



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2395 of 2022
Date of filing:	20.09.2022
Date of first hearing:	07.02.2023
Date of decision:	06.03.2025

Royal Heritage Resident Welfare Association

through its President, Sh. Naresh Chandra

R/o H. no. 103, VPO- Baroli, Sector -75,

Faridabad-121004

....COMPLAINANT

VERSUS

1. M/s Pivotal Infrastructure Pvt. Ltd. through its Directors

Registered office: Plot No. 12,

Sector-4, Faridabad-121004,

Haryana

2. M/s Pivotal Realty Pvt. Ltd. through its Directors

Registered office: Plot No. 12,

Sector-4, Faridabad-121004,

Haryana

....RESPONDENTS

CORAM:

Parneet S Sachdev

Chairman

Nadim Akhtar

Member

Chander Shekhar

Member

Present: Mr. Denson Joseph, counsel for the complainant through VC.

Mr. Karan Kaushal, counsel for the respondent through VC.

ORDER (PARNEET S SACHDEV – CHAIRMAN)

1. Present complaint dated 20.09.2022 has been filed 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

2. Facts of the complaint are such that the Petitioner, Royal Heritage Resident Welfare Association (hereinafter referred to as the "RIIRWA"), is a duly registered body under the Haryana Registration and Regulation of Societies Act, 2012, bearing Registration No. IIR/019/2016/02139, vide Certificate of Registration dated 29.03.2016. The present petition has been instituted on behalf of RIIRWA through its authorised representative, duly authorised by the Resolution of the Association dated 05.06.2022. RIIRWA comprises the allottees/flat owners of the residential group housing project named "Royal Heritage", located in Sector-70, Faridabad, Haryana. True copy of the



Registration Certificate is annexed herewith as **Annexure C-1**, and a true copy of the Resolution dated 05.06.2022 is annexed as **Annexure C-2**.

3. That Respondent No. 1, M/s Pivotal Infrastructure Pvt. Ltd., and Respondent No. 2, M/s Pivotal Realty Pvt. Ltd., are jointly and collectively the promoters and developers of the "Royal Heritage" group housing project situated on land measuring approximately 20.3125 acres in Sector-70, Village Mujheri, Tehsil Ballabgarh, District Faridabad, Haryana. The Director General, Town and Country Planning, Haryana (DGTCP) granted licenses bearing No. 78 of 2009 and 33 of 2010 under the Haryana Development and Regulation of Urban Areas Act, 1975, for developing the said group housing colony.
4. That the said project was launched around the year 2010. Initially branded as "Takshila". The project was later renamed as "Ansal Royal Heritage" and finally launched as "Royal Heritage". The Builder Buyer Agreements (BBA) executed with allottees were substantially identical, and sale deeds have also been executed under the same project name.
5. That construction commenced on 28.03.2011. As per the terms of the BBA, the project was to be completed and possession was to be delivered within 42 months from the date of commencement of construction, i.e., by October 2014. However, the project suffered



inordinate delay and the Occupancy Certificate (OC) was issued by DTCP only on 30.11.2017.

6. That the project comprises 18 towers with approximately 1450 flats. Possession was ultimately handed over in 2018, thereby resulting in a delay of around 36 months. Clause 28 of the BBA provides for compensation for delayed possession at the rate of ₹ 7.5/- per sq. ft. per month. The complainant submits that the period for which such compensation is payable should be calculated until actual physical possession was delivered, not merely from the offer of possession. True copy of a sample BBA is annexed as **Annexure C-3**, and a sample conveyance deed is annexed as **Annexure C-4**.
7. That the residents of the said project have formed the Petitioner Association, RIIRWA, as a legal entity under the provisions of the Haryana Registration and Regulation of Societies Act, 2012, and the same was duly registered on 29.03.2016.
8. That after the constitution of the governing body of the Petitioner Association, the office bearers requested the Respondents to hand over the maintenance, Interest Free Maintenance Security (IFMS), essential services, and to recognise the RWA. However, the Respondents refused to acknowledge the RWA, obstructed its functioning and intimidated its members. Notably, the Respondents issued notices imposing fines of ₹



5,000/- on any flat owner who became a member of the RWA and resorted to coercive actions including disconnection of power supply.

True copy of such a builder notice is annexed as **Annexure C-5**.

9. That in the general body meeting of the RIIRWA held on 01.08.2021, it was unanimously resolved that Respondents be asked to hand over the maintenance, essential services and IFMS to the RWA.
10. That despite repeated demands, the Respondents have refused to hand over maintenance and forcibly closed down the office of the Petitioner Association in the Club premises using private security and outsiders.
11. That under Section 11(4)(d) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter "RERA"), the promoter is responsible for providing and maintaining essential services on reasonable charges until such time as the maintenance is taken over by the association of allottees. Further, Section 11(4)(c) mandates the promoter to enable the formation of such association. Section 17(1) and 17(2) of the RERA Act, 2016 require the promoter to hand over possession and all documents including common areas to the association of allottees within 3 months of obtaining the OC.
12. That the Respondents have failed to comply with the above legal obligations. Despite the OC having been granted on 30.11.2017, and a registered association being in place, the Respondents have continued to

retain control of the maintenance in a wholly illegal and mala fide manner. This conduct is violative of statutory duties under the RERA Act and undermines the rights of allottees. That the current maintenance services are extremely poor and substandard. Despite charging ₹ 2.60/- per sq. ft., the services provided are inadequate and unreasonably priced. Multiple complaints by residents regarding the substandard services have gone unaddressed.

13. That the appointed maintenance agency, M/s Global Maintenance Agency, is a sister concern of the Respondent-builder, run by their relatives. It has been observed that workers of this agency are deployed for construction work of the builder rather than society upkeep and maintenance funds collected from residents are being misutilised for supporting builder's ongoing construction activities. That the residents, through RHRWA, have independently calculated the reasonable cost of maintenance and obtained quotations from alternative vendors, which are significantly lower than the current charges. This clearly indicates that the Respondents are charging exorbitantly and unreasonably, amounting to profiteering and breach of fiduciary obligations.
14. That the Respondents are also illegally retaining the Interest-Free Maintenance Security (IFMS) collected from allottees, in contravention



of RERA norms. The amount so retained must be returned or transferred to the Petitioner Association.

15. That on 14th November 2021, there was a fire incident in one tower of Society and none of the fire fighting equipment worked. Fire tender were unable to reach up to the fire due to height since fire was on 18th, 17th and 11th floors. People filled the water in buckets and tried to douse fire. Six flats have been burned fully. The residents are living in constant fear despite paying high maintenance.
16. That therefore, the Petitioner Association has filed a Writ Petition being CWP No. 8146 of 2022 before the Punjab and Haryana high Court against the builder for handing over of the Common area maintenance and other reliefs. High Court disposed off the writ petition vide order dated 29.04.2022 and directed the Petitioner Association to approach the RERA Authority. True copy of order dated 29.4.2022 passed by the Punjab and Haryana High Court in CWP No. 8146 of 2022 is annexed as **Annexure C-11**.

B. RELIEFS SOUGHT

17. In view of the facts mentioned above, complainant prays for the following relief(s):-
 - i. To direct the Respondent builder/promoter to handover the common area maintenance and all other incidental things like



IFMS etc. along with all the original sanctioned maps and plans and permissions etc. of the Royal Heritage Society to the Petitioner Association; and

- ii. To direct the Respondent builder to provide a proper access road to the Society instead of the present makeshift arrangement; and
- iii. To direct the Respondent builder to provide a proper electricity connection in the name of Royal Heritage Society as per the actual load instead of temporary connection in the name of a private person; and
- iv. To direct the Respondent builder to provide a proper STP as per the requirement of the Society; and
- v. To direct the Respondent builder to provide proper electric substation for the Society from the Dakshin Haryana Bijli Vitran Nigam at its own expenses; and
- vi. To direct the Respondent builder to provide proper DG sets as per the requirement of the Society; and
- vii. To direct the Respondent builder to get the high electricity tension wires and towers removed from the premises of the Society; and
- viii. To direct the Respondent builder to provide proper fire fighting system to the Society; and



- ix. grant such other/further relief as this Hon'ble Authority may deem fit under the circumstances.

C. REPLY SUBMITTED ON BEHALF OF THE RESPONDENTS

Reply on behalf of the respondents, was filed on 05.12.2023 through their Id. counsel wherein it is submitted as follows:

18. The respondents contend that the complaint filed by the complainant association is not maintainable on several preliminary grounds. A primary objection raised is regarding the legal validity and standing of the Complainant association itself. This point of legal validity and standing of the complainant-association has also been raised by the respondents in the rejection application under Order VII Rule 11 of CPC filed on 26.04.2023. The respondents assert that for the association to be valid and legal, it must comply with the statutory provisions of the Haryana Societies Registration and Regulation Act, 2012, under which it is registered. The respondents claim the Complainant association failed to produce any documents or statutory filings with the Registrar of Societies under this Act. It is alleged to be a false and frivolous association of a few members attempting to usurp the entitlements and benefits of the majority of allottees. Therefore, the respondents argue, the Complainant association is not entitled to file the present complaint.



19. Furthermore, the respondents challenge the validity of the resolution passed by the Complainant association on 05.06.2022, which purportedly authorizes the filing of the complaint. It is argued that this resolution is not legally valid. The respondents highlight that the resolution's content stating "the existing nominated office bearers requested other members to take over the posts to ensure transparency" indicates a lack of elections, suggesting the association is run arbitrarily by a selected few. A significant procedural defect pointed out is that resolution no. 01/2022-23 was signed by the former President, Mr. Sharad Awasthi, despite the nomination of a new president, Mr. Naresh Chandra. The respondents posit that a former president is neither entitled nor capable of signing a resolution once a new president is nominated. Additionally, the resolution allegedly fails to mention the number of participating members and lacks signatures or an attendance sheet, further proving the association's operation by a select few individuals. The respondents also claim the resolution does not authorize the specific person to file the complaint, nor does it disclose the prayers sought, the parties against whom the complaint is filed, or the reliefs required.
20. Another preliminary ground for dismissal raised by the respondents are the failure of the Complainant association to file its memorandum of



association and bye-laws. These documents are described as governing the association and their absence means the association cannot be admitted as representing the allottees of Royal Heritage.

21. The respondents also question the representative capacity of the Complainant association, stating it failed to mention the number of enrolled/subscribed members. It is claimed that the association only represents a minuscule number of allottee flat owners out of a total of 1279, making it incompetent to file the complaint on behalf of all allottees.
22. Crucially, the respondents argue that only a residents welfare association formed and registered under the provisions of the Haryana Apartment Ownership Act, 1983, is eligible for taking over maintenance of common areas. This Act is described as a special enactment governing the rights and obligations of allottees concerning common areas and the formation of apartment owner associations. Applying rules of interpretation, the respondents assert that this special enactment prevails over the Haryana Societies Registration and Regulation Act, 2012, under which the Complainant association is registered. Therefore, the Complainant association cannot be granted maintenance and handover of common areas of the project. The respondents highlight having formed a resident welfare association named "Royal Heritage Residents



Welfare Association" with a valid memorandum and bye-laws, registered under the Haryana Apartment Ownership Act, 1983, which is the duly registered and legally valid association entitled to take over maintenance.

23. Further supporting the argument based on the Haryana Apartment Ownership Act, 1983, the respondents state that only allottees who have registered a Deed of Apartment are entitled to rights in common areas. The respondents claim members of the Complainant association failed to produce and register their Deeds of Apartments, making it impossible to ascertain who its members are. The Complainant association has not disclosed a list of members, their entitlement in the project, or the capacity in which they seek reliefs like common area transfer. This failure is presented as another reason for the complaint's lack of maintainability.
24. In response to the merits or facts of the case alleged by the complainant, the respondents largely denies the contentions of the complainant. The respondents claim the complainant failed to provide documents supporting the assertion that the project was not completed on time, calling these allegations false and frivolous. The respondents deny the complaint seeks relief for delayed possession charges, characterizing related allegations as futile and solely aimed at harassing the



respondents. Threatening any allottee is specifically denied and the refusal to recognize the Complainant-Association is stated to be in accordance with law. The respondents assert the Complainant-Association's general body is not entitled to demand anything, alleging it was formed for a dubious purpose to serve self-interest, and notes the absence of documents supporting a decision dated 01.08.2021 or minutes of their general body meeting. The claim that the respondents forcibly closed the complainant's office in the club is denied, with the onus placed on the complainant to prove the existence and closure of such an office, describing these as false allegations without supporting documents.

25. Regarding project completion and handover, the respondents confirm the completion of construction and development works for all 18 towers, 1:WS towers, commercial site, club, and other amenities. Occupation Certificates (OCs) have been obtained for 16 out of 18 towers on various dates (30.11.2017, 25.06.2018, 17.08.2020). An application for OC for the remaining 2 towers was filed on 14.10.2019. The respondents state that Fire NOC, confirmation regarding internal health services, and registration under the Haryana Lift and Escalators Act, 2008, have been obtained for these two towers, with approvals submitted to the relevant department. Crucially, referencing Section 11(4)(a) of the RERA Act,



2016, the respondents state they are not authorized to hand over possession or maintenance of common areas to the association of allottees until the Occupation Certificate for all towers of the project is granted. The respondents undertake that once the OC for the remaining two towers is obtained, everything shall be handed over to the association of allottees in accordance with law, stating they have no vested interest in maintaining common area services once a properly formed association is in place.

Specific Replies are also provided regarding various facilities and charges:

- i. **Maintenance Charges:** Allegations regarding maintenance charges are denied as bogus and without evidence. The respondents state charges adhere to the builder buyer agreement. The complainant allegedly failed to prove violation of rules regarding exorbitant service charges or substantiate claims with quotations from other agencies.
- ii. **IFMS:** The complainant association has failed to prove illegal retention of the IFMS (Interest-Free Maintenance Security).
- iii. **Approach Road:** The license was granted for development on the existing 24-meter-wide road, which was re-aligned and approved by the government, incorporated into the master plan.



The respondents wrote to authorities in 2018 about encroachment on this road by local residents/Gram Panchayat. The approach road is stated to be as per the approved layout plan, with no violation of the Haryana Building Code, 2017. The complainant association is addressing non-existent respondents (No. 3 and 4) regarding an illegal commercial complex.

- iv. **Facilities Deficiencies:** The complainant allegedly failed to point out a single deficiency in committed facilities, instead imputing vague and false allegations.
- v. **Electricity Connection:** The allegation of not having a proper permanent electricity connection is denied as imaginative; the respondents have an electricity connection in their name.
- vi. **Electric Sub Station:** An agreement dated 12.09.2022 exists with DIIBVN and other developers for a 33 KV Switching station. Land was gifted to DIIBVN for this station on 26.03.2021, and bank guarantees were submitted in January 2022 for its construction.
- vii. **High Tension Wires:** High-tension wires were installed by the Government of Haryana according to the approved layout plan. The respondents has no authority over these wires, which are in



- a "green area" and comply with safety norms (height, ground clearance), having received NOC after verification.
- viii. **Electrical Load:** The initial sanctioned load was 6665 KW, with partial loads (500 KW, 950 KW) sanctioned subsequently by DIIBVN as demand increased.
- ix. **DG Sets:** Five DG sets of 500 KW each are installed, exceeding the requirement of three, to meet potential emergent situations.
- x. **Sewage Treatment Plant (STP):** It is denied the sewage line is not connected from the society's STP to the Municipal Corporation line. An internal service estimate including sewerage was approved in 2014, and the STP is in place to serve residents.
- xi. **Fire Fighting System:** Fire NOC has been obtained for all towers, and the OC was granted only after the proper fire fighting system was in place. The fire fighting scheme was approved by the Director, Fire Service, conforming to 2005 guidelines.

D. REJOINDER ON BEHALF OF THE COMPLAINANT-ASSOCIATION

Rejoinder on behalf of the complainants-association, was filed on 11.12.2024 through their ld. counsel wherein it is submitted as follows:



26. Addressing the preliminary submissions in the reply, the Complainant asserted that their association is a registered body under the Haryana Registration and Regulation of Societies Act, 2012, evidenced by registration number HR/019/2016/02139 and the filed registration certificate (**Annexure C-1**). The approval of the current Governing Body by the District Registrar of Societies, Haryana, was also appended (**Annexure C-12**), which sufficiently establishes the association's registered status and refutes the claims in paras 1 and 2 of the reply.
27. The Complainant denied the contents of para 3 of the reply in toto. It was clarified that Mr. Sharad Avasthi signed a specific resolution because he was the president at that time, and the current President is Mr. Naresh Chandra. The allegation that the association is run by only a few members was denied and the Complainant stressed that their registration and Governing Body approval were granted only after the District Registrar examined all relevant documents. The Complainant also denied the contents of para 5 of the reply, stating that the Memorandum of Association (**Annexure C-13**) and bye-laws (**Annexure C-14**) have been filed with the District Registrar.
28. Regarding the averments in para 4 of the reply, the Complainant characterized them as prima facie mischievous. He stated that the



second page of the resolution (page 26) had clearly authorized the then President, Sh. Naresh Chandra, to file the instant complaint, rendering the Respondent's averments baseless and misleading.

29. The Complainant highlighted that there is no rule under the Haryana Real Estate Regulation and Development Act, 2016 ("the Act"), that requires stating the number of members when an association of allottees files a complaint. Furthermore, they pointed out that as per clause 5 (ii) of the Association's Byelaws, which were annexed with the Respondent's own Deed of Declaration (page 32 of their Reply), all purchasers of Flats in the Project become de facto members of the association. Citing Section 23 of the Haryana Apartment Ownership Act 1983, the Complainant affirmed that action may be brought by the Manager or Board of Managers on behalf of two or more apartment owners concerning common areas.
30. The Complainant noted that the Respondent himself admitted to having formed an association in lines 12-14 of their reply. The Complainant stated that the same association, approved by the District Registrar, filed the complaint upon realizing the Respondent's lack of intention to remove deficiencies, hand over the Society, or transfer the Initial Maintenance Fund (IFMS) amounts to the legally approved association. The Complainant asserted the Respondent's current status is that of a



criminal trespasser who has violated sections 11, 14 and 17 of "the Act". The Respondents continues to occupy the Project and control residents' lives despite the Occupation Certificate (OC) having been received in 2017. The Complainant clarified there is no legal bar on an association registering under the Haryana Societies Act, 2012, nor any restriction on handing over maintenance affairs to such an association. On the contrary, the 'handing over' is mandatory under the Act. It was also noted that the RWA purportedly formed by the Respondents have been deregistered (**Annexure C15**).

31. The Complainant reiterated that based on previous submissions and clause 5 of the Deed of Declaration, every purchaser in the project is automatically a member of the Association. They argued that for a complaint filed by the Association of Allottees, there is no requirement for each and every member to file their individual deed of declaration or sale deed. This proposition was called ridiculous, particularly for a summary procedure before the Authority. The Complainant stated there is no rule barring an association complaint unless all members' sale deeds are furnished and requested the Authority to reject such "shenanigans" and "mischief" by the Respondents.
32. The Complainant pointed to the Respondent's admission in para 12 of their reply regarding obtaining OCs for 16 out of 18 towers on



31.11.2017, 25.06.2018, and 17.08.2020, and applying for the remaining towers' OC on 14.10.2019. This admission was argued to inherently imply that the project was not completed within the stipulated time.

33. The Complainant asserted the Respondent admitted to the Complainant's averments and deliberately delayed physical possession, causing allottees additional costs and hardship. They accused the Respondent of deliberately avoiding core issues and attempting to distract the Authority with procedural/technical issues lacking substance.
34. The Complainant alleged the Respondents have repeatedly harassed residents/members of the RWA, citing builder notices threatening fines for joining the association (**Annexure C-5**) and photos of builder's bouncers tearing RWA notices (**Annexure C-16**) as evidence. They noted the Respondent's admission of not recognizing the legally formed complainant association.
35. The central question was stated to be whether the Project has been handed over to the Complainant RWA, as mandated by Section 17 of the RERA Act, 2016, within 90 days of OC issuance. The OCs (**Annexures R-2, R-3, R-4**) were presented as proof that the Respondents have illegally occupied the Project, contravening the Act. It was affirmed as "trite law" that the RWA is entitled to take over maintenance, essential services and recover IFMS from the Builder, and



this takeover/handover is a statutory requirement. Minutes of Meeting dated 01.08.2021 were appended as **Annexure C-17**.

36. The Complainant alleged that goons hired by the Respondents broke into and completely destroyed the RWA Office, providing pictures (**Annexure C-18**) as proof.
37. The Complainant alleged the respondents blatantly delayed possession and construction of the final two towers, applying for OC only on 14.10.2019 and failing to provide updates. They questioned why the Respondents remain on the Project when custodial rights under Section 17 of the RERA Act, 2016, vest with the Complainant RWA, especially since the proviso mandates handover of common areas within 3 months of OC issuance. They also noted the Respondent claimed to have received the OC for the remaining towers at the time of filing the rejoinder.
38. The reply in para 13 was stated to affirm the non-handover of the Project. The Project was described as being under the Developer's "totalitarian rule" and "extortion racket," levying unreasonable charges for maintenance, power backup, etc. The quality of services and equipment was claimed to be below par and a threat to residents' life and property.



39. The averments in para 15 relating to deplorable conditions due to poor maintenance were addressed. Pictures (**Annexure C-19**) were provided to substantiate poor conditions, improper DG set management, pathetic lift/parking conditions, lack of security, and sewage spread. Services are allegedly charged without justification. The Complainant prayed for the Authority to use its powers under Section 35 (1) and (2) to direct the Respondent to produce book of accounts to ascertain total IFMS custody and CAM charge calculation.
40. The Complainant argued that the Developer has no business to stay in the Project or render maintenance services after OC, except to complete pending works or fulfill statutory obligations, as mandated by Section 17 of the Act. The handover of the Project, including securities and documents, is mandated within 90 days of OC. Given the OC for all towers has been received (or applied for with claim of subsequent receipt), the Respondent has no reason to remain. The Complainant highlighted clause 26 of the Builder-Buyer Agreement where the Allottee authorized the Respondent to transfer IFMS to the RWA taking charge of maintenance. Consequently, the Respondent's status is that of a trespasser and a debtor, owing approximately ₹5,40,00,000/- in IFMS amount. The Complainant prayed the Authority to direct immediate payment of this amount.



41. The Complainant noted the Respondent failed to provide documentation for a claimed road realignment. They clarified that "respondent 3 and 4" in the complaint was a typographical error for "respondent 1 and 2".
42. Instances of residents stuck in lifts and a fire breaking out where fire brigade water could not reach higher floors, requiring resident intervention with buckets, were cited as proof of a deficient fire fighting system. News pieces and proof of harassment/threat were appended (**Annexure C-20**).
43. Regarding electricity supply, the Complainant referenced an order dated 31.01.2023 from the Forum for Redressal of Consumer Grievances, DIIBVN (**Annexure C-21**). The order stipulated that residents must be billed strictly according to HERC tariff, invoices for electricity consumption should not be mixed with other charges, slab rate benefits must be passed to consumers, and charging above HERC approved rates is prohibited. This order arose from a complaint regarding the builder's failure to install a mandated dual supply meter. The Complainant further stated that despite OC in 2017, the Respondent sold electricity from a temporary/commercial connection until November 2022 (**Annexure C-8**), which constitutes theft of electricity.



44. The Electric Sub Station has not been erected, despite being promised by 2015 as per the Builder Buyer Agreement (**clause 28**). Nine years beyond the promised date, it is still not in place.
45. The Complainant questioned whether allottees were informed about high tension wires running through the Project. They argued the Respondent concealed this vital information, constituting unfair trade practice, breach of trust and defrauding buyers by not declaring the project a "danger zone".
46. The Respondent's silence on charging INR 22 per unit for DG set power compared to the government rate of INR 7.10 per unit was considered an admission, and refund of overcharged amounts was sought. The Complainant noted the Respondent admitted only providing 5 DG sets but claimed only 3 were necessary without substantiation, whereas the maintenance agreement (**Annexure C-22**) stipulated 9 DG sets.
47. The Sewage Treatment Plant (STP) was claimed to be under capacity and not connected to the municipal drainage system. Sewage spread and foul air were reported, risking residents' health, substantiated by photographs (**Annexure C-23**).
48. The Complainant confirmed a legal notice was sent, and many issues remain unaddressed. Given the complexity of unresolved issues, including the handover, the Complainant reiterated the prayer for the



Authority to set up a Commission to visit the site and assess deficiencies for a just adjudication.

49. The Fire Fighting System was declared a total failure despite claiming Fire NOC approval, evidenced by a news piece covering a disastrous fire (**Annexure C-24**).

Overall, the Complainant asserted that the Respondent Developer failed to fulfill promises from the Brochure, Builder Buyer Agreement, and Maintenance Agreement, and has endangered residents' life and property by refusing to hand over the Society to the approved association. Copies of brochures used to "ensnare" buyers were provided (**Annexure C-25**).

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

50. **Submissions on behalf of the Complainant:** Learned Counsel for the complainant reiterated the facts stated in the complaint and submitted that the present matter pertains to the "Royal Heritage" real estate project, which is the same project wherein a penalty of ₹1,00,000/- was imposed on the respondent company vide order dated 22.05.2024 passed in a suo motu proceeding initiated by this Authority. He referred to paragraph 8 of the said order wherein the respondent had submitted that the construction of the project was complete and that the Occupancy Certificates (OCs) for all towers had been obtained, and requested



permission to sell the unsold inventory. Further, paragraph 10 of the said order records that although the reply filed by the respondent was not found to be sufficient for discharge of the show cause notice, the same was considered for determining the quantum of penalty imposed. The Authority, keeping in view the completion of the project and receipt of OCs, imposed a penalty of ₹1,00,000/-.

51. Learned Counsel for the complainant further referred to page 20 of the complaint, highlighting that despite the project having been completed and OCs obtained, the respondent has failed to hand over the maintenance of the project in terms of Section 17 of the Real Estate (Regulation and Development) Act, 2016, which mandates such handover within three months of obtaining the last OC. He submitted that this obligation has not been discharged to date and the Interest Free Maintenance Security (IFMS) has also not been transferred. Attention was drawn to paragraph 7 at page 4 of the respondent's reply, wherein it is admitted that once a duly registered and legally valid association is formed, the same is entitled to take over the maintenance in accordance with the Haryana Apartment Ownership Act, 1983. However, the ld. counsel for the complainant pointed out that the association currently formed by the respondent stands deregistered, as evidenced by the certificate issued by the Registrar dated 03.12.2024, annexed as



Annexure C-15 to the rejoinder. He submitted that the complainant has no access to maintenance records, no IFMS and no formal handover from the respondent.

52. I.d. counsel for the complainant then detailed the deficiencies in the project as outlined from paragraphs 18 to 27 of the complaint, which have been prayed for in reliefs (ii) to (ix). These include lack of proper access roads, absence of a proper Sewage Treatment Outlet (STO), absence of a functioning electric substation, insufficient number of diesel generator (DG) sets, and lack of fire-fighting systems. He argued that these deficiencies are in violation of the promises made in the maintenance agreement and the sanctioned zoning plans. With respect to the DG sets, reference was made to paragraph 24 at page 12 of the rejoinder, where it was submitted that the respondent has provided only 5 DG sets, while claiming that only 3 were required, without placing any substantiating data or analysis on record. In contrast, the maintenance agreement (annexed as Annexure C-22) clearly states that 9 DG sets were to be installed. Regarding the HT electric wires, learned counsel referred to paragraph 22 at page 14 of the reply, where the respondent claimed that the wires fall within the "green area" and are under the control of government authorities, not posing any safety risk due to adherence to ground clearance norms and approval via NOC. The Id.



counsel for the complainant, however, vehemently opposed this contention, submitting that the HT wires pass directly through the middle of the project, thereby posing a serious risk to life and safety. He submitted that mere NOCs or technical clearances cannot override real and continuing safety concerns, and appropriate directions must be issued in this regard.

53. He also submitted that no fire safety system has been installed in the project. The complainant referred to OCs and NOCs filed by the respondent (pages 58, 60, 62, and 177 of the reply), but argued that documentary compliance does not discharge the respondent from its actual obligations under law and the BBA. The respondent must fulfill all obligations under applicable statutory provisions and the contractual maintenance agreement. Referring to the governance structure of the complainant association, the learned counsel placed reliance on pages 16 to 19 of the rejoinder, which contain:

- i. Approval of the elected governing body (dated 07.07.2023),
- ii. Names of four elected office bearers,
- iii. Certificate of registration of the society, and
- iv. The Memorandum of Association of the Royal Heritage Resident Welfare Association (Annexure C-13).



These documents, it was submitted, clearly establish the lawful and democratic formation of the complainant association, contrary to the respondent's allegations.

54. Finally, the learned counsel for the complainant referred to pages 82 to 99 of the rejoinder which depict photographs showing alleged illegal constructions by the respondent, and page 105 which contains photographs evidencing the deteriorating condition of sewerage lines, the STO, and fencing. It was submitted that the respondent has failed in its obligations to maintain the project properly and to hand over maintenance as mandated. Hence, appropriate directions must be issued by this Authority for handover of maintenance and transfer of H'MS to the duly formed complainant association.
55. **Arguments on behalf of the Respondent:** Per contra, the learned counsel for the respondent commenced arguments by referring to paragraph 12 at page 10 of the reply, submitting that the respondent had already undertaken to hand over the maintenance and other common area responsibilities to a duly formed association of allottees upon receipt of the last Occupancy Certificate. He stated that the final OC was received in June 2024, and the reply on record was filed on 05.12.2023, prior to the receipt of the final OC, thereby showing the bona fide intention of the respondent.



56. Learned counsel argued that the complainant has failed to establish the locus standi of the association to maintain the present complaint. He referred to Annexure C-2 of the complaint, arguing that the document is cryptic and merely expresses an intention to form an association without proving the conduct of elections, constitution of a General Body, or fulfillment of the minimum membership requirements under law. It was emphasized that no resolution, member list, or valid election record was placed on record to substantiate the lawful formation of the complainant society. The respondent reiterated that there is no vested interest in continuing with maintenance of the common areas, and that as soon as his 45 units presently under attachment by court are released, the respondent is ready and willing to execute the conveyance deeds and hand over the maintenance responsibilities along with IFMS to a lawfully formed association of allottees.
57. I.d. counsel for the respondent placed reliance on the various NOCs and OCs issued by government authorities, arguing that the project has been duly completed in all respects. I.d. counsel also submitted that assertions made by the complainant cannot override the statutory documents issued by competent authorities and that all necessary compliances have already been made.



58. **Rebuttal by the Complainant:** In rebuttal, the learned counsel for the complainant reiterated that the documents at pages 16-19 of the rejoinder establish the lawful formation of the Royal Heritage Resident Welfare Association. These documents include:

- i. Approval of the governing body dated 07.07.2023,
- ii. List of elected office bearers,
- iii. Certificate of registration of the society, and
- iv. Memorandum of Association.

He emphasized that the complainant association is duly registered and functioning through an elected body in accordance with the relevant provisions of the Haryana Societies Registration Act and other applicable laws. Refuting the respondent's claims of compliance, the complainant drew attention to the photographs at pages 82-99 and page 105 of the rejoinder, depicting continuing deficiencies in construction, maintenance, sewerage, and fencing, which demonstrate that the project is not fit for handover in its current state. He further submitted that despite clear obligations under law, the respondent has not handed over the maintenance or IFMS, and has made no credible effort to do so even after receiving the last OC.

59. In conclusion, ld. counsel for the complainant submitted that the handover of maintenance and IFMS is a statutory obligation and must be



enforced by this Authority. The complainant association, being a registered and lawfully constituted body of allottees, is entitled to take over the maintenance and receive the IFMS in accordance with Section 17 of the RERA Act, 2016 and other applicable regulations.

F. ISSUES FOR ADJUDICATION AND OBSERVATIONS OF THE AUTHORITY ON THE RELIEF SOUGHT BY THE COMPLAINANTS.

60. The present complaint has been filed by Royal Heritage Resident Welfare Association, a registered society under the Haryana Registration and Regulation of Societies Act, 2012, seeking, inter alia, handover of maintenance of the project "Royal Heritage, Sector 70, Faridabad" and transfer of Interest-Free Maintenance Security (IFMS) from the respondent developer. The complainant association has also raised multiple grievances concerning service deficiencies in the project and failure of the respondent to fulfill promises under the Brochure, Builder Buyer Agreement, and maintenance obligations.
61. The real estate project in question is a group housing development named Royal Heritage, comprising 18 residential towers along with commercial blocks and other amenities. The respondent has confirmed in its reply that Occupation Certificates (OCs) for 16 towers were received in phases during 2017-2020, and an application for the remaining 2 towers was filed on 14.10.2019. The final OC is stated to



have been received in June 2024. The project is developed under a valid license granted by the Department of Town and Country Planning (DTCP), Haryana.

62. The primary relief sought by the complainant is for the handover of the maintenance and transfer of IFMS. In addition, the complainant has sought redressal for multiple deficiencies in the project, including:
- i. Inadequate access roads and encroachments (Reliefs ii, iv, v),
 - ii. Non-commissioning of electric substation and improper electricity supply (Reliefs iii, vi),
 - iii. Improper installation of high-tension wires (Relief vii),
 - iv. Non-functional or insufficient fire-fighting systems (Relief viii),
 - v. Illegal construction and poor maintenance (Relief ix).
63. In its reply filed on 05.12.2023, the respondent developer contested the maintainability of the complaint, primarily on the ground that the complainant association lacked legal status and authority. It was argued that only an association registered under the Haryana Apartment Ownership Act, 1983 is eligible for taking over maintenance of common areas. The respondent also alleged procedural irregularities in the complainant's formation, questioned the validity of the resolution authorizing the complaint and asserted that the complainant did not represent a majority of allottees. Additionally, the respondent claimed



that a separate RWA formed under the 1983 Act was already in place and entitled to take over the maintenance. On merits, most of the complainant's allegations were denied, and he asserted that the project had been completed in accordance with applicable norms, with all statutory clearances and service connections in place.

64. Having considered the submissions of both parties, documents on record and applicable legal provisions, Authority proceeds to examine the matter as follows:

65. **Regarding Maintainability of the Complaint and Status of the Complainant Association:** The primary objection raised by the respondents pertain to the maintainability of the complaint on the ground that the complainant association is not validly constituted and does not qualify as an association of allottees under law. The respondents further claimed that it had itself constituted an association under the Haryana Apartment Ownership Act, 1983, which alone would be competent to assume maintenance responsibilities. This Authority observes that the said objection to be unsustainable for the reason that Section 11(4)(c) of the Real Estate (Regulation and Development) Act, 2016, imposes a statutory obligation on the promoter to facilitate the formation of an association of allottees. The provision does not prescribe the precise form of such an association, nor does it mandate



that the association must be registered under any specific enactment like the Haryana Apartment Ownership Act, 1983.

66. On the contrary, the complainant association has placed on record a valid Certificate of Registration under the Haryana Registration and Regulation of Societies Act, 2012 (Annexure C-1), along with approval of its elected Governing Body from the District Registrar (Annexure C-12), Memorandum of Association (Annexure C-13), and Bye-Laws (Annexure C-14). These documents sufficiently establish its legal standing as a registered body corporate entitled to pursue legal proceedings and represent the interests of allottees.
67. The respondent's claim that it has constituted another association under the Apartment Ownership Act has not been substantiated with any documentary proof. No valid certificate of registration, governing body approval, or list of allottees forming such association has been placed on record. On the contrary, the complainant has filed a certificate issued by the Registrar dated 03.12.2024 (Annexure C-15), confirming that the respondent's purported association stands deregistered.
68. In light of the above, Authority concludes that the complainant association is a legally registered body and has the locus standi to maintain the present complaint. The issue of maintainability is therefore conclusively settled in favour of the complainant.



69. **Regarding Interest-Free Maintenance Security (IFMS):** Regarding the Interest-Free Maintenance Security (IFMS), Authority hereby directs both parties to mutually appoint a neutral and independent third party, preferably a Chartered Accountant (CA), who shall:

- i. Examine the financial records including IFMS received from shop owners,
- ii. Verify the expenditure incurred on maintenance,
- iii. Calculate the corpus currently available under IFMS, if any.

This exercise shall be carried out in the presence of representatives from both parties, and the Chartered Accountant shall certify the actual amount, if any, recoverable or refundable after adjustment of verifiable maintenance expenses. The said process shall be completed within 90 days from the date of uploading of this order. The cost of engaging the Chartered Accountant shall be borne equally by both parties.

70. **Regarding Deficiencies and Other Reliefs Sought:** The complainant has sought relief for various service deficiencies. These are dealt with below in a consolidated manner:

- i. Reliefs (ii), (iv), (vi) (Access road and encroachments): The respondents has placed on record internal service estimates and claims that all occupation certificates have been granted by competent authorities. This implies prima facie compliance with



approved service estimates. However, if any deviation from sanctioned layout plan, service estimates or non-provision of service roads persists, the appropriate forum for redressal is the Department of Town and Country Planning (DTCP), Haryana. This Authority lacks jurisdiction to examine technical aspects of land use or enforce zoning compliance as it is primarily a regulatory and quasi-judicial body under the Real Estate (Regulation and Development) Act, 2016, not to engage in a technical fact-finding exercise regarding the adequacy or inadequacy of services such as STP, DG sets, escalators, lifts, transformer load etc. However, the respondents are directed to ensure that all such provisions are made strictly as per the sanctioned layout and approved service estimates and plans.

- ii. Reliefs (iii), (v) (Electricity substation and connection): The sanctioned load has been admitted by both parties. If there is any failure in ensuring proper electricity supply or issues related to tariff overcharging, the complainant may approach the Haryana Electricity Regulatory Commission (HERC) or the Dakshin Haryana Bijli Vitran Nigam (DHBVN), as these matters fall within their regulatory domain.



- iii. Relief (vii) (High-tension wires): With respect to relief (vii), concerning the presence of high-tension (HIT) wires and related safety apprehensions raised by the complainants, it is observed that the Occupation Certificate (OC) has already been granted for the project by the competent authority. The issuance of the OC implies that the zoning plans, including prescribed setbacks and safety norms, have been duly scrutinised and approved by the Department of Town and Country Planning (DTCP), Haryana, which is the authority vested with the responsibility to evaluate conformity of layout and construction with applicable development regulations. Whether adequate setbacks from HIT lines have been left or not is a matter that falls squarely within the purview of DTCP. Therefore, the question of potential safety violations or encroachments in relation to HIT lines cannot be examined or adjudicated by this Authority. The complainants are accordingly advised to approach the DTCP, being the appropriate regulatory authority, for redressal of this particular grievance.
- iv. Relief (viii) (Fire safety): With respect to relief (viii) concerning fire safety measures, it is observed that the respondent has placed on record the requisite Fire NOCs issued by the competent Fire Department for all towers within the project. In view of the same,



In view of the same, no further direction is warranted at this stage regarding the existence of fire safety infrastructure. However, the respondent is directed to ensure that the said Fire NOCs remain valid and are renewed from time to time, as required under applicable regulations. The respondent shall also ensure that periodic inspections are conducted by the competent Fire Department, and any directions issued pursuant to such inspections are duly complied with, so as to maintain ongoing compliance with fire safety norms.

71. Therefore, Authority is not vested with technical advisory or infrastructure planning functions nor can it issue directions for execution of specific construction works unless there is a demonstrated deviation from sanctioned plans or violation of the terms and conditions of registration of the project under the Act. The proper authority to examine such issues remains the Directorate of Town and Country Planning (DTCP), Haryana, which grants approval of layout plan, building plan sanctions, service estimates, and Occupation Certificates. As regards issues related to electricity supply, transformers, DG sets, and metering, these fall within the domain of Dakshin Haryana Bijli Vitran Nigam (DHBNVN) and are governed by separate sectoral regulations including those issued by the Haryana Electricity Regulatory



Commission (HERC). Hence, the aforementioned reliefs are not within the jurisdiction of this Authority under the RERA Act, 2016, and no further directions are required in relation thereto.

72. In view of the continued non-compliance by the respondents and in the absence of any credible or competing claim from any other association, and further considering that the complainant is a duly registered association under the Haryana Registration and Regulation of Societies Act, 2012, with a valid certificate of registration annexed with the complaint, this Authority is constrained to presume the present Complainant Association to be the valid body for the purpose of maintenance. The same is also supported by the Association's active interest and willingness to assume maintenance responsibilities.
73. Accordingly, the respondent-builder is hereby directed to hand over the maintenance of the project "Royal Heritage – Sector 70, Faridabad" to the Complainant Association within a period of 45 days from the date of uploading of this order. This includes:
- i. Handing over of all maintenance-related documentation, service agreements, and records;
 - ii. Granting access to relevant infrastructure and systems, as required for upkeep and administration of the society.



This direction is being passed in view of the failure of the respondents to comply with its statutory duty to facilitate the formation of an association as per Section 11(4)(c) of the Act and to furnish relevant records, and in the absence of any other association currently shown to be in existence.

74. This direction is also without prejudice to the rights of any other allottee or group of allottees, who may at a later stage approach this Authority for appropriate relief, including in relation to the composition or functioning of the Complainant Association or grievances concerning maintenance operations.
75. 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]


NADIM AKHTAR
[MEMBER]


PARNEET S SACHDEV
[CHAIRMAN]