HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 3088 OF 2022

HRERA, Panchkula ....COMPLAINANT

VERSUS

Goldsouk Infrastructure Pvt. Ltd. ....RESPONDENT

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

Date of Hearing: 06.11.2024

Hearing: 9th

Present: Adv. Rahul Diwan (representing Adv. Shubhnit Hans) on behalf of respondents.

ORDER (Nadim Akhtar-Member)

Present suo-motu complaint was registered against the respondent promoter for neither completing the project within the timelines declared u/s 4(2)(l)(c) at the time of seeking registration nor applying for extension of registered project – an affordable residential plotted colony on land measuring 30306.29 sq.mtrs situated in village Barota, Khanpur and Kawarsika, Tehsil Nuh, District Mewat, Haryana registered vide Registration No. HRERA-PKL-373-

2017 dated 28.11.2017 valid upto 10.09.2021. After granting benefit of COVID-19 period the registration stands expired in 10.06.2022.

2. On 26.07.2023, the Authority directed the promoter to show cause as to why registration may not be revoked by the Authority U/s 7 of the RERD Act, 2016 and penalty proceedings U/s 60 and 61 read with Section 63 be not initiated against them for contravention of the provisions of the Act and not complying with the orders of the Authority.

3. When the matter was last heard on 30.10.2023, the Authority granted one last opportunity to the respondent to comply with the orders failing which it will be constrained to impose a penalty of Rs. 5 Lac U/s 60 and 61 read with Section 63 for contravention of the provisions of the Act and not complying with the orders of the Authority.

4. On 10.01.2024, learned counsel Sh. Shubhnit Hans appeared and sought time to file reply. Authority imposed a penalty of ₹5 lac(Rupees Five Lacs only) U/s 60,61 read with Section 63 for contravention of the provisions of the Act and directed the promoter respondent to deposit the said amount in the registry of the Authority before the next date of hearing.

5. On 28.02.2024, learned counsel Sh. Shubhnit Hans submitted that the promoter has already applied for Completion Certificate but the same has not yet been received. There was no evidence to show when the promoter applied for Completion Certificate in the Department. The Authority granted one last opportunity to the respondent-promoter to pay the penalty of Rs.5 Lac as imposed on 10.01.24 and submit an application for granting extension.

6. On 10.04.2024, the Authority granted one last opportunity to the respondent-promoter to pay the penalty of Rs.5 Lac as imposed on 10.01.2024 failing which an additional cost of Rs.2 Lacs will be imposed and submit an application for granting extension.

7. On the last date of hearing i.e. 10.07.2024, learned counsel Sh. Shubhnit Hans appeared and informed that a reply has been submitted in the Authority on 09.07.2024. The Authority directs the Project Section to place it before the Authority on the next date of hearing.

8. Vide reply dated 09.07.2024, the promoter has informed that they have applied for grant of Completion Certificate on 10.11.2020 and there is no response from DTCP Haryana on that application. However, copy of the application made to DTCP, Haryana has also not been enclosed. They also informed that they have applied for renewal of license no. 92 of 2017 dated 07.11.2017 on 28.10.2022, and a reminder was issued to DTCP on 12.06.2023. Since, there is no response from DTCP, Haryana. Section 4.11 (3) of HBC, 2017, mentions that if no communication is received from the competent Authority within eight working days of submitting the application for "Occupation Certificate", the owner is permitted to occupy building, considering deemed issuance of occupation certificate. Therefore, the promoter has stated that no extension is required to be filed and requested to waive off the costs imposed by the Authority.

8. In view of the above, the Authority observes that, Section 4.11 (3) of HBC, 2017 states that: -

"If no communication is received from the Competent Authority within eight working days of submitting the application for "Occupation Certificate", the owner is permitted to occupy building, considering deemed issuance of "Occupation certificate" and the application Form BRS-III shall act as "Occupation Certificate": Provided violations, if found at any subsequent stage, shall result in cancellation of the occupation certificate issued and the same shall be restored only after removal of violations. Further, action against the Architect shall also be taken for furnishing a wrong certificate/ affidavit"

However, the present case does not correspond to the above Section of HBC, 2017. Further, as per the provisions of RERD Act, 2016 and orders of Hon'ble Supreme Court passed in M/s Newtech Promoters & Developers (P) Ltd. Vs. State of UP & Others, compliances are to be made till the grant of completion certificate. Therefore, the respondent should apply for extension of the real estate project upto the date of grant of completion certificate by the competent Authority. Further, additional penalty of Rs 2 Lacs along with the already imposed penalty of Rs 5 lacs is hereby confirmed. The respondent should file for extension before next date of hearing along with the penalties.

9. Adjourned to **08.01.2025.**

Chander Shekhar	**Dr. Geeta Rathee Singh**	**Nadim Akhtar**
Member	**Member**	**Member**