independent applications with the Town & Country Planning Department for division of license as per orders of the Authority. The original licensee company may not cooperate with the developers for this purpose. The Town & Country Planning Department should consider their consent as having been granted. They should take a decision for division of the license, regardless of approval of the licensee company, within a period of 60 days.

5. Disposed of. Files be consigned to record room after uploading of this order on the website.




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RAJAN GUPTA
[CHAIRMAN]


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ANIL KUMAR PANWAR
[MEMBER]


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DILBAG SINGH SIHAG
[MEMBER]