



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

<b>Complaint no.:</b>	101 of 2020
<b>Date of filing:</b>	11.02.2020
<b>First date of hearing:</b>	13.10.2020
<b>Date of decision:</b>	19.09.2024

Deepak Jain and Others  
S/o Sh. Ramesh Jain,  
R/o C-79, Divine City,  
Sector-13, GT Road,  
Ganaur, Distt. Sonipat.

....COMPLAINANTS

VERSUS

Rama Krishna Buildwell Pvt Ltd,  
Divine City, Ganaur (Sonipat)  
Regd Office :B-79, 2nd Floor,  
Wazirpur Industrial Area, Delhi- 110052

....RESPONDENT

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

**Present:** - Mr. Deepak Jain, Complainant in person.

                  Mr. Hemant Saini                      and                      Mr. Himanshu Monga,  
                  Counsels for the respondent.

**ORDER (PARNEET S SACHDEV- CHAIRMAN)**

1. Present Complaint has been filed by the complainants under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short 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 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 AS STATED IN THE COMPLAINT:-**

2. Present complaint has been filed by the complainant on behalf of nine other allottees, as a group of aggrieved allottees who are residents and owners of respective houses located in a residential plotted colony namely, "Divine City" situated at Sector 13 GT Road, Gannaur Distt. Sonipat. The developing rights for the plotted colony in question were given to the respondent company.
3. That the buyers of the plots in this project entered into a Plot Buyer Agreement (PBA) during the course sometime after booking. Plot Buyer Agreement for the plot number C-79 between the respondent and the



complainant, Mr. Deepak Jain, was executed on 01.05.2014. The possession for the abovementioned plot was delivered to the complainant on 10.03.2016.

4. That the main grievances of the group of allottees revolve around the deficiency of the services like electricity services, Drainage system, Sewerage Treatment Plant (STP), Roads, School and Club house etc.
5. It is averred by the complainants that the developer did not provide any infrastructure for getting single point supply domestic electricity connection from Distribution Licensee, i.e. UHBVN. Moreover, the developer is supplying the electricity from the Non - domestic connection to the houses and is charging fixed charges and higher tariff on exorbitant rates rather than the Domestic Tariff rate by ignoring the HERC 27-2013 notification.
6. Further, the complainants alleges that the developer is charging high maintenance charges and has delivered the possession to the allottees without getting either Part Completion certificate or Completion Certificate from the concerned Authorities.
7. Despite charging exorbitant amount of maintenance charges, the developer has failed to provide essential services to the allottees/ complainants, i.e., facility of storm drainage services and Sewerage Treatment Plant (STP).



8. That the complainants had been running from pillar to post for addressing their issues to the respondent and instead of taking any constructive action, respondent threatened the complainants and disconnected the electricity supply connections without giving any prior notice to the complainants and harassing the complainants.
9. Complainants have filed the present complaint for seeking recourse of providing essential services to the complainants/ allottees and against the misconduct of the developer. Hence, the present complaint.

**B. RELIEFS SOUGHT:-**

10. That the complainants seek following reliefs and directions to the respondents:-
  - i. Complete the electrical infrastructure and arrange the Domestic electricity connection for residents either from UHBVN or Single point supply as per HERC Regulation 2013. Refund all amount with interest which developer take from residents in the name of wrong bills generated from their non- domestic connection without any license;
  - ii. Refund the maintenance charges with interest and do not take Maintenance charges till the part completion certificate is not received by the developer;
  - iii. Storm water drainage should be provided;

- iv. Sewage Treatment Plant should be provided;
- v. Club house should be made and handover to residents for use;
- vi. Schools should be made and run for students;

**C. REPLY SUBMITTED ON BEHALF OF RESPONDENT**

Learned counsel for the respondent filed a short reply on 16.12.2020 pleading therein as under :-

11. It is submitted that the respondent had been granted licences no. 263 & 60 to develop a residential Plotted Township and a Group Housing Colony at Ganaur, District Sonapat, Haryana. He stated that the State of Haryana even after having received more than 15 crores as External Development Charges from the answering respondent since last 14 years, have not initiated the process of providing the External Development Works, which has caused hardship to the respondent who has taken over all the responsibilities over himself to provide the necessary amenities to the families residing in township.
12. He submitted that the respondent has got an electricity connection under the Township Development which is a non-domestic connection. Adding to the plight of the respondent developer, he added that till date even the drainage line from the project of the respondent has not been connected with the main sewer line.



13. He added that the respondent is getting electricity @6.75 per unit from Uttar Haryana Bijli Vitran Nigam Limited but is providing the same to its customers @6.63 per unit.

14. Further, he stated that the complainant Mr. Deepak Jain has not paid the outstanding balance of electricity bills which was duly intimated to the complainant vide letter dated 14.10.2020. The pending dues for the last 11 months amounted to Rs. 32,497/- till September 2020.

15. It is submitted that the complainants be directed to pay the balance amount and the complaint may be dismissed in the interest of justice.

**D. REJOINDER SUBMITTED BY THE COMPLAINANT**

16. The complainant submitted rejoinder dated 15.01.2021 to the reply submitted by the respondent stating that the respondent is charging monthly fixed amount of Rs. 650/- and Grid Energy Charges of Rs.6.63 per unit and other taxes which are exorbitant and unreasonable as applicants are residents of residential plotted colony and the respondent should have charged tariff as per domestic supply tariff rates.

**E. ARGUMENTS OF LEARNED COUNSELS FOR COMPLAINANT AND RESPONDENT**

17. During the course of hearing, Mr. Deepak Jain, complainant who personally appeared on behalf of all the complainants submitted that the respondent has disconnected the electricity of the complainants with malafide intention to harass the complainant. He further submitted that he had paid an amount of



Rs. 86,122 till Nov, 2019. The complainants apprised that aggrieved from the misconduct of the developer, complainants initially approached the Haryana Electricity Regulatory Commission, Panchkula, wherein the commission was of the view that as claimed by the complainants single point connection has neither been applied by the developer nor released by DISCOM, making the petition premature to approach HERC and observed that the petitioners may approach this Authority, i.e., RERA for relief against misconduct of the developer.

18. The complainant (Sh. Deepak Jain) submitted that the respondent had raised a bill of Rs.35,000 approx in Nov, 2020 and apprised the Authority that his explanation for non-payment of the same is that the respondent is demanding exorbitant and unreasonable charges. In support of his submissions, he produced an electricity bill where an amount of Rs. 927/- has been demanded by the respondent for consumption of 40 units. The Authority directed the complainant to deposit an amount of Rs. 10,000 to the respondent. Further, the complainant submitted an application dated 21.12.2020 wherein, he stated that he has duly paid an amount of Rs.10,000/- on 09.12.2020 in compliance of the directions made by this Authority vide its order dated 09.12.2020, subsequent to which the respondent had restored the electricity connection. Relevant part of the said order is reproduced below:-





*“After hearing the parties, the Authority observes that raising of demand of Rs 927 for 40 units works out to a rate of Rs 23 per unit which indeed is on higher side considering tariff applicable for domestic connection. It has been brought to notice of Authority that complainant has not even paid Rs 35,000/-which he otherwise had agreed to pay. Considering the respective submissions of parties and the difficulty being caused to the complainant due to disruption of electricity supply, the Authority directs that the complainant shall deposit a sum of Rs 10,000/- with the respondent and on deposit of such amount, the respondent shall restore his electricity supply. The respondent shall file on next date of hearing the details of electricity units consumed by the complainant, the rate at which amount is payable by him for such consumption and the other dues payable by complainant on account of electricity charges in terms of builder buyer agreement so that the balance liability of complainant can be assessed.”*

19. During oral arguments, both parties reiterated their arguments as were submitted in writing. Complainant further argued that complainants have been deprived of the essential services like electricity services, Drainage, Sewage, Roads, School and club house by the developer. The developer should provide complete electric infrastructure as per domestic charges and is liable to reimburse the difference of the amount charged by him as per commercial rates and charges as per domestic rate.

**F. ISSUES FOR ADJUDICATION:-**

- i. Whether the complaint is maintainable or not?
- ii. Whether the complainants are entitled to the reliefs sought or not?





## G. OBSERVATIONS OF THE AUTHORITY

### 20. Whether the complaint is maintainable or not?

With regard to the oral plea raised by the respondent that the captioned complaint is not maintainable in its present form, since the complainant, Mr. Deepak Jain, has been raising his individual grievances against the respondent and pressing for interim reliefs solely for himself while the complaint is filed by him as a group of allottees, the respondent stated that the captioned complaint is liable to be dismissed. It is pertinent to note that the present complaint, vide order passed on 05.03.2024, has already been held maintainable by this Authority. Relevant part of the orders dated 05.03.2024 is reproduced below for reference:-

Order dated 05.03.24 has been reproduced as follows:

*"4. As per section 31 of the Real Estate (Regulation and Development) Act, 2016, "any aggrieved person may file a complaint with the Authority or the adjudicating officer.... " wherein aggrieved person includes as per section 2 (zg) of the Act, "an individual or an association of persons or body of individuals whether incorporated or not". Therefore, it is imperative to conclude that present complaint which is filed by the complaint in a representative capacity is maintainable.*

*5. "It is pertinent to note that the complainant had vide vide application dated 02.01.2024 prayed for allowing amendment of relief clause by claiming an additional relief of delayed interest for all individual complainants. Authority is of the view that amendment of relief as sought by complainant now, is not permissible due to the reason that such relief is not*



*ejusdem generis to the common reliefs being claimed reliefs. Complainant cannot amend the relief so much so that it converts from collective capacity to individual capacity. Therefore, relief of delay compensation with interest cannot be allowed; however, this is without prejudice to the right of complainants to file individual complaint for seeking the relief of delayed possession interest. "*

Therefore, the complaint is being decided only qua the common reliefs sought by complainant- Mr. Deepak Jain and nine other allottees (complainants) which do not require evaluation of facts of each individual-complainant allottee.

21. It is pertinent to note that the Authority vide its order dated 31.05.2022 had appointed a Local Commissioner to inspect the site and submit a comprehensive report of the deficiencies pointed out by the complainants in order to adjudicate upon the below mentioned issues. Accordingly, site was visited by the Local Commissioner on 01.08.2022 and report was submitted on 17.08.2022. Said report was duly taken on record in the order dated 25.01.2023. In the report of local commissioner, submitted by him on 17.08.2022 all the deficiencies alleged by the complainants have been addressed in report of local commissioner except relief of refund of maintenance charges. In furtherance of it, the reliefs are bifurcated on the basis of common nature. Reliefs are being dealt as follows:-

- a. ***Complete the electrical infrastructure and arrange the domestic electricity connection for residents either from the UHBVN or Single point supply as per HERC Regulation, 2013. Refund the all amount with interest which***



***developer took from residents in the name of wrong bills generated from their Non Domestic Connection without any licence.***

In respect of this relief, it is observed that the respondent had filed its reply, stating that the respondent developer had already paid a substantial amount of EDC, totalling Rs. 15 crores to the state agencies. However, infrastructure including electrical connection is deficient on account of non-completion of external services by these agencies, resulting in significant hardship for the respondent. Furthermore, the complainant submitted certain photographs and other documents depicting the status of the plotted colony. In its order dated 12.01.2022, the Authority noted that basic infrastructure facilities existed in the colony in question, and the issue appears to be one of poor maintenance.

Relevant paragraph of the order is reproduced below-

*“While perusing photographs placed on record as Annexure-13, Authority observed from the photos that road has been laid, similarly infrastructural facilities are also existing. Therefore, prima facie no evidence of common facilities deficiencies was found. The issue appears to be poor maintenance. A detailed discussion of the same will be held on next date of hearing. Case is adjourned to 15.03.22”*

Further, the Authority directed the respondent to provide complete details of internal and electrical infrastructure as approved in their service plan estimates, along with an affidavit detailing how much of the infrastructure had already been installed and the extent of any deficiencies. However, the respondents failed to comply with the Authority's order. Instead of



providing a copy of the service plan estimates, they submitted certain documents that were not legible. As a result, the Authority decided to appoint a local commissioner to visit the site and submit a report on all alleged deficiencies.

Accordingly, the Local Commissioner had visited the site- Divine City, Sector-13, GT road, Ganaur, Sonipat on 01.08.2022. The Local Commissioner submitted his report dated 01.08.2022 and addressed the issue. Relevant paragraph of the report submitted by the Local commissioner is reproduced below-

*“Provision of domestic electricity connection  
The complex of Divine City had entrance on GT Road (Annexure-1, photo 1,2). As per representative of the defendant the project had one multi distribution switchboard (MDS) connection from electricity department for completion of the project. No connection for domestic supplies has yet been granted by the department. Presently electricity supply to hundred odd residents is being given through the available MDS connection only, the high rates of electricity are also being disputed by the allottees/complainants. As per records made available domestic supply connection was applied on 01.01.2018 by the defendant(Annexure-II). A notice for inspection of premises was issued by SDO, UHBVN, Ganaur City to the builders on 19.02.2018(Annexure-III). No further correspondence was available. However, two bank guarantees for Rs. 4037220/- and Rs.290400/- were provided to the electricity department in 2022 which were acknowledged by Executive Engineer, Op S/U Division, UHBVN, Sonipat on 24.02.2022. The bank guarantees were valid till 15.02.2023(Annexure-IV)”*



On perusal of the above report of Local Commissioner, the Authority in its order dated 25.01.2023 directed the respondent- developer to remove the deficiencies pointed out by the Local Commissioner within next 12 weeks and submit a compliance report with latest photographs. Further, respondent shall submit all requisite documents for issuance of domestic connection and to pursue it with the department for speedy disposal of this issue. Respondent shall submit compliance report in the registry.

Thereafter, the respondent sought some time to submit the documents but even after being granted many opportunities, he failed to comply with the Authority's directions and no such documents have been placed on record explaining the status of the removal of deficiencies. Further, the complainants submitted that after applying for connection, the UHBVN had directed the respondent vide letter dated 27.07.2010 to deposit 1.5% inspection charges with nigram of total estimated cost and overhead charges. He added that the respondent remained negligent for 10 years and deposited Rs. 4,24,675 towards the inspection charges in the year 2021. He submitted that the respondent has not even deposited the bank guarantee, due to which the residents are unable to get domestic connection. That UHBVN, Panchkula sent letter dated 22.09.2021 to UHBVN, Rohtak for non-obeying of order of HERC PRO 47 of 2019 by the respondent. Thus, the complainants are entitled to the relief sought and the respondent may be directed to generate electricity bill as per domestic tariff rates and refund all



the previous amount with interest which the respondent is charging, on higher rates till domestic connection is not granted to him.

22. In view of the above, the Authority observes that the electricity was being provided to all the residents through one Multi Distribution switchboard connection only. It is the duty of the respondent developer to provide electricity to every allottee. It is pertinent to note that there has been negligence on the part of the developer who has failed to lay down basic facilities such as electricity connection for its allottees. Moreover, as per records available with the Authority, the respondent developer has failed to even apply for Part Completion Certificate/ Completion Certificate despite the fact that the developer had already handed over possession to the allottees in 2016. As held by the Apex Court in the matter of **Chameli Singh and others vs State of UP** and another (1996) 2 SSC 549, whereby it has been held that, "*right to life includes the right to live with human dignity further observed that right to live guaranteed in any and civilized society implies the right to shelter and while discussing the right to shelter, includes electricity which is undisputedly, an essential service to the shelter for a human being.*"

Thus, complainants are justified in seeking relief against the developer for seeking completion of electrical infrastructure. Further, the respondent is duty bound for arranging the domestic electricity connection for residents as per HERC Regulation, 2013.





Authority deems it fit to direct the respondent again to complete the electrical infrastructure as per the approved service estimates plans in the colony. Further, in the interest of justice, Authority shall issue a request letter to the DTCP to inquire about the development works being carried by government and to expedite the approval process so that the allottees may be provided with the basic amenities as per the approved plans.

***b. Refund of maintenance charges with interest, accompanied with direction to not take maintenance charges till part completion certificate is received by developer***

The complainants have averred that the respondent is charging maintenance charges with interest from the allottees. He added that the respondent has sent various debit notices of Rs.55,000/- in maintenance account of Mr. Deepak Jain as harassment charges for various cases filed in HERC, DPT, Sonipat which is unreasonable and unfair. However, the respondent-developer has failed to provide essential infrastructure within the colony. Further, the developer has not applied for completion certificate/ partial completion certificate till date. Further, he stated that the bill no. 2021-22/0182 dated 22.05.21 raised by the respondent for an amount of Rs.2,57,121/- is illegal and without any clarification thus, the respondent may be directed to not charge any maintenance charges from the allottees until the time part completion certificate is issued to him. The respondent developer denied his assertion and stated that the complainants are in possession of the plots since 2016 and it is the respondent-developer who is



incurring maintenance charges for common area. hence, the complainant is liable to pay these charges. Regarding the harassment charges, he added that these were related to the other case filed by the complainant in IERC and does not pertain to the present complaint.

Regarding the issue of maintenance charges, the Authority concurs with the view that the complainants have taken physical possession of their respective plots and further have raised construction over it. It would be logical that there would be expense on the maintenance of certain common services. Consequently, the relief sought by the complainant praying for refund of maintenance charges with interest, accompanied with direction not to take maintenance charges till part completion certificate is received by developer cannot be allowed. However, the respondent is directed to not to charge any harassment charges from the complainant. Further, the respondent shall raise payables and receivables due from the complainant in account of maintenance charges only for the common areas within next 90 days of uploading of this order.

***c. Provision of storm water drainage, sewage treatment plant.***

As regards the above relief, it is noted that the local commissioner had addressed the issue in his report. The relevant paragraphs of the report dated 17.08.2022 are reproduced below-

*“2. Provision of storm water drainage made in the project and if same are functional- There was covered rain water drainage net work constructed for Block B*



*of the City (Annexure-I, photo 3). No such drains were provided for Block C & D where most of the complainants were residing. Three freshly constructed rain Water Harvesting systems were available at different locations in the city but none was connected to any drainage network (Annexure-1, photo 4). Storm water thus was being made to run on open roads and was disposed off in to open plots and area available in the Divine City complex. There was no planning for disposal of storm water for the - project as no specific point/drain was available presently for carrying away the storm water of the city."*

*3. Whether sewerage treatment plant installed in the project and functioning efficiently- No sewerage treatment plant (STP) stood installed in the complex yet. However, one STP was under Construction on western periphery of the township (Annexure-I, photo 5) which was in primary stages of construction. No sewer lines were possible to be connected to this under for construction STP. Also, there was no disposal point/drate ava  
disposal of treated water in future. Presently tankers were being pressed in to service, as and when required, for collecting sewage from sewer lines and dispose it off to unknown destinations.*

After due consideration of the Local Commissioner's report and the photographs attached, it is safe to conclude that regarding the storm water drainage system, proper drains are available at various locations in the city. However, these are not connected to any drainage network. Furthermore, concerning the issue of Sewerage Treatment Plant (STP), the complainant informed the Authority that the respondent had complied with the directions of the Authority issued vide order 25.01.2023 and the STP which was under construction till January 2023, has now become operational. He alleged that



the water flow of STP is being carried out at the back of his home due to which the living conditions are being affected. The respondent rebutted the allegations put forward by the complainant during the course of hearing and stated that the flow of water is in accordance with the easy disposal of the same. On perusal of the written submissions and documents placed on record by the respondent, it is revealed that the respondent admitted that the drainage line from the respondent's project has not been connected with the main sewer line. Moreover, State has not even laid down the trunk services, i.e., roads, sewerage, water supply, electricity and drainage as mandated to be the obligation of the state as per the Rule 11(1)(c) of the Haryana Development and Regulation of Urban Areas Rules, 1976. The respondent submitted that the deficiencies in the colony can only be addressed once the external development work which is required to be completed by the State of Haryana will be completed. However, the development work by the state has not even begun, after passage of 15 years of the grant of license to the respondent. In his plea, the respondent submitted proofs issued by DTCP, Haryana regarding Status of EDC and IDC in the Authority which states that the respondent has duly paid EDC/ IDC by adopting the "one time settlement scheme" under SAMADHAN SE VIKAS policy.

In view of the above submissions, the Authority deems fit to issue directions to the respondent to provide temporarily channelization of drainage of storm



water till the external development work is at halt so that the water is not made to run on open roads and it does not cause further grievance to the allottees.

**d. Maintenance of club house and its handover to residents for use;**

Pertaining to the issue of the club house and school, it is evident that the respondent developer assured the allottees of providing amenities such as a clubhouse and school within the plotted colony, as evidenced by the approved service plan layouts submitted by the respondent to the office of the Authority. This issue was addressed by the Local Commissioner vide its report dated 17.08.2022. Relevant paragraph of the report is reproduced herewith-

*“There was no club house or school constructed yet in the complex. However, spaces were earmarked for one Nursery school and one Primary school. Similarly, space was also earmarked for Club and Community centre where few low-level foundations were also erected without any planning (Annexure-I, photo 7).”*

In regard to the issue related to school, the Authority in its order dated 12.10.2023 had expressed its tentative view that the relief for construction of school cannot be allowed. Relevant paragraph of the abovementioned order is reproduced below-

*“Regarding the allegation of complainant that school is not available in the area cannot be allowed as a ground by the complainant for not paying the legitimate charges of the developer as complainant did not make payments for the school facility.”*



In the relief sought complainant is seeking direction against the respondents to construct a club as promised by him. As per the Local Commissioner's report it is clear that the space for the club has been earmarked and low level boundary has been created for the club. It is pertinent to note that the complainant has placed single page of both builder- buyer- agreement and conveyance deed on record which are not legible and hence, the provisions of BBA cannot be ascertained. Furthermore, it cannot be established that the complainant has paid the legitimate charges of the developer for club and school facility. In these circumstances when proper documentary evidence is not available on record, it is difficult to adjudicate the issue. Therefore, in light of these circumstances the instant relief cannot be addressed by the Authority.

#### **F. DIRECTIONS OF THE AUTHORITY**

23. Hence, the Authority hereby passes this order and issue following directions under Section 37 of the RERA Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- (i) The respondent is directed to complete the electrical infrastructure in the plotted colony and to arrange the domestic electricity connection for the residents as per HERC Regulation, 2013.





(ii) Complainants will remain liable to pay the maintenance charges for the common areas to the respondent. Further, the respondent is directed not to charge any harassment charges from the complainants and shall raise detailed statement of payables and receivable amounts due from the complainant in account of maintenance charges only for the common areas within next 90 days of uploading of this order.

(iii) Respondent shall provide for temporarily channelization of drainage of storm water until the external development work is at halt so that the water is not made to run on open roads and it does not cause further grievance to the allottees.

24. **Disposed of.** File be consigned to the record room after uploading of the order on the website of the Authority.



.....  
DR. GEETA RATHEE SINGH  
[MEMBER]



.....  
NADIM AKHTAR  
[MEMBER]



.....  
PARNEET S SACHDEV  
[CHAIRMAN]