

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.166 of 2023

Date of Decision: 03.07.2024

1. Mrs. Mili Jain

2. Mrs. RekhaKhandelwal,

Resident of EA-1/62, First Floor, Inderpuri, New Delhi-110012.

Appellants

Versus

M/s Emaar India Limited, Emaar Business Park, Sikanderpur, Sector
28, Gurugram, Haryana-122001.

Respondent

CORAM:

Justice Rajan Gupta Chairman

Present: Mr.Pranjal Jain, Advocate,
for the appellants.

Ms. Tanika Goyal, Advocate,
for the respondent.

ORDER:

RAJAN GUPTA, CHAIRMAN:

Present appeal is preferred against the order dated 12.01.2023 passed by the Authority¹ whereby the complaint² filed by the appellant/allottees was disposed of. The operative part of the order is as under:-

“vi. That annexure IV of the agreement to sell sets out the pricing and payment plan in terms of which the allottee is required to make payment of the sale price in 6

¹ Haryana Real Estate Regulatory Authority, Gurugram

² Complaint No. 1656 of 2022

Appeal No.166 of 2023

installments. The EDC component of the sale price is to be paid at the time of installments No.3 and 4.

It is submitted that the EDC/IDC component amounting to Rs.34,75,588/- is already included in the total price of the SCO unit and that the installment wise breakup of the charges has been explained in annexure IV to the agreement to sell.

In view of the same the authority is of view that the respondent is right in charging of Rs.34,75,588/- in lieu of the EDC and IDC.

Matter stands disposed of. File be consigned to the registry.”

2. Mr. Jain, learned counsel appearing for the appellants has posed a challenge to the demand of EDC³ and IDC⁴ components by the promoter on the plea that at the time of granting RERA registration, no such condition is imposed on the promoter to remit EDC/IDC to the Government.

3. The Authority, however, found that Annexure IV of the agreement to sell sets out the pricing and payment plan in terms of which the allottees are required to make payment of the sale price in six installments. EDC/IDC are components thereof. At the time the instant appeal was entertained, this Bench framed the following questions:

(a) “Whether EDC/SIDC/IDC to the tune of Rs.34,75,588/- charged from the appellant has been remitted to the concerned authority by the Promoter (Emaar India Pvt. Ltd.)?”

³ External Development Charges

⁴ Infrastructure Development Charges

Appeal No.166 of 2023

(b) Whether the amount which has been deposited in the aforesaid three heads for the whole project and acknowledgment in respect thereof.

(c) Whether similar charges have been levied on other allottees and they have remitted the same, proof in this respect?"

4. Pursuant to same, affidavit dated 30.03.2024 was filed by the respondent-promoter on 10.04.2024. Paras 3 and 4 of the affidavit read as under:-

"3. That the deponent is placing on record Schedule Reports/Acknowledgment for the payment of EDC and IDC dated 27.05.2022 downloaded from the website of Department of Town and Country Planning, Government of Haryana, which is annexed as **Enclosure-A & Enclosure-B**, respectively.

4. That the deponent is providing details of similarly placed four allottees of the same project to demonstrate that similar charges qua EDC/IDC/SIDC have been levied upon the allottees and they have paid the same. A tubular chart is reproduced herein below giving the relevant details:

Sr. No.	Name of the Allottee	Unit No./SCO Plot No.	Area of Plot	Total Price of Plot	EDC/IDC charged and paid
1.	EkantYadav	EBD-114-B-20	107.64 sq.Yd	Rs.2,26,50,797/-	Rs.3,475,588/-
2.	VSR Ventures Pvt. Ltd.	EBD-114-B-21	220.66 sq.Yd	Rs.6,33,11,416/-	Rs.7,124,982/-
3.	Almas Zaheer	EBD-114-B-23	107.64 sq.Yd	Rs.3,35,61,452/-	Rs.3,475,588/-
4.	Raja SomSehrawat	EBD-114-B-25	107.64 sq.Yd	Rs.2,18,32,733/-	Rs.3,475,588/-

5. A query has been put to learned counsel for the appellants whether he is satisfied with the affidavit filed by the promoter. He submits that the issue requires adjudication. He further submits that

Appeal No.166 of 2023

demand of EDC/IDC is still not sustainable as there is no such condition incorporated in the Rules⁵while granting RERA Registration to the promoter for the project. Ms. TanikaGoyal, however, has submitted that EDC/IDC, are charged by way of notification and all the promoters are required to act in accordance with same.

6. Having heard learned counsel for the parties and given careful thoughts to the facts of the case, this Bench feels that the effect of notification and terms of agreement entered into between the parties need to be considered and adjudicated upon afresh. It would, thus, be appropriate if a detailed order is passed in this regard as it is likely to effect large number of allottees/promoters.

7. In view of the aforesaid observation, this Bench deems it fit to remit the matter to the same Authority for decision afresh at the earliest preferably within three months.

8. The appeal is disposed of.

9. Copy of this order be communicated to both the parties/counsel for the parties and the learned Authority.

10. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

03.07.2024
CL

⁵ Haryana Real Estate (Regulation and Development) Rules 2017