HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. (Suo-Motu) 1066 of 2020

HRERA, Panchkula ...COMPLAINANT

VERSUS

Pivotal Infrastructure Pvt. Ltd. ....RESPONDENT

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

Date of Hearing: 22.05.2024

Hearing: 21st

Present: - Adv. Karan Kaushal, learned counsel for the respondent through video conference
Sh. Karan Gambhir, counsel for the intervener through video conference

ORDER (PARNEET S SACHDEV - CHAIRMAN)

Notice u/s 35 of the RERA Act, 2016 dated 05.10.2020 was issued to the promoter for:

i) Not completing the project within the timelines declared under section 4(2)(l)(C) of the RERD, Act 2016 at the time of seeking registration.

ii) Not seeking extension of registration of the real estate project namely "Royal Heritage"- a group housing colony on land measuring 20.31 acres situated in Sector-70, Faridabad registered vide registration no. HRERA-PKL-FBD-47-2018 dated 14.09.2018 valid upto 31.12.2019.

2. As per the records of the Authority 18 towers were to be constructed on the project site. However, as per information furnished by the promoter occupation certificate in respect of 16 towers have been received and only two towers namely, Tower 1 and Tower 2 remain to be completed.

3. When the matter was heard on 15.05.2023, Authority directed the promoter not to sell any unsold inventory or create any third party rights in the project till extension is granted. Further, Authority vide orders dated 07.08.2023 observed and directed that since the respondents have failed to apply for extension of the project which was valid up to 31.12.2019, the respondents be show caused as to why penalty proceedings under section 61 read with section 63 of the RERD, Act, 2016 be not initiated against them and penalty upto 5% of the estimated cost of the project be not imposed for each violation.

4. Respondents vide reply dated 04.10.2023 informed that an application has been filed before the DGTCP for granting the occupation certificate on 14-10-2019 and the same is pending.

5. The matter was then heard on 16.10.2023 whereby Authority decided that Pivotal Infrastructure Pvt. Ltd. is liable for imposition of penalty under section 61 and 63 of the RERD Act, 2016 and observed that the issue of quantum of penalty to be imposed will be decided on the next date of hearing. It was also observed by the Authority that since arbitration proceedings are pending against the respondents, in the matter titled Daulat Ram Dharambir Auto Pvt. Ltd. and others v/s Pivotal Infrastructure Pvt. Ltd, therefore, the Authority directs the respondent to submit all the orders passed by the Ld. Arbitrator in the registry of the Authority.

6. The matter was then heard on 18.12.2023 wherein last opportunity was granted to the respondent to file detailed reply within fifteen days or else be present physically on the next date of hearing.

7. The matter was last heard on 03.04.2024 wherein the application dated 19.1.2023 filed by respondent seeking amendment of application dated 04.12.2023 was allowed and corrected list was taken on record. Further, the respondent was directed to file detailed reply during the course of the day and it was observed that decision on the quantum of penalty will be taken on next date of hearing after examining the reply to be filed by the respondent.

8. The respondent has filed an application dated 20.05.2024 under Section 37 and 38(2) of the RERA Act,2016 read with Section 151CPC seeking vacation of

the interim order dated 15.05.2023 on the grounds that the cost of ₹50,000/- imposed by the Authority has been deposited. The respondent has applied for the extension of the project vide application dated 26.10.2023 till 2023 and vide application dated 09.05.2024 for the year 2023-2024. The respondent has obtained OC for all the 18 towers of the project on 30.11.2017, 25.06.2018, 17.08.2020 and 01.05.2024. It has been prayed that since the entire project is complete and respondent has obtained OC for the same, respondent be allowed to sell the unsold inventory and order dated 15.05.2023 be vacated as the respondent is in dire need of revenue which is expected to be generated from the sale of unsold inventory of Tower-1 and Tower-2.

9. Vide another application dated 20.05.2024, the respondent has placed on record the orders passed by Ld. Arbitrator in 'Daulat Ram Dharambir Auto Pvt. Ltd. vs. Pivotal Infrastructure Pvt. Ltd.'

10. The respondent has also filed reply dated 20.05.2024 to the show cause notice issued vide order dated 07.08.2023. The respondent has submitted that it has applied for the extension of the project on 26.10.2023 and has completed the construction and development works of all the approved 18 towers, EWS towers, commercial site and club within the said project and the company has obtained OC for said 18 towers of the project. It has been prayed that proceedings under Section 61 and 63 of the Act may kindly be set aside considering that there is neither any

willful contravention of any provisions of the Act nor there is any willful failure to comply with the orders of the Authority.

10. The Authority has gone through the application and reply submitted by the promoter on 20.05.2024 and it is observed that:

i. The registration of the project was valid upto 31.12.2019, the respondent has not obtained extension of the project thereafter, for which show cause notice was issued in the year 2020. The date on which the project lapses, the promoter cannot further sell the inventory of the project. Mere Application for grant of extension of the project does not amount to extension and ban on sale of unsold inventory will continue till extension is granted by the Authority. As on date, the project is a lapsed project and accordingly, application for vacation of order dated 15.05.2023 cannot be allowed.

ii. The respondent was issued show cause notice vide order dated 07.08.2023 and vide order dated 16.10.2023, it was observed that respondent is liable for imposition of penalty under section 61 and 63 of The RERD Act, 2016, however, quantum of penalty to be imposed was to be decided by the Authority. The respondent has filed its reply to the show cause notice on 20.05.2024 whereas the penalty was already imposed on 16.10.2023. Accordingly, said reply cannot be considered for discharge of show cause

notice issued, however, it can be considered for the quantum of penalty to be imposed upon the respondent. Accordingly, respondent is burdened with a penalty of ₹1 lac only since the respondent has completed the project and has obtained OC for all the 18 towers of the project. Respondent is directed to deposit the said penalty before the next date of hearing.

11. Adjourned to **05.03.2025.**

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