



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2890 of 2022
Date of filing:	03.11.2022
First date of hearing:	15.03.2023
Date of decision:	04.11.2024

Bank Employees and Friends Coop House Building Society,

Saketri, Panchkula

Village Saketri Tehil Panchkula

.....COMPLAINANT

Versus

- 1. State of Haryana**
through Additional Chief Secretary to Government of Haryana,
Department of Urban Estates,
New Haryana Civil Secretariat,
Sector 17, Chandigarh
- 2. Haryana Shehri Vikas Pradhikaran, Panchkula**
HSVP Complex C-3 Sector-6, Panchkula
through its Chief Administrator

3. The Director, Urban Estate Haryana

Sector 18 Chandigarh

4. The Zonal Administrator,

Haryana Shehri Vikas Pradhikaran,

HSVP Complex C 3 Sector-6, Panchkula

.....RESPONDENTS

CORAM: Nadim Akhtar

Member

Chander Shekhar

Member

Present: - Adv. Aryan Singh, proxy counsel for Adv. Rajeev Anand, counsel for complainant through VC.

Adv. Pramod Kumar, proxy counsel for Adv. Arvind Seth, counsel of respondent through VC.

ORDER (NADIM AKHTAR –MEMBER)

1. Present complaint has been filed by the complainant on 03.11.2022 under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as RERA, Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the RERA, Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.



A. FACTS OF THE COMPLAINT

2. The complaint from the Bank Employees & Friends Cooperative House Building Society Ltd. ("the Society") addresses grievances related to land admeasuring 6.53125 acres owned by the Society in village Saketri, Panchkula, Haryana, and highlights what it perceives as procedural lapses, non-compliance with statutory requirements and delays by the state authorities.
3. That the Society purchased a land parcel measuring 6.53125 acres (equivalent to 52 Kanal 5 Marla) in village Saketri, Panchkula, Haryana, between 1990 and 1997, following the state government's initiatives to address housing shortages. At the time of purchase, the Haryana government had promoted cooperative housing societies under a scheme through the Haryana Housing Board, with the intention that such societies would develop housing projects for their members. The Society registered its land purchase in September 1990, obtaining the necessary mutations, and complied with all formalities to ensure the land could be used to develop residential homes for its members.
4. That the Society reports that between 1990 and 1997, most of the land in Saketri village was owned by cooperative societies and individual landowners for residential purposes, as intended under Haryana's housing policies.



However, in 1997, the Haryana government initiated land acquisition proceedings under the Land Acquisition Act, 1894. This disrupted the Society's housing development plans and prompted it, along with other affected societies, to file multiple legal petitions challenging the acquisitions.

5. That in an effort to avoid forced acquisition, the Society filed a representation with the authorities, requesting that the land be considered under Section 101-A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013. This section allows the return of acquired land under certain conditions if the land is not used for the intended public purpose.
6. The Society argued that its land met the criteria for exemption or could be integrated into the Haryana Land Pooling Policy, 2022, which promotes voluntary participation in land pooling for planned development. Despite fulfilling all necessary parameters for inclusion in the pooling policy, the Society claims that its representation remains pending.
7. On July 21, 2022, the Haryana government issued a notification establishing Zonal Committees to address representations by landowners under Section 101-A of the 2013 Act. Subsequently, on July 22, 2022, the relevant authorities were directed by the Director Urban Estates to take necessary



action in response to the notification, with an expectation of timely resolution of these representations. Despite these directions, the Society's application remains unresolved, leaving the Society's land in limbo and hindering potential development opportunities for its members.

8. Despite the unresolved status of the complainant-society's representation, the State of Haryana, through the Haryana Shahari Vikas Pradhikaran (HSVP), advertised an e-auction for the sale of residential plots, including the Society's land, on September 21, 2022, with the auction scheduled for September 26, 2022. The Society swiftly filed a representation on September 23, 2022, requesting the authorities to withdraw the proposed e-auction of its land, arguing that the sale should be deferred until its Section 101-A representation is considered. The Society argues that such actions disregarded both their pending application and relevant court directions.
9. That the complainant-society further alleges that the HSVP failed to obtain mandatory approvals and registration under the Real Estate (Regulation and Development) Act, 2016 (RERA) for the planned e-auction of plots. This issue is critical as under the RERA Act, 2016, all real estate projects must be registered with the appropriate authority before any marketing, sale, or allotment can occur.



10. That the complainant-society points to a recent case (Anil Kumar Yadav & Ors. vs. State of Punjab & Ors., CWP No. 4769 of 2020), where the Punjab and Haryana High Court ordered HSVP to comply with RERA regulations, a requirement that HSVP acknowledged via an affidavit on July 5, 2022. Despite this acknowledgment, HSVP proceeded with auctioning the plots without securing RERA registration, potentially exposing future buyers to legal issues and increasing the risk of litigation for the Society.
11. The complainant-society filed Civil Writ Petition No. 11402 of 2014 to challenge the state's land acquisition. In response, the Punjab and Haryana High Court issued a notice of motion and ordered that status quo be maintained. On August 31, 2020, the Hon'ble High Court granted the complainant-society liberty to approach the state government under Section 101-A of the 2013 Act and pursuant to the 2019 state policy. In January 2022, the Society filed a representation, seeking a decision on the return or pooling of its land. The complainant-society references additional High Court orders where the state was directed to resolve representations under Section 101-A and halt dispossession until a decision is reached and communicated. Despite these orders, the complainant-society's application remains undecided, preventing it from moving forward with planned residential development for



its members. The complainant-society requests intervention from the Hon'ble Authority, to direct the respondents to expedite the decision on its representation filed under Section 101-A of the 2013 Act or alternatively to include the land under the Haryana Land Pooling Policy, 2022. Until a decision on the representation is made, the Society seeks an injunction to prevent the state from proceeding with the auction or sale of its land. The Society also requests enforcement of RERA compliance on HSVP, ensuring that no sale, allotment, or auction takes place without the requisite registration and approvals under RERA.

B. RELIEFS SOUGHT

12. Complainant has sought following reliefs:

- i. By virtue of the powers so vested in the authority, suo motto action upon the present complaint be initiated against the Respondent HSVP under provisions of Section 59 of the 2016 Act;
- ii. The E-Auction held by HSVP on 26.09.2022 may kindly be revoked/quashed for violating the provisions of RERA.
- iii. In exercise of powers under Section 35, direct the Respondents No. 2 & 5 to place on record all statutory approvals and sanctions pertaining to the Project.



- iv. Direct the Respondents No. 2 & 5 to cancel all the proposed E- Auctions in future with regard to land of Complainant.
- v. During the pendency of this Complaint, all proposed E-Auctions may kindly be Ordered to be stayed.
- vi. Any other or further Order(s) in the Interest of the Justice unit till date.

C. REPLY ON BEHALF OF RESPONDENTS

In response to the complaint, the respondent argues that the complaint should be dismissed for several legal and procedural reasons.

13. The respondent contends that the complaint should be dismissed on the grounds that the complainants are not "allottees" as defined under the Real Estate (Regulation and Development) Act, 2016 (RERA). According to the respondent, only allottees—those who have been assigned or sold specific units or plots in a real estate project—have the standing to file complaints with the Real Estate Regulatory Authority (RERA). Since the complainant-society does not qualify as an allottee, it lacks the legal right to invoke the jurisdiction of the RERA Authority, Panchkula.
14. The respondent points to Section 18 of the RERA Act, 2016, which provides for refund and compensation to allottees if a promoter fails to complete or deliver a real estate project as agreed. Since the complainant does not fall



under the definition of an allottee, the respondent asserts that the complaint lacks merit and is frivolous. The reliefs under Section 18 are strictly reserved for allottees and not applicable to entities like the complainant-society that have not been assigned specific plots or units within the project.

15. The respondent argues that the Real Estate Regulatory Authority, Panchkula, lacks jurisdiction over the case, as the project was completed before the enactment of the RERA Act, 2016. RERA is generally applicable to projects in progress or initiated after its enactment, and not to those completed prior to the Act coming into force. Therefore, the respondent claims the RERA Authority does not have the authority to adjudicate the present complaint.
16. The respondent claims that the RERA Act, 2016, does not apply to cases where land has been acquired under the Land Acquisition Act and subsequently developed under the Haryana Urban Development Authority (HUDA) Act, 1977. According to the respondent, the land and plots involved in this case were developed under the provisions of the HUDA Act, 1977, and therefore fall outside RERA's scope. The HUDA (Disposal of Land and Buildings) Regulations, 1978, which were enacted under Section 54 of the HUDA Act, 1977, govern the disposal and allotment of land and buildings by Haryana Shehri Vikas Pradhikaran (HSVP). The respondent argues that the



development, sale, and allotment of plots by HSVP are governed by the HUDA Act, 1977, and are not subject to regulation under RERA.

17. The respondent refers to Part XI, Chapter XI of the Constitution of India, which outlines the distribution of legislative relations and powers between the Union and the States. Under Article 246 of the Constitution, specific subjects are allocated to the Union and State legislatures for law-making. The respondent appears to argue that, based on this distribution of legislative powers, the HUDA Act and its regulations govern the land in question, and that RERA should not have jurisdiction over a project developed under state legislation (HUDA Act, 1977).

D. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENTS

18. Learned proxy counsels for both the parties, i.e., complainant and respondent requested for an adjournment as their main counsels are in some personal difficulty. Their request is rejected on the ground that that the Authority was aware of the fact that Hon'ble Punjab and Haryana High Court is seized of the matter and a civil writ petition is under consideration for adjudication before the Hon'ble High Court. However, the Hon'ble Court has already dismissed the petition. Furthermore, today marks the 6th hearing of the case, and



considering that RERA proceedings are designed to be summary and expeditious, there is no merit in extending the proceedings further.

E. ISSUES FOR ADJUDICATION

19. Whether the complaint E-auction held by the respondent on 26.09.2022 be revoked for violating the provisions of RERA Act, 2016 or not?

F. OBSERVATIONS AND DECISION OF THE AUTHORITY

In light of the background of the matter as captured in this order and also the arguments submitted by the learned counsels for both the parties, the Authority observes as follows:

20. In captioned complaint the complainant namely "Bank Employees & Friends Cooperative House Building Society Ltd. (Saketri)" has filed a complaint regarding a 6.53125-acre land parcel in Village Saketri, Panchkula, Haryana, which the society purchased in the 1990s for residential development. The society's representation under Section 101-A of the Right to Fair Compensation and Transparency in Land Acquisition Act, 2013, and the Haryana Land Pooling Policy 2022, is still pending. The society is concerned about a proposed e-auction of the land, arguing that it violates the Real Estate (Regulation and Development) Act, 2016, as the land was not registered. The



complainant seeks that the E-auction held by the HSVP on 26.09.2022 may be revoked/quashed for violating the provisions of RERA Act, 2016.

21. Authority is of the view that Haryana Real Estate Regulatory Authority (HRERA), 2016 clearly stipulates that only an "allottee" is eligible to seek relief from the Authority under the RERA Act and rules and regulations. Perusal of file reveals that complainant has miserably failed to annex documents which establish the allottee- builder relations of the complainant and the respondents in their complaint book.
22. Under the Real Estate (Regulation and Development) Act, 2016 (RERA), Section 2(d) of RERA defines an allottee "*as a person to whom the developer has agreed to sell a unit through an agreement for sale, conferring certain rights and protections to the buyer under the Act*". For an individual to qualify as an "allottee" and seek protections and remedies under RERA, they must demonstrate a legal commitment from the developer, such as copy of allotment letter, an executed builder-buyer agreement or a similar formal contract that binds both the parties. In captioned complaint the complainant society is not a typical individual buyer but rather a Cooperative House Building Society that purchased land in village Saketri in early 1990s for residential development of its members. The society itself bought the land,



not individual buyers or allottees. The land was purchased for the purpose of building residential properties for the society's members. However, the respondents have not entered into individual agreements with members of the complainant-society that would constitute a buyer-seller relationship as required under RERA.

23. Even though the society purchased land for residential development, this does not automatically qualify it as an "allottee" under RERA. RERA is focused on transactions where individual units are sold to allottees, and the rights of those allottees are protected under the Act. The complainant has not shown that its members (or the society itself) entered into the kind of allotment letters/legally binding agreements that would define them as allottees.
24. The complainant's land, which was acquired under the Land Acquisition Act, 1894 was intended for development under the Haryana Urban Development Authority (HUDA) Act, 1977, is not covered under RERA. Land acquisition is done by the government for acquiring land of private owners for public purposes, under specific laws. These cases involve payment of compensation to landowners, rehabilitation, and resettlement schemes for them in lieu of their acquired land. Since land acquisition is not a sale or transaction involving a developer and an allottee, it is not governed by RERA Act, 2016.



RERA is designed to address issues arising from the sale of property, typically in the context of real estate projects where developers sell units to allottees. Therefore, the complainant's case, which involves issues related to land acquisition and development, does not qualify for relief under RERA.

25. Moreover, the respondent has also invoked Article 246 of the Constitution of India, which deals with the distribution of legislative powers between the Union and the States. Ld. counsel for respondent has argued in his reply book that matters concerning land development under HUDA and the Land Acquisition Act fall within the domain of state laws, and RERA does not have jurisdiction over these matters. Authority is not going into the details of this aspect at this stage when primarily the complaint has been decided to be non-maintainable.
26. Authority observes that the complainant had filed a writ petition, CWP 22512 of 2022, titled *Bank Employees and Friends Cooperative House Building Society vs. State of Haryana*, seeking to challenge the acquisition or some related issue which has been disposed off by the Hon'ble Punjab and Haryana High Court vide order dated 16.12.2023. The Hon'ble High Court highlighted that public interest, especially in the development of infrastructure, takes precedence over private interests. The Hon'ble Court further observed that the



petitioner's expectation of retaining the land was not reasonable given the public purpose of the acquisition and the lack of immunity from acquisition (despite any previous permissions or expectations). The Court dismisses the writ petitions, finding no merit in the petitioners' claims, including the argument for promissory estoppel or legitimate expectation. Further, since the complaint is not maintainable before the Authority due to the complainant's lack of status as an "allottee" under RERA, all reliefs sought by the complainant in para 12 of the order are similarly non-maintainable.

27. Thus, consequent upon the considerable consideration, the Authority is constrained to conclude that the present complaint is nothing but an ill-advised luxurious litigation and a classic example of litigation to enrich oneself at the cost of another and to waste the precious time of this Authority. The Real Estate (Regulation and Development) Act 2016 is a beneficial/ social legislation enacted by the Parliament to put a check on the malpractices prevailing in the real estate sectors and to address the grievances of the allottees who have suffered due to the dominant position of the promoter.
28. Authority decides to dispose of the captioned **complaint as dismissed** on the ground mentioned above. Hence, the complaint is accordingly **disposed of** in



view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.


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CHANDER SHEKHAR
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]

