



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2627 of 2019
Date of filing:	30.10.2019
Date of first hearing:	27.11.2019
Date of decision:	23.01.2025

RWA W Block TDI City Kundli
through its President, Sh. Vijay Chaudhary
R/o W-Block, Kingsbury Apartment, TDI City, Kundli
Sonapat, Haryana- 131028

....COMPLAINANT

VERSUS

1. TDI Infrastructure Ltd. through its Proprietor/Managing Director
Registered office: Upper Ground Floor,
Vandana Building, 11, Tolstoy Marg,
Connaught Place, New Delhi

**2. Cannes Property Management Pvt. Ltd. through its
Manager/Managing Director**
Registered Office: 10, Shaheed Bhagat Singh Marg, Gole
Market, New Delhi- 110001

....RESPONDENTS

Complaint no.:	2629 of 2019
Date of filing:	30.10.2019
Date of first hearing:	27.11.2019
Date of decision:	23.01.2025

Terrace Garden Kingsbury Apartments
through its Representative, Adv. Deepak Kumar
R/o TA-601, Terrace Garden,
Kingsbury Apartment TDI City,
Kundli, Sonapat, Haryana- 122012

....COMPLAINANT

VERSUS

1. M/s TDI Infrastructure Ltd. through its Proprietor/Managing Director
Registered office: Upper Ground Floor,
Vandana Building, 11, Tolstoy Marg,
Connaught Place, New Delhi

2. Cannes Property Management Pvt. Ltd. through its Manager/Managing Director
Registered Office: 10, Shaheed Bhagat Singh Marg, Gole
Market, New Delhi- 110001

....RESPONDENT/S



Complaint no.:	637 of 2020
Date of filing:	15.07.2020
Date of first hearing:	25.10.2020
Date of decision:	23.01.2025

Kingsbury B & D Tower Residents Welfare Association
TDI CITY Kundli through its President, Sh. N.K. Kapoor,
R/o D/2 601, B&D Block, Kingsbury Apartment,
TDI City, Kundli, Sonapat, Haryana- 122012

...COMPLAINANT

VERSUS

1. M/s TDI Infrastructure Ltd. through its Proprietor/Managing Director

Registered office: Upper Ground Floor,
Vandana Building, 11, Tolstoy Marg,
Connaught Place, New Delhi

2. Cannes Property Management Pvt. Ltd. through its Manager/Managing Director

Registered Office: 10, Shaheed Bhagat Singh Marg, Gole
Market, New Delhi- 110001

....RESPONDENT/S



Complaint no.:	725 of 2021
Date of filing:	28.07.2021
Date of first hearing:	02.09.2021
Date of decision:	23.01.2025

RWA EFGZRL SIX BLOCKS KINGSBURY
TDI CITY KUNDLI through its General Secretary,
Sh. Chander Kumar, R/o RWA Office C Block,
Kingsbury Apartment TDI City, Kundli,
Sonapat, Haryana- 122012

...COMPLAINANT

VERSUS

M/s TDI Infrastructure Ltd. through its Proprietor/Managing Director
Registered office: Upper Ground Floor,
Vandana Building, 11, Tolstoy Marg,
Connaught Place, New Delhi

....RESPONDENT/S

Complaint no.:	757 of 2021
Date of filing:	28.07.2021
Date of first hearing:	02.09.2021
Date of decision:	23.01.2025

KINGSBURY HJK BLOCKS RWA
through its President, Sh. Vas Dev Sachdeva,
R/o RWA Office HJK Block, Kingsbury
Apartment TDI City, Kundli,
Sonapat, Haryana- 122012

...COMPLAINANT

VERSUS

M/s TDI Infrastructure Ltd. through its Proprietor/Managing Director
Registered office: Upper Ground Floor,
Vandana Building, 11, Tolstoy Marg,
Connaught Place, New Delhi

....RESPONDENT/S



Complaint no.:	781 of 2021
Date of filing:	28.07.2021
Date of first hearing:	02.09.2021
Date of decision:	23.01.2025

RWA UVY BLOCKS

through its President, Sh. N.K. Kapoor,
R/o D/2 601, B&D Block, Kingsbury Apartment
TDI City, Kundli, Sonapat, Haryana- 122012 ...COMPLAINANT

VERSUS

M/s TDI Infrastructure Ltd. through its Proprietor/Managing Director
Registered office: Upper Ground Floor,
Vandana Building, 11, Tolstoy Marg,
Connaught Place, New DelhiRESPONDENT/S

Complaint no.:	782 of 2021
Date of filing:	28.07.2021
Date of first hearing:	02.09.2021
Date of decision:	23.01.2025

C TOWER TDI KINGSBURY RWA

through its General Secretary, Sh. Arvind Beniwal,
R/o RWA Office C Block, Kingsbury Apartment
TDI City, Kundli, Sonapat, Haryana- 122012 ...COMPLAINANT

VERSUS

M/s TDI Infrastructure Ltd. through its Proprietor/Managing Director
Registered office: Upper Ground Floor,
Vandana Building, 11, Tolstoy Marg,
Connaught Place, New DelhiRESPONDENT/S



Complaint no.:	783 of 2021
Date of filing:	28.07.2021
Date of first hearing:	02.09.2021
Date of decision:	23.01.2025

A TOWER TDI KINGSBURY RWA

through its General Secretary, Sh. Aman Goel,
R/o RWA Office A Block, Kingsbury Apartment
TDI City, Kundli, Sonapat, Haryana- 122012

...COMPLAINANT

VERSUS

M/s TDI Infrastructure Ltd. through its Proprietor/Managing Director

Registered office: Upper Ground Floor,
Vandana Building, 11, Tolstoy Marg,
Connaught Place, New Delhi

....RESPONDENT/S

CORAM:

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

Present: Mr. Deepak Dahiya, Counsel for the complainant-association
in all the above captioned complaints through VC.
Mr. Shubhnit Hans, Counsel for the respondent, in person in
all the above captioned complaints.



ORDER (NADIM AKHTAR -MEMBER)

1. Above captioned complaints are taken up together for hearing as these complaints involve similar issues and are related to the same project of the respondents. This final order is being passed by taking the Complaint No. 2627/2019 as the lead case.
2. Present lead complaint was filed on 30.10.2019 by the complainant's association 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

3. That the respondent is a colonizer engaged in the business of real estate development and had invited bookings for residential units in its upcoming project titled "Kingsbury Apartments, TDI City", situated at Kundli, Sonipat, Haryana.
4. That various flat buyers, who are now members of the Resident Welfare Association (RWA), booked residential apartments of different



configurations in the said project and duly made all payments as per the demands raised by the respondent from time to time. Upon making the entire payment, physical possession of the respective apartments was handed over to the allottees during and after the month of January 2013.

5. That the respondent, at the time of handing over physical possession, did not obtain any Occupation Certificate (OC) from the competent authorities. The complainants were misled regarding the existence of the OC and were handed over possession in the absence of any such statutory approval. Subsequently, an Occupation Certificate was issued only on 28.08.2017, subject to certain conditions, which the respondent has failed to comply with till date.
6. That despite having received the full consideration, the respondent has failed to execute and register the sale deeds in favour of individual flat buyers. Several allottees have refused to pay Value Added Tax (VAT) as demanded unlawfully by the respondent, due to which the sale deeds have not been registered. This has resulted in immense hardship for the complainants, whose financing banks are issuing notices either to repay the entire outstanding loan immediately or to deposit the registered title documents of the property, thereby causing severe financial and legal distress. The complainants continue to pay Pre-EMI interest due to non-registration of flats.



7. That the respondent is demanding an additional sum of ₹30,000/- to ₹50,000/- per apartment under the head of VAT, which is illegal and untenable in the eyes of law, as no works contract is involved. The complainants purchased ready-built apartments, and as such, VAT is not applicable on such transactions.
8. That the respondent has installed outdated and used generators and transformers, manufactured as far back as the year 2006, and these are now over 15 to 20 years old. Any subsequent repair or defect in these installations is being forced upon the flat buyers, which is unjust and arbitrary, especially since the responsibility for such installation lies solely with the respondent.
9. That the respondent made a misrepresentation to the authorities regarding installation of solar water heaters, as required. Although there was a provision for solar water heating systems in the approved plan, the same were never installed. Instead, one solar system was photographed atop different towers merely for show, with the intention to obtain statutory clearances.
10. That the respondent collected an amount of ₹50,000/- from each resident for club membership and had also charged the cost of club construction within the super area cost. However, till date, the promised club house has not been constructed or delivered. Moreover, when any resident



attempts to sell their unit, the respondent again demands Rs. 50,000/- from the new buyer for issuance of a No Objection Certificate (NOC), thereby making unlawful gains and indulging in unfair trade practices.

11. That the respondent failed to deliver the promised quality of construction and workmanship. Multiple structural issues have been observed, including cracks in the building structure, falling plaster and tiles from both interiors and exteriors, which pose serious threats to the safety of residents. Despite repeated complaints, the respondent has not taken any steps to rectify the defects and has instead asked residents to undertake the repairs on their own.
12. That the project boundary is incomplete and partially constructed using temporary sheets, making the premises easily accessible to trespassers. Past incidents of trespassing have occurred, causing serious security concerns for the residents.
13. That the internal roads of the society are in a dilapidated condition. The covers of rainwater harvesting pits alongside the roads are broken, leading to frequent accidents and safety hazards.
14. That the sewage network of the project is highly defective and dysfunctional. Leakages have been observed in the basement, lifts and pillars, causing structural damage and bending of the floor slabs by 3 to



4 cm. The basement parking is still non-operational despite possession having been handed over years ago.

15. That the Sewerage Treatment Plant (STP) of the project is non-functional. Drain and sewage water regularly overflows into common areas, including lift shafts, walls and basement pillars, resulting in severe structural damage and health hazards. The sewage waste is manually pumped out and dumped just outside the boundary of the project, creating unbearable foul smell and posing serious health risks.
16. That the water supply system in the project is substandard and unregulated. The respondent has illegally installed booster pumps and submersibles to extract groundwater and pump it into overhead tanks. The water is contaminated and not suitable for drinking, forcing residents to purchase potable water from the market.
17. That no proper electric substation has been installed in the project. The respondent is supplying electricity at its own arbitrary rates, exceeding the scheduled tariffs as per regulatory norms. Furthermore, no proper bill with usage breakdown (mainline and backup) is provided to the residents.
18. That certain blocks, especially W Block, remain on power backup for over 14 hours per day, even when nearby localities such as Nangal and Rasoi Villages have regular power supply.



19. That the respondent has installed mobile transmission towers on the rooftops of the apartment buildings in violation of applicable norms and has been deriving wrongful financial gains from the same.
20. That as per the agreement executed between the parties, maintenance charges were to be levied only after the grant of Occupation Certificate. However, the respondent has been charging maintenance since 2013, despite the Occupation Certificate being issued only on 28.08.2017, thereby violating the terms of the agreement.
21. That no separate interest-bearing maintenance account has been maintained by the respondent. The complainants are being made to pay maintenance charges directly to third-party agencies, and no statements of income and expenditure are ever shared with the residents. That despite collection of maintenance charges, no actual maintenance services are being provided. Lifts remain unserviced, are malfunctioning, and often non-operational, causing inconvenience especially to elderly residents and patients residing on upper floors.
22. That the lighting infrastructure in the society is extremely poor. Street lights, stairway lights, and lift lights remain non-functional, thereby creating major inconvenience and safety issues during evening and night hours.



23. That there is a complete lack of fire safety measures in the project. Only a few extinguishers have been installed which are in non-serviceable condition due to lack of any routine maintenance, in violation of fire safety norms. That there is no dedicated or adequate maintenance staff deployed in the project. Against approximately 500 flats, only 5 guards are deployed, and there is no mechanism for cleaning staircases, water tanks, or maintaining green areas.
24. That the respondent has unlawfully charged an amount ranging between ₹1.5 to 2 Lakhs for stilt and open parking spaces, which is in contravention of established norms and guidelines. That all the aforementioned grievances have been brought to the notice of the respondent on multiple occasions. Repeated representations and reminders were also made to concerned civic authorities; however, no remedial action has ever been taken by the respondent, who continues to act with complete impunity and disregard for the rights and safety of the residents.

B. RELIEFS SOUGHT

25. In view of the facts mentioned above, complainant prays for the following relief(s):-



- i. To direct the respondent to get the apartments registered on the name of the allottees without payment of VAT and Club maintenance charges.
- ii. To direct the respondent to not charge the complainants with VAT and further refund the VAT amount in case of payment made by the complainants.
- iii. To direct the respondent to give interest on amount paid against the construction of club house till the actual possession of the club house and the amount deposited against the membership of club house should be refunded along with interest till the date of possession of club house.
- iv. To direct the respondent to install solar water heaters, to install new generators and transformers, to remove the transmission towers installed at the top of buildings.
- v. To direct the respondent to get water and electricity connections from the authorities and also be directed to charge for the electricity as per the prescribed tariff and to refund the excess amount collected along with interest.
- vi. To direct the respondent to rectify the defects in the building and compensate the petitioner for the delay in rectification of defects.



- vii. To direct the respondent to install working STP, Electric sub station, water plant for drinking water.
- viii. To direct the respondent to refund the amount paid against maintenance by the complainants before the occupation certificate and further compensations should be given to the complainants for the substandard services.
- ix. To direct the respondent to share the accounts of maintenance amount with the petitioner and further provide proper maintenance in future.
- x. To direct the respondent to remove the transmission towers installed at the top of buildings and further the rent generated from the same should be handed over to RWA
- xi. To direct the respondent to refund the charges collected by respondent on name of stilt and open parking.
- xii. To direct the respondent to pay compensation against the risk of life and limb.
- xiii. Any other reliefs) this Authority may deem fit and proper in the facts and circumstances of the present case.

C. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Reply on behalf of the respondent company, TDI Infrastructure Ltd., was filed on 20.01.2020 through its duly authorized representative, who



has been expressly authorized by the company to submit replies in the present matter wherein it is stated:

26. That the Reply to the Complaint is being filed on behalf of the Respondent Company, TDI Infrastructure Ltd., through its authorized representative, who has been duly empowered by a resolution passed by the Board of Directors of the Respondent Company. The said resolution authorizes the representative to file suits, appeals, replies, affidavits, applications, and to sign and verify pleadings, as necessary for the effective representation of the Respondent Company. A copy of the said resolution is annexed herewith and marked as **Annexure R-1**.
27. That at the very outset, the Respondent Company submits that the allegations made in the Complaint are denied in their entirety unless specifically admitted herein. The present Complaint is not maintainable and is liable to be dismissed in limine, inter alia, on the ground of lack of jurisdiction, limitation, non-joinder of necessary parties, absence of cause of action, and misjoinder of parties. The Respondent Company has a long-standing reputation for quality construction and timely delivery of projects across various regions in India and has built a credible and trustworthy image in the real estate sector owing to its transparent business conduct and customer-centric approach.



28. That the Complainants voluntarily chose to invest in the 'Kingsbury Apartments' project situated in TDI City, Kundli, Sonipat, Haryana, developed by the Respondent Company. The Occupation Certificates (OC) for the said project were obtained by the Respondent Company well before the enactment and commencement of the Real Estate (Regulation and Development) Act, 2016 and the Haryana Rules framed thereunder. The project is already delivered and conveyance deeds have been executed in favour of a majority of the allottees. Copies of the occupation certificates are annexed as **Annexure R-2 (Colly)**.
29. That the provisions of the RERA Act, 2016 cannot be retrospectively applied to the present project as the same would be prejudicial, onerous, and financially disastrous not only to the Respondent Company but to all developers who had completed their projects prior to the enforcement of the Act. The application of the RERA Act to projects already completed and delivered before its enactment would be against the principles of natural justice and contrary to the legislative intent. The Act is to be applied prospectively and not retrospectively, and the present Complaint falls outside the purview of the RERA framework.
30. That the Complainants have raised several issues in the Complaint, many of which are in relation to the alleged acts and omissions of the maintenance agency. However, the said agency has not been impleaded



as a party to the present proceedings, rendering the Complaint bad for non-joinder of necessary parties. Several grievances raised by the Complainants, such as structural maintenance, electricity supply, water quality, club house facilities, rainwater harvesting pits, sewage issues, and maintenance services, fall within the ambit of responsibilities of the maintenance agency and not the Respondent Company.

31. That the physical possession of flats has been duly handed over to the residents in and after January 2013. The occupation certificate for the project was issued on 28.08.2017, and possession was not given without requisite permissions. The apartments allotted to the Complainants are built-up units and are subject to VAT as per applicable law. The Respondent Company is under legal obligation to collect and deposit the said tax with the government and cannot be faulted for demanding the same from the Complainants. Non-payment of the said statutory dues is the reason why registration could not be carried out in certain cases and the same is not attributable to any deficiency on part of the Respondent Company.
32. That the allegation regarding installation of old generators and transformers is without any basis or supporting documentation. The electrical distribution network is managed through an Electrical Substation System (ESS) with adequate capacity, and uninterrupted



power supply is ensured to each unit. The Respondent Company has not promised to install separate generators for terrace flats, and no blunder, as alleged, has occurred in the selection of power equipment.

33. That the claims pertaining to solar water heating systems, club house, quality of construction, structural cracks, and damaged plaster are also unfounded and devoid of evidence. The club house has been constructed within 500 meters of the project site and is accessible to all allottees. The structural integrity of the project is intact, and minor cracks, if any, are not indicative of foundational defects but may be attributed to weather variations. Issues, if any, with plaster or tiles are routine wear and tear, and maintenance of such matters is within the domain of the maintenance agency, which has not been made a party to the proceedings.
34. That the project is a properly gated community with boundary walls enclosing the premises. Allegations regarding broken rainwater harvesting pit covers, non-functional sewerage system, and leakages are denied as misconceived and unsupported. The internal sewerage network is complete and functional, and the responsibility of external discharge and treatment rests with the competent authority i.e., HUDA(HSVP). Similarly, the water supply is routed through a properly



installed water treatment plant, and potable water is being supplied to residents.

35. That there is a functioning electric substation in place, and electricity is being supplied by Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL). The role of the Respondent Company is limited to distribution of electricity and no overcharging has been done. The rates charged from residents are as per actual and within the prescribed norms. The claim that W Block faces power outages for extended hours is denied, and there is no evidence adduced by the Complainants to substantiate the same.
36. That the installation of transmission towers was undertaken at the request of the residents themselves due to poor network coverage in the area. No norms were violated, and the same was done in the interest of the residents. No wrongful gains were made from such installations.
37. That the OC has already been granted and all demands raised by the Respondent Company from the Complainants are in accordance with the terms of the Builder Buyer Agreement. Any charges being collected towards maintenance, club membership, or otherwise, are as per contractual terms. It is further clarified that the Complainants are bound to pay for the parking space as per their agreement and the Respondent Company has not acted contrary to law in this regard.



38. That a substantial number of the grievances stated in the Complaint are either vague, unsubstantiated, or pertain to the maintenance agency, which has not been impleaded as a party to the Complaint. This not only renders the Complaint legally defective but also deprives the Respondent Company of an opportunity to fairly contest issues that do not relate to it. The Complainants have failed to place on record any documentary evidence to prove their allegations, and have not demonstrated any cause of action against the Respondent Company.
39. That in view of the above, the Respondent Company prays that the present Complaint, being devoid of merits, filed with mala fide intentions, and suffering from various legal infirmities including limitation, lack of jurisdiction, absence of cause of action, and non-joinder of parties, deserves to be dismissed with costs. The Respondent Company craves leave to file additional documents and evidence in support of its contentions, if so required, at a later stage.

D. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

40. During the course of oral arguments, Id. counsel for the complainants submitted that numerous deficiencies persist in the project for several years despite the filing of the present complaint as far back as in 2019. It was argued that although the complainants and other residents have been



regularly paying maintenance charges, no corresponding maintenance or development has been carried out by the respondent promoter. The responsibility to maintain essential infrastructure, including structural upkeep, pipelines, sewerage treatment plant (STP), water treatment facilities and the establishment of the electricity substation, lies with the respondent; however, no substantial development has been executed till date.

41. Ld. counsel further pointed out that in a similar matter involving the same project, the respondent itself admitted that complete handover of the project's maintenance had not been effected. It was further submitted that in 2020, all operational staff of the respondent, including control room operators, labourers, and other maintenance personnel, ceased their services. As a result, the Resident Welfare Association (RWA) was compelled to take over soft services such as housekeeping, pump operations and security arrangements to ensure basic amenities remained functional for residents. Presently, the RWA collects maintenance from residents and shares the same with Cannes Management Services Pvt. Ltd. and the respondent promoter. The complainants are also bearing the monthly salary expenses of various employees whose services are still being managed through the builder.



42. Reference was made to the report of the Local Commissioner appointed in the matter, which clearly highlights and documents the deficiencies in the project, along with photographic evidence. It was submitted that despite the Minutes of Meeting filed by the respondent, only superficial cosmetic changes have been undertaken and no meaningful or structural development has been carried out. The counsel emphasized that when the complainants or their representatives approach the respondent's staff to address the defects, they are often told to "get it resolved through court."
43. The complainants further argued that basic infrastructure and amenities remain incomplete. The builder has failed to execute a proper and complete handover in good shape and until such time that the documents are duly executed and defects—particularly structural in nature—are rectified, the complainants have no intention of accepting the handover. It was also pointed out that the respondent has not submitted any approved sanctioned plan till date. While the respondent initially claimed the existence of four clubhouses, only one common clubhouse is presently functional which has been commercialized and listed on OYO, thereby allowing outsiders to access the premises and generating revenue for the respondent.



44. Moreover, the counsel stated that despite the Occupancy Certificate (OC) being obtained in 2017, several allottees had taken possession of their units as early as 2012–2013, with some taking possession as late as 2019. Therefore, a valid offer of possession can only be deemed from the date the OC was received, i.e., August 2017, and not before. The defects documented in the Local Commissioner's report pertain to the common areas and are still unresolved.
45. With regard to the issue of VAT charges, the learned counsel argued that as per the Builder Buyer Agreement (BBA), the respondent cannot unilaterally impose VAT liability on the allottees. It was submitted that there was no work contract signed between the parties and the complainants had booked a ready-to-move-in unit. As per the agreed terms, the price was inclusive of all charges except for statutory government levies and no separate VAT could be imposed in the absence of a valid work contract. Thus, the entire liability of VAT, if any, lies solely on the respondent and cannot be passed on to the allottees. Accordingly, the learned counsel urged that the Authority direct the respondent to fulfill its statutory obligations and rectify the deficiencies in the project without further delay.
46. However, in response to the submissions made by the learned counsel for the complainants, Advocate Shubhmit Hans appeared and addressed



the Authority by reiterating the contents of the reply and additionally made the following submissions to assist this Hon'ble Authority in the adjudication of the captioned matter:-

- i. Handover of Maintenance Responsibilities:** The Respondent Company handed over the maintenance of the project to the Complainant Association in July 2020. Since then, all maintenance and operational responsibilities including common area upkeep, lift operations, DG sets, and security services have been undertaken solely by the Association. The allegation that only “soft services” were handed over is baseless. Maintenance charges are being collected and utilized entirely by the Association, and the Respondent Company has no role in their management post-handover.
- ii. Fire Safety and Sewerage Concerns:** The Complainant's allegation regarding non-compliance with fire safety norms and inadequate sewerage maintenance is misconceived. At the time of handover, all systems including fire-fighting equipment, the pump room, and the sewage treatment plant were tested and transferred. The Complainant Association is solely responsible for maintenance thereof from the maintenance funds it collects. Any pipeline



damage or operational lapse is attributable to the Association, not the Respondent Company.

- iii. **Electricity Infrastructure and Related Issues:** The electricity infrastructure provided by the Respondent Company includes bulk meters per block and sub-meters managed by the RWAs. A dedicated 33 KVA HT line has already been laid at the Respondent's cost, and the substation has been handed over to UHBVN. Allegations of power outages are unfounded, as such interruptions are due to maintenance shut-downs by UHBVN. DG sets have been handed over to the RWAs, and the Respondent continues to provide diesel. The claim regarding outstanding dues is incorrect.
- iv. **Clubhouse Construction:** The Complainant has alleged non-construction of dedicated clubhouses. However, it is submitted that a fully functional clubhouse has been constructed in accordance with the sanctioned plan. The allegation lacks substance and appears to be an attempt to create a dispute where none exists.
- v. **Resolution Through Meeting Dated 10.10.2023:** The Respondent has already placed on record the Minutes of the Meeting dated 10.10.2023, during which most of the concerns raised by the Complainant Association were addressed and resolved.



- vi. **Concluding Submissions:** From the above facts, it is evident that the Respondent Company has acted in good faith and has consistently worked for the benefit of the residents. The maintenance and operational responsibilities now lie with the Association, and the allegations raised are misconceived and devoid of merit.

The above-stated arguments were taken on record and have been duly considered.

E. REPORT OF LOCAL COMMISSIONER

47. The report of the Local Commissioner, filed on 01.07.2020, has been placed on record in Complaint No. 2676 of 2019, which pertains to the same residential development. It is observed that the said report is relevant to the present matter as the basic infrastructural facilities across all sub-projects within the larger development are common. Learned counsel for the respondent during the proceedings in Complaint No. 2676 of 2019, as recorded in the order dated 27.07.2023, submitted that the sub-projects titled 'Tuscan Heights' and 'Tuscan Floors' are not independent or separate developments, but integral parts of a single, unified project named 'Tuscan City', being developed by the respondent. It was further submitted that both 'Tuscan Heights' and 'Tuscan Floors' share common infrastructural facilities forming part of



the overall development of 'Tuscan City'. The issues raised in complaint no. 2676 of 2019, particularly those concerning deficiencies in basic infrastructural amenities, pertain to the overall development of 'Tuscan City', which comprises 11 high-rise towers and 32 blocks of low-rise floors constructed at the project site. In light of the above, the Local Commissioner's report already on record in Complaint No. 2676 of 2019 is deemed relevant and shall be taken into consideration for adjudication in the captioned bunch of complaints as well.

48. The Executive Director, HRERA vide order No. HRERA-PKL/ED/2020/3192 dated 02.06.2020, appointed The Protech Consortium, Kurukshetra as the Local Commissioner to visit the site of Tuscan City Floors (LX to CL) of the TDI Infrastructure Pvt. Ltd. and submit a report in reference to the complaint filed by the Residents Welfare Association. Accordingly, a site inspection was conducted by Dr. R. S. Malik and Er. B. B. Bansal, Professional Engineers of the Consortium on 26.06.2020 at 11:00 AM at the site located in Kundli, Sonipat. Prior notice of the visit was duly served to the representatives of both parties, namely Sh. Amit Sharma on behalf of TDI Infrastructure Pvt. Ltd. and Sh. Deepak Kumar, Advocate representing the Residents Welfare Association. Some residents were also present during the inspection. The attendance sheet and photographs taken during the



inspection were submitted with the report as **Annexure-II** and **Annexure-I** respectively.

49. During the inspection, the Local Commissioners verified the allegations raised in the complaint and made the following observations:-

- i. Club Infrastructure:** There was no club facility available within the enclosed area of Tuscan City Floors. The developer showed the ground floor of an under-construction multi-storey building located outside the boundary of Tuscan City Floors in the adjoining Tuscan City Heights as the proposed club. The structure consisted of rooms resembling flat layouts, lacking any dedicated club infrastructure.
- ii. Structural Defects and Damaged Plaster:** The plaster was found peeling off from the walls at multiple locations across different flats. Serious structural cracks were observed in various parts of the building, raising concerns regarding the structural integrity and safety of the construction.
- iii. Boundary Wall and Wire Mesh:** The residential area was only partially enclosed by a masonry boundary wall. In the remaining parts, a temporary wire mesh had been erected, which was unsafe and susceptible to trespassing.
- iv. Internal Roads and Drainage:** The internal roads laid with interlocking paver blocks had visible undulations and damages,



leading to water stagnation during rains. Sewerage manholes were found uncovered, with residents having made makeshift arrangements to prevent accidents. Rainwater drains were blocked and no specific arrangement for stormwater disposal was in place.

- v. **Overhead Tanks, Staircases, and Lift Shafts:** Multiple instances of leakages from overhead water tanks and sewerage pipes were observed. These leakages had caused seepage into walls and created unhygienic living conditions. One of the lift shafts was filled with water and emitted foul odour. Damp walls and damaged plaster were prevalent, and blocked sewer lines were causing wastewater to overflow onto roads.
- vi. **Inaccessible Plumbing Shafts:** The plumbing shafts located in the core areas of flat clusters had no access points for maintenance. One such shaft could only be viewed through a small ventilator in a bathroom of a flat.
- vii. **Non-installation of Sewage Treatment Plant:** A sewage collection tank was located in the basement, but no sewage treatment plant was installed or operational. The basement ceiling had severe leakages with wastewater dripping in multiple locations, rendering the area unfit even for walking, let alone parking. Although an STP unit was placed near the collection tank before



the visit, it was neither installed nor functional. Instead, sewage was being manually extracted via tankers from manholes and transported elsewhere. One such tanker was observed during the inspection but was withdrawn upon detection.

- viii. **Water Supply System:** A large submersible tube well was found installed in the basement, which was heavily contaminated with sewerage overflow. Another smaller tube well was found in an open area with its electric connection lying exposed on the ground. No system for treating the groundwater was in place and raw water was being supplied directly to residents, posing health risks.
- ix. **Electric Substation and Wiring:** No electric substation had been established within the colony. Electricity was being directly supplied from main lines to the individual units. Electrical panels were found in poor condition with open and hazardous wiring, particularly in stairwells and basements. The electric cables in the basement were tangled and unsafe for maintenance operations.
- x. **Single Entry and Exit Gate:** The colony had only a single gate for entry and exit, located on a village road. There appeared to be no provision or possibility for an additional access point due to site constraints.



- xi. Lifts Not Properly Functional:** Although a majority of the lifts were operational, some had become non-functional due to water accumulation in their shafts. Such issues rendered the lifts unfit for use, with potential for intermittent malfunctioning in others as well.
- xii. Non-functional Street Lights:** Street light poles were present throughout the colony; however, a significant number of light fixtures were either damaged or non-functional, indicating poor maintenance.
- xiii. Unserviceable Fire Fighting Equipment:** Fire safety equipments were installed in every block but were found in a neglected and non-operational state. The enclosures were left open and the equipment lacked regular maintenance, thereby compromising emergency readiness.
- xiv. Neglected Green Areas:** There was no major green park in the colony. Only narrow strips of green areas were present, which were poorly maintained and overgrown with wild vegetation. In some places, sewer water had accumulated in these green belts, further degrading the environment.

During the visit, the representative of TDI Infrastructure Pvt. Ltd. was requested to highlight any significant remedial work undertaken in response to the complaints of the residents. However,



he did not provide any explanation or demonstrate any such efforts.

The photographs appended to the report provide clear and direct evidence of the conditions observed at the site.

F. ISSUES FOR ADJUDICATION AND OBSERVATION OF THE AUTHORITY ON THE VARIOUS RELIEFS SOUGHT BY THE COMPLAINANTS.

a) Whether the complaint is maintainable or not?

50. With respect to the objection raised by the respondent regarding the maintainability of the complaint on the ground that the occupation certificate (OC) for the project was obtained before the enactment of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "the Act"), it is observed that the provisions of the Act are retroactive in nature. The Hon'ble Supreme Court in *M/s Newtech Promoters & Developers Pvt. Ltd. vs. State of UP & Ors. Etc.* has categorically held that:

"The clear and unambiguous language of the statute is retroactive in operation and by applying purposive interpretation rule of statutory construction, only one result is possible, i.e., the legislature consciously enacted a retroactive statute to ensure sale of plot, apartment or building, real estate project is done in an efficient and transparent manner so that the interest of consumers in the real estate sector is protected by all means and Sections 13, 18(1) and 19(4) are all beneficial provisions for safeguarding the pecuniary interest of the consumers/allottees."



51. It is further clarified by the Hon'ble Apex Court in the same judgment that:

“Merely because enactment as prayed is made retroactive in its operation, it cannot be said to be either violative of Articles 14 or 19(1)(g) of the Constitution of India. To the contrary, the Parliament indeed has the power to legislate even retrospectively to take into its fold the pre-existing contract and rights executed between the parties in the larger public interest.”

52. Hence, the objection of the respondent that the provisions of the Act cannot be applied retrospectively is untenable in view of the settled position of law that the Act is retroactive in nature and covers ongoing projects at the time of its enactment. Thus, the rule of retroactivity will make the provisions of the Act and the Rules applicable to the acts or transactions, which were in the process of the completion though the contract/ agreement might have taken place before the Act and the Rules became applicable. Hence, it cannot be stated that the provisions of the Act and the Rules made thereunder will only be prospective in nature and will not be applicable to the agreement for sale executed between the parties prior to the commencement of the Act.

53. Furthermore, the respondent's contention that the complaint is not maintainable due to the completion of the project and execution of conveyance deeds is also unsustainable. The failure of the promoter to fulfil obligations under the builder-buyer agreement gives rise to a



continuing cause of action, which is well within the purview of the Act.

Authority is mandated to ensure that the rights and interests of the allottees are protected, even after possession has been handed over, until all obligations under the agreement are fulfilled. Accordingly, the objections raised by the respondent regarding the maintainability of the complaint are hereby rejected.

b) Whether the complainant is entitled to the reliefs as sought in the complaint or not?

54. The complainant association, through the present complaint, has sought various reliefs as elaborated in Para B of this order, in respect of certain deficiencies alleged on the part of the respondent. In light of the extensive nature of these reliefs, they are being adjudicated one by one, simultaneously, based on the Local Commissioner's report placed on record on 01.07.2020 in Complaint no. 2676 of 2019, respondent's written submissions, sub-status report of RWA-W Block TDI City, Kundli, minutes of the meeting filed on 10.10.2023 and arguments presented during the hearing in response to the relief sought by the respondent.



Relief no. (i): The respondent should be directed to get the apartments registered on the name of the allottees without payment of VAT and Club maintenance charges.

Relief no. (ii): The respondent should be directed no to charge the complainants with VAT and further refund the VAT amount in case of payment made by the complainants.

55. With respect to Relief Nos. (i) and (ii) as enumerated in Para B of this order, the learned counsel for the respondent submitted in his reply and during his oral arguments that the complainants cannot insist upon execution of the sale deed for their respective units without payment of Value Added Tax (VAT) and club maintenance charges. That the physical possession of flats has been duly handed over to the residents in and after January 2013. The occupation certificate for the project was issued on 28.08.2017, and possession was not given without requisite permissions. The apartments allotted to the Complainants are built-up units and are subject to VAT as per applicable law. The Respondent Company is under legal obligation to collect and deposit the said tax with the government and cannot be faulted for demanding the same from the Complainants. Non-payment of the said statutory dues is the reason why registration could not be carried out in certain cases, and the



same is not attributable to any deficiency on part of the Respondent Company.

56. Upon consideration of the submissions made and the material placed on record, the Authority is of the view that VAT is a statutory government levy and its nature is that of an indirect tax collected by the promoter on behalf of the government. It does not constitute a contractual or voluntary charge imposed by the promoter, but rather a mandatory obligation that arises under the taxing statute. Clause 2 of the Apartment Buyer's Agreement dated 27.07.2011 executed between the parties further affirms this position. The clause specifically provides that the allottee shall be liable to pay all forms of taxes, cesses, including but not limited to property tax, service tax, wealth tax, electricity and water charges, and taxes of any kind, whether then applicable or leviable in the future, which may be demanded by the competent authority or paid by the promoter on behalf of the allottee. The relevant portion of Clause 2 reads as follows:

"That, the Apartment Allottee agrees to pay directly or if paid by the Company then reimburse to the Company on demand, all taxes, cess, including but not limited to demands, property taxes, Service Tax, electricity, water charges and Wealth Tax, taxes of all and any kind by whatever name called, whether levied or leviable now or in future on the said Complex and/or building(s) constructed on the said Portion of Land or the said Apartment, as the case may be, as assessable/applicable from the date of



application of the Apartment Allottee and the same shall be borne and paid by the Apartment Allottee as per prorate share."

57. In view of the above clause and the statutory nature of VAT, Authority finds that the complainants' argument regarding non-payment of VAT is devoid of merit and cannot be accepted. The payment of VAT, being a tax liability statutorily imposed and covered under the contractual terms between the parties, is legally enforceable and recoverable from the allottees for the applicable period.
58. As regards the demand of club maintenance charges, Authority finds merit in the complainants' contention. Upon perusal of the Local Commissioner's Report dated 01.07.2020, it is evident that no functional or dedicated club facility exists within the enclosed area of Tuscan City Floors. The developer merely indicated the ground floor of an under-construction high-rise building located outside the boundary of Tuscan City Floors, in the adjoining Tuscan City Heights project, as the proposed site for the club. The said structure, as recorded in the report, comprises rooms resembling residential units, lacking any distinct club-related infrastructure. Accordingly, no facility in the nature of a clubhouse was available or provided to the complainants within their residential project for which any maintenance charges could be justifiably claimed.



59. In light of these findings, Authority holds that while the VAT demand is legally sustainable and payable by the complainants and the claim for club maintenance charges is unjustified and without any legal or contractual basis. The respondents are, therefore, not entitled to recover any such club-related charges from the complainants.

Relief no. (iii): Interest on amount paid against the construction of club house should be given till the actual possession of the club house and the amount deposited against the membership of club house should be refunded along with interest till the date of possession of club house.

60. With respect to Relief No. (iii) as enumerated in Para B of this order, ld. counsel for the respondent submitted during the course of arguments and in his written submissions that there is one full-fledged functional club house within the project, spread over approximately 2 acres of land and it is exclusively available for the use of the residents. It was further submitted that no outsider is permitted access to the facility and it is maintained solely for the benefit of the allottees.
61. Upon careful consideration of the rival contentions and the material placed on record, Authority observes that this relief pertains to a specific claim of an in personam nature, which is inherently dependent on the



details of each individual allottee's transaction with the respondent. The precise amount deposited by each allottee towards club house membership and construction charges, as well as the date of such payments and corresponding possession of the facility, would need to be established in order to determine the quantum of refund or interest, if any, due to each allottee. Such determination requires individualized scrutiny of records which are not available or pleaded in the present proceedings filed by the Resident Welfare Association (RWA) on behalf of all the members collectively.

62. Further, this complaint has been instituted by the RWA as a representative body for collective grievances of the allottees concerning common areas, services, and facilities. In such representative complaints, only collective issues and reliefs that are commonly applicable to all members can be adjudicated. Individual monetary claims arising out of specific transactions or payments made by individual allottees cannot be decided in the absence of specific pleadings, documents, and verification and such adjudication falls outside the scope of the present proceedings.
63. Accordingly, Authority is of the considered view that the relief sought under Relief No. (iii) is individual in nature and cannot be granted in the present collective complaint. However, individual allottees who claim to



have deposited amounts against club membership or club house construction and who seek refund or interest thereon, may approach the Authority separately with specific pleadings and supporting documentation, where such claims can be considered on their individual merits.

Relief no. (iv): The respondent should be directed to install solar water heaters, to install new generators and transformers, to remove the transmission towers installed at the top of buildings.

Relief no. (x): The respondent should be directed to remove the transmission towers installed at the top of buildings and further the rent generated from the same should be handed over to RWA.

64. With respect to Relief Nos. (iv) and (x), the complainants have sought directions to the respondent to install solar water heaters, new generators and transformers, and to remove transmission towers allegedly installed on the rooftops of the buildings. Additionally, they have prayed that the rent generated from such tower installations be handed over to the Resident Welfare Association (RWA).
65. In response, the respondent has relied upon the minutes of the joint meeting dated 10.10.2023 filed on record, wherein para-wise comments were provided. Upon perusal of the said minutes, it is observed that the



complainant association expressed its dissatisfaction regarding the provision of solar water heaters. The respondent, on the other hand, claimed that solar water heaters were provided at the time of handover of flats. However, no documentary evidence has been produced by the respondent to substantiate this claim. Similarly, with regard to the installation of new generators and transformers, the complainants expressed dissatisfaction with the response of the respondent, who merely stated that DG sets were procured in bulk. No technical details, deployment status, sanctioned electrical load, or supporting approvals have been filed to establish conformity with the sanctioned plans and service estimates.

66. Authority observes that infrastructure components such as solar heating systems, DG sets and transformers are to be installed strictly in accordance with the approved layout and service plans sanctioned by the competent authorities and must meet the actual requirements of the residents. The absence of technical validation and failure to submit relevant sanctioned documents raises a serious concern regarding adequacy and compliance. Therefore, the respondent is directed to ensure that the provision of these utilities is made strictly as per approved service estimates and plans.



67. With regard to the installation and removal of transmission towers on the rooftops of buildings, which is a concern raised in both Reliefs (iv) and (x), the respondent in its written submissions has stated that such installations were undertaken upon requests from the residents themselves owing to poor mobile network coverage in the area. It is claimed that no norms were violated, and no wrongful gains were made from such installations.
68. Authority notes that the installation and removal of transmission towers must also conform to the applicable structural safety norms and be in line with the guidelines of Telecom Regulatory Authority of India. Any removal, if required, is to be carried out in accordance with such approvals granted by the Competent Authority and in consultation with the relevant statutory authorities including the Telecom Regulatory Authority and municipal authorities. As regards the rent generated from such installations, Authority observes that the location of towers is generally decided based on telecom service requirements and regulatory permissions. If any revenue or rent is being earned from such commercial use of common rooftops, the same must be duly disclosed and apportioned to the concerned RWA. The affected individual allottees or the association may approach the appropriate Telecom Authority or the relevant regulatory body with respect to grievances



regarding revenue sharing by filing individual complaints pertaining to specific tower.

69. The respondent is further directed to hand over copies of all rental agreements entered into with respect to such rooftop transmission towers to the RWA within 30 days of uploading of this order, and ensure that any rent received therefrom, post-transfer of common areas, is duly remitted to the RWA in accordance with law.

Relief no. (v): The respondent should be directed to get water and electricity connections from the authorities and also be directed to charge for the electricity as per the prescribed tariff and to refund the excess amount collected along with interest.

70. With respect to Relief No. (v), the respondent during oral arguments as well as in his written submissions and reply, relied upon the minutes of the joint meeting dated 10.10.2023. In his reply, the respondent submitted that there is already a functioning electric substation in place and that electricity is being supplied by Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL). It has been further submitted that the respondent's role is limited to the distribution of electricity within the project premises and that the tariff charged from the residents is in accordance with applicable norms, and no overcharging has taken place.



The respondent has also denied the complainant's claim that residents of W Block face prolonged power outages and stated that no evidence has been filed by the complainant to substantiate such allegations.

71. Upon consideration of the submissions made by both parties and the documents placed on record, Authority observes that electricity supply and its regulation fall within the purview of statutory authorities such as UHBVN and the Haryana Electricity Regulatory Commission (HERC). Although the respondent has claimed that a substation has been installed and electricity is being provided through UHBVN, no documentary evidence has been filed indicating the issuance of individual electricity connections in the name of the residents or the association. It is a settled principle that any infrastructural obligation of the promoter must be fulfilled in accordance with duly sanctioned plans, approved service plans, and service estimates as cleared by competent authorities. In the absence of such documentary evidence on record, it is not possible for the Authority to ascertain whether the reliefs sought align with the approved project specifications or whether any deviation has occurred. Moreover, as per the provisions of the Real Estate (Regulation and Development) Act, 2016, the promoter is bound to execute the project in accordance with the approved specifications and service plans. Any deviation or non-compliance in this regard can be raised before the



competent planning or regulatory authority, such as the Town and Country Planning Department or the HERC. Therefore, in the absence of any documentary record substantiating the claims made by the complainants, the Authority cannot grant blanket directions in this regard. However, the complainants are at liberty to seek the necessary records from the competent authorities and take appropriate legal recourse for any non-compliance, if established.

72. The issue of excess collection of electricity charges and allegations of overcharging are matters which fall within the jurisdiction of the competent regulatory authorities such as the HERC or the consumer grievance redressal forums established under the Electricity Act, 2003. Similarly, the matter of ensuring a proper and continuous electricity connection is a technical and statutory function of UHBVN. Authority, being limited in scope under the Real Estate (Regulation and Development) Act, 2016, does not have the jurisdiction to adjudicate upon tariff disputes or regulate power distribution licenses. Authority, therefore, directs the complainant association to approach the concerned organisation i.e., UHBVNL for proper electricity infrastructure, issuance of dedicated electricity connections and resolution of any technical or billing disputes. In the event of any grievance related to overcharging or non-compliance with prescribed electricity tariffs, the complainant may



seek redressal before the Haryana Electricity Regulatory Commission or the Consumer Grievance Redressal Forum established for the purpose.

73. In view of the foregoing, respondent is directed to cooperate with the complainants in facilitating the formalization of individual and bulk electricity connections directly from UHBVN to ensure transparency, accountability, and lawful billing practice.

Relief no. (vi): To direct the respondent to rectify the defects in the building and compensate the petitioner for the delay in rectification of defects.

74. With respect to Relief No. (vi), wherein the complainant association has sought directions to the respondent to rectify various defects in the building and further sought compensation for the delay in rectification of such defects, Authority has perused the Local Commissioner's report dated 01.07.2020, which was placed on record in a similar complaint no. 2676 of 2019. The said report clearly highlights numerous structural, civil, and maintenance-related deficiencies existing within the project, particularly affecting the common areas and shared facilities of the residents.
75. Authority observes that the developer, being the promoter of the project, has a continuing statutory obligation under Section 14(3) of the Real Estate (Regulation and Development) Act, 2016, to rectify any structural



or workmanship-related defects that come to light within a period of five years from the date of possession, without any additional cost to the allottees. In the present case, the defects identified in the Local Commissioner's report fall within the category of such obligations and include issues that affect the overall habitability, safety, and functionality of the premises. These defects, if not addressed in a time-bound manner, may cause further deterioration and unnecessary inconvenience to the residents, thereby breaching the duty of care owed by the respondent to the allottees. It is also pertinent to note that despite having ample notice of such deficiencies, the respondent has not taken any demonstrable or satisfactory steps toward comprehensive rectification of the same and the same have been admitted in various submissions and oral arguments made in parallel proceedings involving other associations of the same project.

76. Therefore, Authority directs the respondent to rectify all the structural, civil and service-related defects highlighted in the Local Commissioner's report at the earliest, and in any case, within a period of 90 days from the date of uploading of this order. The respondent shall ensure that the quality and scope of the repair work are in accordance with the observations made in the LC report and with industry standards, under proper technical supervision.



77. As regards the claim for compensation on account of delay in rectification, the same being an individual relief involving quantification of specific damages suffered by particular allottees, cannot be adjudicated in the present representative complaint filed on behalf of the RWA. However, individual aggrieved members shall be at liberty to seek appropriate remedies in accordance with law, including filing a separate complaint for compensation under Section 18(3) of the RERA Act, if so advised.

Relief no. (vii): To direct the respondent to install working STP, Electric sub station, water plant for drinking water.

78. With respect to Relief No. (vii), Authority has carefully perused the record including the reply and written submissions filed by the respondent, the minutes of the meeting dated 10.10.2023, and the report of the Local Commissioner dated 01.07.2020.

79. Insofar as the STP is concerned, the respondent has submitted in the minutes of the meeting dated 10.10.2023, and reiterated during oral arguments that the STP is operational and functioning smoothly. It was further submitted that as per the direction of the Haryana Shahari Vikas Pradhikaran (HSVP), sewage from Kingsbury is to be connected to the Patla STP via the sewage infrastructure passing through Ansal



Township. The respondent emphasized that steps in that regard are underway and a temporary arrangement is already in place.

80. The complainants, in the minutes of the meeting dated 10.10.2023, expressed strong dissatisfaction with the respondent's claim regarding the functioning of the STP. They reiterated that disposal of sewage is not being done as per the approved service plan. It was pointed out that a temporary arrangement exists for sewage disposal through Ansal Township, but it frequently breaks down and is operationally deficient. Several technical defects in the STP were also highlighted, including the absence of an activated carbon filter, non-functioning motors, lack of automation, faulty sludge press, missing pH meter, and lack of fencing for safety. Furthermore, treated water is not being utilized in green belts as required and no NOC has been obtained from the Pollution Control Board till date.

81. Authority, having considered both sides, observes that the assertions made by the respondent regarding the installation and functioning of the STP are not supported by the ground reality, as documented in the Local Commissioner's report dated 01.07.2020 and the complainants' verified submissions. Therefore, in the absence of any documentary record substantiating the claims made by the complainants, Authority cannot grant blanket directions in this regard. However, the complainants are at



liberty to seek the necessary records from the competent authorities and take appropriate legal recourse for any non-compliance, if established.

82. Accordingly, the respondent is directed to complete the installation and operationalization of a fully functional STP strictly in accordance with the approved service plans, environmental norms and after obtaining the requisite NOC from the Pollution Control Board and other concerned statutory authorities. The respondent shall rectify all defects as highlighted in the Local Commissioner's report and the meeting minutes dated 10.10.2023.
83. With respect to the electric substation, the respondent submitted in the reply and written submissions that there exists a functioning electric substation and that electricity is being supplied by the Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL). It was contended that the respondent's role is limited to internal distribution and that electricity is being charged as per actual consumption, within the prescribed norms.
84. However, as per the Local Commissioner's report, no electric substation had been established within the project. Instead, electricity was being supplied directly from main lines to individual units, with panels and electrical infrastructure found to be in a hazardous and dilapidated condition. The report also noted tangled wiring, unsafe conditions in stairwells and basements, and exposed electric panels, which pose



serious safety risks. As regards the water plant for drinking water, the Local Commissioner observed that no treatment plant was installed, and raw groundwater was being directly supplied to residents. The water pumps were located in areas affected by sewage contamination, raising significant public health concerns.

85. Given the nature of these infrastructural issues, which fall within the domain of public utilities and safety, Authority is of the considered view that while it may not be feasible to grant technical directions in isolation, the respondent is under an obligation to comply with sanctioned service plans and estimates. Therefore, Authority holds that for grievances relating to the electric substation and water plant, the complainants shall be at liberty to approach the concerned departments such as UHBVN and Public Health Engineering Department (or equivalent local body) for necessary redressal. The respondent is directed to fully cooperate with the concerned authorities and take all necessary steps to ensure the proper installation, approval and functioning of these systems as per sanctioned service estimates.

Relief no. (viii): To direct the respondent to refund the amount paid against maintenance by the complainants before the occupation



certificate and further compensations should be given to the complainants for the substandard services.

86. With regard to Relief No. (viii), the Id. Counsel for the respondent, during oral submissions stated that no specific details have been provided by the complainants regarding the alleged maintenance charges collected before the issuance of the occupation certificate. It was also contended that since maintenance responsibilities have already been handed over to the residents or their associations, the question of refund does not arise at this stage.
87. Authority observes that the nature of the relief sought is of individual character, pertaining to each allottee's payment and usage, which is outside the purview of adjudication in a collective complaint filed by the RWA. It is reiterated that the present proceedings concern a collective complaint made by the RWA on behalf of residents and individual monetary claims or disputes such as refund of pre-OC maintenance charges require separate adjudication or resolution on a case-to-case basis. It is further observed that many allottees are already in possession of their units and maintenance services have been duly handed over to RWA, thereby rendering the refund claim inappropriate for collective determination. However, keeping in view the allegation of substandard services and the claim of excess recovery of maintenance funds,



Authority finds it appropriate to ensure transparency in the financial reconciliation of maintenance charges.

88. Accordingly, Authority directs both parties to mutually appoint a neutral and independent third party, preferably a Chartered Accountant (CA), who shall examine the financial records, including payments received from residents, expenditure incurred on maintenance and the corpus available under the Interest-Free Maintenance Security (IFMS). The said examination shall be conducted in the presence of representatives from both the complainant association and the respondent company. The CA shall then certify the actual amount, if any, recoverable or refundable, after appropriate adjustment of incurred expenses. The exercise is to be completed within 90 days from the date of uploading of this order.

Relief no. (ix): To direct the respondent to share the accounts of maintenance amount with the petitioner and further provide proper maintenance in future.

89. With respect to Relief No. (ix), the complainant association has prayed for a direction to the respondent to share complete accounts pertaining to the maintenance amount collected from the residents and to ensure provision of proper maintenance services in the future. During the course of oral submissions, the respondent stated that the Authority may



take an appropriate view in the matter and decide the issue as it deems fit.

90. Authority observes that transparency in the utilization of maintenance funds is essential to ensure accountability and build trust between the developer and the allottees. The right of residents to be informed of how their contributions towards maintenance are being utilized is intrinsic to fair industry practices and aligns with the objectives of RERA to protect the interests of allottees. In the present case, where the maintenance responsibilities have been handed over to the residents and the Resident Welfare Association (RWA) is now functioning on behalf of the allottees, it becomes imperative for the respondent to furnish a full and itemized account of the maintenance charges collected, detailing receipts, expenditures and the balance, if any, lying in the corpus.
91. Accordingly, the Authority directs the respondent to prepare and share a detailed financial statement of all maintenance-related collections and expenditures incurred till the date of handover, including:
- i. Month-wise statement of maintenance charges received from residents;
 - ii. Heads of expenditure with corresponding amounts spent;
 - iii. Balance, if any, available in the maintenance corpus;
 - iv. Details of any amounts adjusted towards IFMS, where applicable;



- v. Names of vendors or service providers engaged for maintenance and amounts paid to them.

The said information shall be shared with the complainant RWA within a period of 90 days from the date of uploading of this order.

Relief no. (xi): To direct the respondent to refund the charges collected by respondent on name of stilt and open parking.


92. With respect to Relief No. (xi), ld. Counsel for the respondent, during oral submissions, contended that parking spaces were provided to the allottees and hence, no refund is liable to be made. It was further stated that for covered parking, charges are payable by the allottees and no illegality was committed in the collection thereof.
93. Authority observes that while a developer may allocate stilt or covered parking, the same must be in accordance with the approved layout and sanctioned building and parking plans. Any area constructed or designated for parking, carved out of common areas cannot be sold separately. No documents have been placed on record by either of the party to demonstrate that the parking spaces for which charges were collected, have been constructed and allotted in compliance or in violation of the sanctioned building and parking plan.



94. As a result, it is not possible for the Authority to issue any collective refund direction in the absence of individual transactional details and without determining whether the charges collected were in accordance with approved plans or not.
95. Authority, therefore, holds that this is an individual relief and cannot be adjudicated under a collective complaint filed by the RWA. If any individual allottee is aggrieved by the collection of parking charges or believes that the parking charges were levied contrary to applicable norms and approvals, they are at liberty to file an individual complaint before the Authority, supported by relevant documents and proof of payment. Upon such filing, the Authority shall consider each case on its own merit. Accordingly, no direction for refund can be passed under the present complaint.

Relief no. (xii): The respondent should be directed to pay compensation against the risk of life and limb.

96. Further, with regard to relief no. (xii), the complainant is seeking compensation against the risk of life and limb. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of U.P. & ors.*" (supra.), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and



Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The Adjudicating Officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

97. It is pertinent to note that vide order dated 29.10.2020, Ms. Kanika Agnihotri, Advocate, appearing on behalf of M/s Cannes Management Property Pvt. Ltd., submitted before the Authority that her client had entered into a tripartite agreement with the complainants for providing maintenance services in the project in question. Accordingly, a request was made for impleadment of M/s Cannes Management Property Pvt. Ltd. as Respondent No. 2 in the complaints. Authority, taking note of the submissions, directed the learned counsel to file a formal application for impleadment.
98. Subsequently, vide order dated 07.01.2021, Authority observed that one of the issues raised by the complainants pertained to the disconnection of electricity, which fell within the scope and responsibility of M/s Cannes Management Property Pvt. Ltd. In view of the same, the



application for impleadment of M/s Cannes Management Property Pvt. Ltd. as a party to the complaints was allowed, subject to objections, if any, by the complainants in their reply.

99. Thereafter, vide order dated 21.09.2021, ld. counsel for the complainants submitted that the complainants had entered into a settlement agreement dated 07.09.2021 with the maintenance company M/s Cannes Management Property Pvt. Ltd., thereby resolving all issues arising from or related to the maintenance services provided by said entity. Accordingly, it was prayed that all grievances against M/s Cannes Management Property Pvt. Ltd. may be deemed settled and withdrawn.
100. In view of the said submission, all issues pertaining to M/s Cannes Management Property Pvt. Ltd. were treated as dismissed as withdrawn by the Authority.
101. In view of the aforesaid observation, the case is disposed of. File be consigned to the record room after uploading of this order on the website of the Authority.


.....
CHANDER SHEKHAR
[MEMBER]


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


.....
NADIM AKHTAR
[MEMBER]