HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1666 of 2022

HRERA, Panchkula ...COMPLAINANT

VERSUS

Suman Villas Pvt. Ltd. ....RESPONDENT

CORAM:	**Parneet S Sachdev**	**Chairman**
	Nadim Akhtar	**Member**
	Dr. Geeta Rathee Singh	**Member**
	Chander Shekhar	**Member**

Date of Hearing: 24.07.2024
Hearing: 10th
Present: Adv. Rishabh Jain on behalf of respondents.

ORDER (Parneet S Sachdev-Chairman)

This Suo-motu complaint was registered against the respondent for not uploading quarterly progress reports of project registered vide Registration No. 257 of 2017 dated 03.10.2017 valid upto 31.08.2022.

2. When the matter was considered on 16.01.2023, a penalty of ₹1,000/- per day was imposed for not filing quarterly progress reports on web portal of Authority.

3. On 26.07.2023, the total cumulative penalty amounting to ₹1,94,000/- was conveyed for not filing the online QPRs. Further, the respondents were directed to show cause as to why penalty U/s 61 read with Section 63 be not imposed for contravention of the provisions of the Act and not complying with the orders of the Authority. It was further made clear that the penalty of ₹1,000/- per day shall continue till the date quarterly progress reports are filed by promoter.

4. On 18.12.2023, Sh. Animesh appeared and apprised the Authority that Corporate Insolvency Resolution Process (CIRP Proceedings) have been initiated against the respondents in April 2022 and the same was intimated by them on mail id to the Authority. He further informed that the said project has been completed in August 2019 and they are facing some technical issues in filing the QPRs on the web portal of the Authority. Said QPRs have not been filed till date.

5. On 06.03.2024, the Authority imposed a cumulative penalty of ₹4,16,000/- and a further penalty of ₹1,000/- day to continue till the quarterly progress reports are filed online.

6. On the last date of hearing, i.e., 08.05.2024, Adv. Rishabh Jain appearing on behalf of respondents informed that QPRs till the date of grant of completion certificate have been filed online, today itself and requested the Authority to waive

off the penalty imposed on them by the Authority. The Authority decided to reject the contention of respondents to waive off the penalty already imposed upon them and directed them to deposit the cumulative penalty amounting to ₹4,71,000/- in the registry of Authority before the next date of hearing.

7. Adv. Rishabh Jain appearing on behalf of respondents informed that they have filed reply in the registry of the Authority stating that: -

a. Suman Villas Pvt Ltd had obtained completion certificate on 06.08.2019. Before initiation of the subject Suo-motu complaint, the NCLT vide its order dated 8-Apr-2022 had initiated the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code, 2016 against Suman Villas Pvt. Ltd and declared moratorium in terms of Section 14 of the IB Code-2016. Moreover, as a necessary consequence of the moratorium in terms of Section 14, some prohibitions were also imposed.

b. That the initiation of the subject suo-motu complaint in October, 2022 against Suman Villas Pvt. Ltd during the pendency of the insolvency proceedings was bad, illegal and not maintainable. Without prejudice to the above submission, the proceedings continued and the HRERA, Panchkula imposed recurring penalty. As per the order dated 8-May-2024 a cumulative penalty of ₹4,71,000/- was imposed as the necessary compliance stood complete even on the date of the order.

c. The NCLT vide its order dated 14-May-2024 has approved the Resolution Plan and vacated the moratorium declared vide order dated 8-Apr-2022 and in view of the same, now 'Max Heights Infrastructure Limited' has become the successful resolution applicant and has taken over Suman Villas Pvt. Ltd with limited liability and obligations, under the supervision of the Supervisory Committee. Moreover, in view of the aforesaid NCLT order dated 14-May-2024, the Successful Resolution Applicant (Max Heights Infrastructure Limited) has to bear limited liability and perform limited obligations.

d. In view of the submission made above, they submitted that firstly, the initiation of proceeding in October, 2022 against Suman Villas Pvt. Ltd, during the moratorium was bad, illegal and not maintainable, and secondly, without prejudice to the above, the liability/claim of penalty imposed by the Authority upon the Suman Villas Pvt. Ltd has not been approved by the NCLT for the Successful Resolution Applicant (Max Heights Infrastructure Limited). Therefore, it is prayed that the proceeding initiated in October, 2022 be dropped being void ab-initio. Further, it is submitted that upon approval of the said resolution plan, the successful resolution applicant (Max Heights Infrastructure Limited) has taken appropriate steps to fulfil all the obligations and duties towards the said project and all the quarterly progress reports of the said project have been filed.

9. The Authority observes that the management of the company was taken over by Resolution Professional who was supposed to comply with the statutory provisions of laws. Declaration of moratorium does not bar this Authority to initiate proceedings against the builder and to ensure that the promoters make all the statutory compliances. Further, since the proceedings initiated against the respondents are not coercive in nature, therefore the Authority grants one last opportunity to deposit the cumulative penalty as directed by the Authority vide its order dated 08.05.2024 in the registry of Authority before the next date of hearing.

10. Adjourned to **09.10.2024**.

Chander Shekhar	Dr. Geeta Rathee Singh	Nadim Akhtar	Parneet S Sachdev
Member	Member	Member	Chairman