



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

<b>Complaint no.:</b>	<b>1170 of 2021</b>
<b>Date of filing:</b>	<b>25.10.2021</b>
<b>Date of first hearing:</b>	<b>24.11.2021</b>
<b>Date of decision:</b>	<b>24.08.2023</b>

B- Block RWA, Parsvnath City  
Sector 9 and 10, Sonapat  
through its President Mr. Surender Saroha

....COMPLAINANT

VERSUS

Parsvnath Developers Ltd.  
Office: Parsvnath Tower, Near Shahdara Metro Station,  
Shahdara, Delhi- 110001

....RESPONDENT

**CORAM:**            **Dr. Geeta Rathee Singh**            **Member**  
                         **Nadim Akhtar**                            **Member**

**Present: -**            Mr. Saurabh Sachdeva, learned counsel for the complainant through video conference.

Ms. Rupali S. Verma, learned counsel for the respondent through video conference.

**ORDER (Dr. GEETA RATHEE SINGH - MEMBER)**

1. This complaint is preferred dated 25.10.2021 under Sections 12, 14, 19, 31(f), 35, 36, 37, 38, and any other applicable provisions of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as “the Act”) and under Rule 28 and any other applicable provisions of the Haryana Real Estate (Regulation and Development) Rules, 2017 by President of Residents Welfare Association, B Block, Parsvnath City, Sector 9 and 10, Sonipat.

**A. FACTS OF THE CASE AS STATED IN THE COMPLAINT**

2. The original Allottee payed Rs.7,72,500/- as booking amount for a plot in the respondent project Parsvnath city Block B. The Plot Buyer’s Agreement for the Plot no 0333, Block- B having area of 299 sq. yards was executed on 13<sup>th</sup> December, 2006. As per clause 9 of the Agreement, “the buyer shall be entitled to the possession of the plot only after payment of all the amounts payable by him. On 19<sup>th</sup> September, 2013, the Original Allotte assigns his rights in the favour of Mr Prashant Tyagi and 16<sup>th</sup> June 2018. Mr. Prashant Tyagi assigns all the rights and liabilities under the Plot Buyer’s Agreement in the favour of Complainant, Mr. Surender Saroha and his wife Mrs. Kamlesh Saroha on 5<sup>th</sup> July, 2019. A deed of conveyance for the Plot no. 0333, Block B having an area of 299 sq. yards situated in B-block



Parsvnath, City, Sector 9 & 10, Sonapat, Haryana is executed between the Complainant and respondent. Complainant alongwith office bearers of RWA B-Block Parsvnath Citry, Sector-9 & 10, Sonapat, Haryana approached the Respondent and pleaded for basic facilities and amenities as per the Agreement on various occasions but the Respondent did not gave satisfactory reply to their letters, emails, personal visits, telephone calls, seeking information about the status of the Club, construction of sector roads, development of parks, installation of STP and electricity infrastructure, arrangement of water supply, sewerage, drainage, waster disposal etc. for the project. Respondent has violated Section 19 of the Act, 2017.

3. The Respondent in an unfair manner siphoned of funds for project and utilized same for its own benefit for no cost. Respondent utilised funds collected from the Complaint and other buyers for its own good and left the project full of deficiencies which are as follows:-

S.no.	Deficiencies in the project	Remarks
1.	STP not installed	The internal sewerage system is not being maintained properly as the work of installation of 25 KLD Sewerage Treatment Plant (STP) has not been installed till date. The STP equipment/machinery is laying dumped in a tin shed without any permanent/pucca structure at site.
2.	No development of	After taking 100% IDC the respondent



	parks and the green belt.	developer has failed to developed parks/green area in the project.
3.	Rain water harvesting system has not been installed	Rain Water Harvesting System is not installed by the respondent in the project till date.
4.	Electric infrastructure/sub-station has not been constructed yet.	The work of electric infrastructure and sub-station is not been started yet and due to that UHBVN is not giving electricity connection to the residents of the projects.
5.	No development of Club/community sites.	The Club and approved community sites are not been developed by the colonizer in the project till date.
6.	Adequate and wholesome amount of water	Due to lack of electricity the residents are facing scarcity of water.

4. The Respondent/Promoter has neglected his part of obligations by failing to complete the development works of the Project till date. The Complainant reserves their right to seeks compensation from the Promoter for which the Complainant may make a separate application to the Adjudicating Officer, in case if it is required.
5. Complainant hereby seeks to redress the various forms of legal omissions and illegal commissions perpetuated by the Respondent/Seller/Builder/Promoter, which amount to unfair trade practices, breach of contract and are actionable under the Real Estate (Regulation and Development) Act, 2016. Respondent has neither completed development works till date nor has paid any interest for delay on the paid amount.



**B. RELIEF SOUGHT**

6. The complainant in his complaint has sought following reliefs:
- (i) Direct the Respondent to complete the requisite formalities in regard to the development works of the project immediately.
  - (ii) Direct the Respondent to complete the construction of common areas infrastructural facilities and amenities like Club/Community centre, sector internal roads, parks, installation of sewerage treatment plant and electricity infrastrucutre and sub-station, arrangement of water supply, sewerage, drainage and waster disposal etc. for the residents of the Project.
  - (iii) Direct the Respondent to pay legal expenses of Rs.1/. (one) lakh incurred by the Complainants.
  - (iv) Any other damages, interest and relief which the Hon'ble Authority may deem fit and proper under the circumstances of the case may kindly be passed in the favour of the Complainant and against the Respondent.

**C. REPLY SUBMITTED ON BEHALF OF RESPONDENT**

7. Learned counsel for the respondent has not filed reply in the present complaint despite availing several opportunities.



**D. ARGUMENTS OF LEARNED COUNSEL FOR  
COMPLAINANT AND RESPONDENT**

8. During oral arguments, learned counsel for the complainant reiterated the arguments as were submitted in writing. He referred to order dated 29.09.2022 and the local commissioner's report, already been taken on record, which shows that there are deficiencies in the respondent's project and project is not complete as per approved service plan estimates. Further, he stated that decision already taken by the Authority in **complaint case no. 1976 of 2019 titled Dai Ram Khatkar (deceased) through LR Rajbir Singh Dhankar and anr. versus Parsvnath Developers Ltd** involves similar controversies. Therefore, he requested that this complaint be disposed of in the same manner.
9. On the other hand, learned counsel for the respondent argued that project is not devoid of facilities and temporary arrangements are already there. She further requested that directions may be passed by the Authority for laying the facilities in a time bound manner. She also submitted that penalty of Rs. 1 lac and local commissioner fees amounting to Rs. 20,650/- has already been deposited on 29.04.2023.

**E. ISSUES FOR ADJUDICATION**

10. Whether complainant-association is entitled to the reliefs sought or not?



**G. OBSERVATIONS AND FINDINGS OF THE AUTHORITY**

11. Authority vide its order dated 12.07.2022 has appointed local commissioner to visit the site and submit report as to whether all facilities as per approved service plan estimates have been installed at site or not or whether the project is in a habitable condition. Accordingly, site was visited by local commissioner and report was submitted on 27.09.2022. Said report was duly taken on record in the order dated 29.09.2022. In the report of local commissioner, it has been specifically stated that the 'all facilities as per approved service plan estimates have not been installed at site and the project is not in a habitable condition'.
12. To deal with the issues, detailed order dated 29.09.2022 already passed by this Authority in the present complaint is reproduced below for reference:-

*Present complaint has been filed by Resident Welfare Association (RWA) of Block B, Parsvnath City, Sector 9&10, Sonipat stating that respondent has failed to provide legitimate and lawful possession of the plots to the complainants by not providing basic facilities and amenities which were committed by respondent such as provision of STP, club/community centre, sector roads, parks, electricity infrastructure, water supply, sewerage, drainage system, waste disposal etc. even after delay of more than 13 years.*

*2. In order to ascertain availability of basic infrastructural amenities at site, Authority vide order dated 12.07.2022 had appointed a Local Commissioner to visit the*



site and submit a report as to whether all facilities as per approved service plan estimates have been installed at site or not and whether project is in a habitable condition or not. Local Commissioner has submitted its report on 27.09.2022. Parties may collect the copy of said report from office of the Authority.

3. Local Commissioner has submitted as follows:

(i) Some equipment and machinery for STP is laying at site but the structure for STP has not been constructed. Internal sewer and storm water lines have been laid at site but they have not been connected to any treatment plant/disposal point. Sewerage is being stored in lines and storm water gets stagnated in pipes and in open land.

(ii) Two parks have been partially developed and no other green belt development was seen at site.

(iii) Rain water harvesting system has not been constructed.

(iv) Power connection from UHBVNL has not been taken. Substation, transformers and connecting cables between them have not been installed. The builder has installed two mobile power Generators to supply electricity for street lights.

(v) Site for schools, community center and other common facilities has been demarcated and land has been provided. Schools at two locations have been constructed, but no construction has been done at site for high school, club, community center and site for taxi stand etc has not been developed.

(vi) One OHSR with internal pipelines has been installed at site but it has not been connected with any source of water supply. Habitants draw water from their individual borewells.

(vii) Internal roads have been developed by the builder except a few locations. Roads though constructed but require maintenance.

(viii) Adjacent colonies dispose their effluent in open land in this sector.





*(ix) Some more electrical poles for street lights are required. Electrical fixtures on street light poles are partly installed/operative.*

*In brief it has been submitted by Local Commissioner that all facilities as per approved service plan estimates have not been installed at site and project is not in a habitable condition.*

4. *Learned counsel for the complainant stated that respondent has built overhead water tank at site but underground water tank has not been constructed because of which residents are facing many difficulties.*

5. *Authority has gone through the report submitted by Local Commissioner and observes that although there exist various deficiencies at project site but initially two major services must be provided by respondent to its residents. One, respondent shall construct underground water tank and submit proof of its completion. Two, repairing of roads shall be done by respondent. Accordingly, respondent is directed to complete above mentioned two services before next date of hearing failing which heavy penalty will be imposed upon respondent.*

6. *Cost of ₹20,650/- as expenses of Local Commissioner has been paid by complainant and respondent is directed to deposit with the Authority amount of ₹20,650/- before next date of hearing.*

7. *Adjourned to 07.12.2022.*

13. In the order dated 29.09.2022, Authority observed that although there exist various deficiencies at project site but initially two major services must be provided by respondent to its residents. One, respondent shall construct underground water tank and submit proof of its completion. Two, repairing of roads shall be done by respondent. Accordingly, respondent was directed to complete above mentioned two services before next date

*Rathee*

failing which heavy penalty was to be imposed upon respondent. On the next date of hearing i.e, on 07.12.2022, ld. counsel for the complainant submitted that nothing has been done by the respondent till date. Ld counsel for the respondent stated that respondent is ready to comply with the orders of the Authority and sought 2 months' time for the same. Authority had imposed penalty of Rs. 1 lac for not complying with the orders of the Authority. Further it is observed that till today the respondent has not submitted any document in compliance of the order dated 29.09.2022.

14. Authority has heard respective contentions of both parties and has gone through documents placed on record and observes that report of Local Commissioner clearly depicts that although certain number of families is residing in the colony but there exist certain deficiencies in the project which need to be rectified. Accordingly, respondent is directed to provide all the amenities as were supposed to be provided in the approved service plan estimates of the project. Electricity infrastructure as promised and as got approved by UHBVN must be installed. Compliance of these directions must be done within 90 days of uploading of this order.

15. The complainant in his complaint has stated that they reserve their right to seek compensation from the promoter. In this regard it is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers PvL Ltd. V/s State of*



*U.P. & ors.*” (supra,), has held that an allottee is entitled to claim compensation under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainant is at liberty to approach the Adjudicating Officer for seeking the relief of litigation expenses.

#### **H. DIRECTIONS OF THE AUTHORITY**

16. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

(i) Respondent is directed to maintain and complete the common areas and services as per the approved service plans within 90 days of uploading of this order.

17. In above terms, case is **disposed of**. File be consigned to record room and order be uploaded on the website of the Authority.

  
.....  
**NADIM AKHTAR**  
[MEMBER]

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