



**HARERA**  
**GURUGRAM**

Complaint No. 24 of 2019

**BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,  
GURUGRAM**

**Complaint no. : 24 of 2019**  
**Complaint filed on : 14.01.2019**  
**Decided on : 19.03.2024**

The World Spa Apartment Owners Association

**Address:** B-42, First Floor, Panchsheel Enclave,  
New Delhi- 110017

.....Complainant

**Versus**

1. M/s Unitech Limited

**Address:** 6, Community Centre, Saket, New Delhi

2. Department of Town and Country Planning, Haryana

**Address:** DTP, Planning, Gurugram, HUDA Complex,  
Sector 14, Gurugram, Haryana.

.....Respondent

**CORAM:**

Shri Vijay Kumar Goyal

Shri Ashok Sangwan

Shri Sanjeev Kumar Arora

**Member**

**Member**

**Member**

**APPEARANCE:**

Ms. Surbhi Sharma

None

Counsel for the complainant

For respondent no. 1 and 2

**ORDER ON APPLICATION**

1. The present complaint was adjourned sine die by the authority on 09.10.2020 in view of order dated 20.01.2020 passed by Hon'ble Apex Court in **Civil Appeal No. 10856/2016 titled as Bhupinder Singh Vs. Unitech Ltd.** wherein it was held that there shall be a 'Moratorium'



against M/s Unitech Ltd. and its subsidiaries and the same shall also extend to the existing proceedings against the company as well as the enforcement of orders that may have been passed.

2. The complainant has moved an application dated 20.07.2023 seeking recall of order dated 09.10.2020 and restoration of proceedings in the present complaint on the ground that the Authority has failed to take note of the fact that in terms of the aforesaid order passed by the Hon'ble Apex Court, the authority could have adjourned the proceedings qua respondent no.1. However, the proceedings qua respondent no.2 should have continued and the matter should have been heard on merits for direction sought against the respondent no.2. It is pleaded that the respondent no.2 had issued show-cause notices to developers/residents of about 17 other group housing colonies in Gurugram where the allottees are residing after developers had given possession and executed conveyance deeds in absence of obtaining the occupation certificate from respondent no.2.
3. The complainant in its complaint is seeking relief that the respondent no.2 i.e., DTCP, Haryana be directed to issue occupation certificate for towers B1, B2, B3, and B5, community building II and swimming pool of World Spa Complex.
4. The counsel for the complainant has placed on record a copy of order dated 22.01.2019 passed in CR/44/2018, copy of order dated 09.11.2021 passed in CR/144/2020 and a copy of order dated 04.12.2018 passed in CR no. 136/2018. In CR/44/2018, the complaint was filed by the allottee, i.e., Rameshwar against the promoter M/s Aerens Gold Souk Projects Pvt.



Ltd. seeking refund of the amount paid by the allottee and the Haryana Real Estate Regulatory Authority, Panchkula has allowed refund of the amount along with interest as the license of the project had been cancelled and the project has been taken over by the State Government and, State Government is not in position to complete the said project after taking over it. Further in CR/144/2020, the Haryana Real Estate Regulatory Authority, Panchkula had made recommendation under section 32 of the Act of 2016 to the Town and Country Planning Department to take expeditious decision on the matter pending before them since long and has also held that the Town and Country Planning Department will also be responsible for causing delay in completion of the project if required permissions are delayed by them.

5. The authority observes that in the present case, CIRP proceedings have been initiated against the respondent promoter herein i.e., M/s Unitech Ltd. and moratorium has already been declared under section 14 of the Insolvency and Bankruptcy Code, 2016 and accordingly, the Hon'ble Apex Court in ***Civil Appeal No. 10856/2016 titled as Bhupinder Singh Vs. Unitech Ltd.*** has also stayed any subsequent proceedings with regard to the respondent no.1 herein i.e., M/s Unitech Ltd. Keeping in view the same, the present complaint was adjourned sine die by the authority vide orders dated 09.10.2020. However, the complainant has moved an application seeking recalling of order dated 0910.2020 and for issuance of direction to the respondent no.2 not to take adverse actions against the members of complainant and to take necessary actin to complete balance




development works, if any, for purpose of granting occupation certificate to remaining towers.

6. The authority observes that the license bearing no. 98, 99, 100 and 101 of 2004 was granted in favour of M/s Unitech Ltd. i.e., the respondent no.1 herein by the DTCP, Haryana i.e., the respondent no. 2 in respect of the subject project. It is matter of record that the license bearing no. 98, 99, 100 and 101 of 2004 has been cancelled by the respondent no. 2 vide order dated 20.05.2017. the complainant has submitted a representation dated 16.03.2021 with the respondent no.2 requesting for grant of occupation certificates for remaining towers and for grant of completion certificate to the group housing colony which has further been followed vide letter dated 05.04.2021. However, there is no response from respondent no.2. Here the important question arises that what would be the fate of a project after its license is cancelled? It is pertinent to mention here that the rules 18 and 19 of the Haryana Development and Regulation of Urban Areas Rules, 1976 has been substituted vide Haryana Act no. 140 of 2019 dated 20.08.2019 which lays down the actions to be taken after cancellation of licenses. Further, it is pertinent to mention here that the occupation certificate is granted by the concerned competent authority in terms of code 4.10 of Haryana Building Code, 2017 after following due procedure of law as prescribed under the applicable statute. The grant of the occupation certificate is within the domain & purview of the respondent no.2. The authority is of the view that in the stressed projects like in the instant case, the Town and Country Planning Department needs to proceed as per the applicable



laws and rules for helping completion of the subject project where license has been cancelled and allottees are waiting for their houses despite having paid their entire lifetime savings.

7. In view of the above, the authority disposes of this application with a recommendation to Town and Country Planning Department to take appropriate measures and necessary action as per applicable laws as it deems fit in the interest of the allottees and a notice in this regard shall be sent to Director Town and Country Planning Department, by the registry of the authority for taking necessary action in furtherance of the aforesaid observations and directions.
8. File be consigned to registry.

  
**(Sanjeev Kumar Arora)**  
Member

  
**(Ashok Sangwan)**  
Member

  
**(Vijay Kumar Goyal)**  
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 19.03.2024