

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.387 of 2024 (O&M)

Date of Decision: 13.02.2025

Park View Ananda RWA, office address at B 801, Bestech Park View Ananda RWA, Sector 81, Gurugram 122004

Appellant

Versus

Bestech India Pvt. Ltd., registered office at Plot No.51, Bhagwan Mahavir Marg, Sector 44, Gurugram (Haryana) 122003

Respondent

CORAM:

Justice Rajan Gupta

Shri Rakesh Manocha

Chairman

Member (Technical)

Present: Mr. Ashwani Kumar Singla, Advocate,
for the appellant.

Mr. Sanjay Vij, Advocate,
for the respondent.

ORDER:

RAJAN GUPTA, CHAIRMAN (Oral):

Present appeal has been preferred by RWA¹, which claims itself to be non-profit, non-commercial organisation incorporated as a Society and, thus, has a right to sue.

2. It appears that 29.7 acres of land was granted a licence by the DTCP in the year 2008 and 2009 for a Group Housing Scheme. Three groups of towers were to come up in this project. After completion of the project, possession was handed over to the willing allottees. Admittedly, members of the appellant-RWA are also in possession and conveyance deed has already been executed in their favour. It appears that in January 2021, 500 square yards land was given by the builder to DHBVNL² for setting up a 33KV sub-station from reserve parking. As per promoter, this step was

¹ Residents Welfare Association

² Dakshin Haryana Bijli Vitran Nigam Ltd.

Appeal No.387 of 2024

taken to provide uninterrupted electric supply to the residents of the project. The appellant, has, however raised a grievance that a 500 square yards piece of land was gifted to DHBVNL without taking the residents into confidence. This action is, thus, unsustainable. As per appellant, this led to change in the layout plan, which is not permissible. Further stand of the appellant is that the project has to be deemed to be an ongoing project as completion certificate was not received when the complaint was pending before the AO³.

3. Mr. Sanjay Vij, learned counsel for the respondent-promoter, at the outset, points out that the appellant (RWA) is in fact a busy body and is pursuing similar complaint before the NCDRC⁴. As per him, for 2 towers, which are in question, were granted OC⁵ on 05.01.2015 and 07.08.2015 respectively, i.e., much prior to enactment of the RERA Act⁶. As per him, most of the residents of the towers are satisfied and are not pursuing any remedy. He further contends that land of 500 square yards was gifted to DHBVNL for the facility of the residents of the project so that electric supply would not be hampered in any manner. As per him, that said land (500 square yards) was reserved by the promoter as parking area. Thus, it had discretion to gift it to another body particularly for the public purpose.

4. We have given our due consideration of the matter and the rival contentions raised by learned counsel.

5. A perusal of the record shows that occupation certificate in respect of the project in question had been granted by the competent authority in the year 2015 and as per record the project stood completed in the said year. The RERA enactment came into force vide notification dated 28.07.2017. By that time, offer of

³ Adjudicating Officer

⁴ National Consumer Disputes Redressal Forum

⁵ Occupation Certificate

⁶ Real Estate (Regulation and Development) Act, 2016

Appeal No.387 of 2024

possession had already been made and most of the allottees had occupied their respective units.

6. We, thus, find no legal infirmity with the findings of the AO that the project cannot be termed as an ongoing project. It cannot be brought within the ambit of 2016 enactment as the OC pertains to a date prior to that. Besides, the AO has been empowered to grant compensation in terms of Sections 14, 16, 18 and 19 of the RERA Act and none of which appears to be violated in the instant case.

7. As regards the gift of 500 square yards land to DHBVNL, we find no legal defect with the same as the said land was reserved by the promoter as parking area. It was purely the discretion of respondent-promoter to alienate the same for a public purpose. This step was ostensibly taken by the promoter only to provide the uninterrupted electric supply to the residents of the project. It is not clear why only some of the residents from the RWA insist to continue with litigation despite the fact that they are residing in the same area and the ownership of the property already vests in their name.

8. Appeal is without any merits and same is hereby dismissed.

9. Copy of this order be sent to the parties, their counsel and the HRERA.

10. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(joined through VC)