



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 671 OF 2021

Om Prakash and others

....COMPLAINANT(S)

VERSUS

1. M/S CHD Developers Ltd. & Anr.
2. M/S CHD Facility Management Pvt. Ltd

....RESPONDENT(S)

CORAM: Parneet Singh Sachdev
Nadim Akhtar
Chander Shekhar

Chairman
Member
Member

Date of Hearing: 08.05.2025

Hearing: 17th

Present: - Ms. Navneet, proxy counsel for Adv. Kamal Dahiya, counsel for the complainants through VC.
None for the respondents.

ORDER (PARNEET S SACHDEV – CHAIRMAN)

1. As per the complaint file, the present complaint is filed under section 31 of the Real Estate (Regulation and Development) Act, 2016 by a group of 213 allottees in the township project “CHD City” at Sector-45, Karnal, Haryana. All

complainants have executed a special power of attorney in favour of Shri Om Parkash to pursue this matter. The project, spread over 123.875 acres, is promoted by Respondent No. 1 and its maintenance has been entrusted to Respondent No. 2, a sister concern. Part occupation/completion certificates have been issued over time by the competent authority.

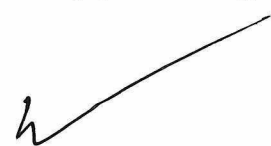
2. The complainants assert that, as a pre-condition to possession, they were compelled to sign a one-sided maintenance agreement with Respondent No. 2 and to pay multiple heads of charges- CAM, water, sewer, prepaid electricity, malba, insurance, IFMS- without transparency or commensurate services. They allege absence of a sewage-treatment plant, clogged sewer lines, pot-holed internal roads, non-functional street-lights, unmaintained parks, non-construction of the community centre and coercive prepaid-meter billing. The reliefs sought include (i) refund of charges illegally collected, (ii) maintenance of the township strictly in terms of the agreements, (iii) completion of outstanding infrastructure, (iv) a certified statement of accounts of all collections, (v) hand-over of maintenance and IFMS to the complainants, (vi) imposition of penalty under section 61, and (vii) a reference for criminal prosecution.
3. It is pertinent to note that as recorded in the order dated 30.03.2022, Ravi Aggarwal, learned counsel, had appeared on behalf of the respondents and accepted notice. Nevertheless, no further steps were taken by the respondents to either contest the complaint or file their response. In light of the respondent's



repeated non-compliance, despite service and appearance, and keeping in view the summary nature of proceedings under the RERA Act, Authority finds it just and appropriate to strike off the defence of the respondents and proceed to adjudicate the matter ex parte on the basis of material available on record.

4. After carefully considering the facts and documents placed on record by the complainants, Authority observes as follows:-

- i. Firstly, it is important to note the procedural history that has led to protracted pendency. In the present case, due to the non-compliance and delays by both parties, the matter has been unnecessarily prolonged. Out of a total of 16 hearings, the first several hearings were adjourned because proper service of dasti notices to the respondents was not completed. Despite specific orders, the complainants failed to collect the notices from the office of the Authority in time, which led to delayed service and late appearance of the respondents. Even after appearing once through counsel, the respondents failed to file any reply or make further appearances, which shows complete disinterest in contesting the matter.
- ii. Furthermore, a number of hearings were adjourned on the ground that the respondent company was undergoing proceedings before the Hon'ble National Company Law Tribunal (NCLT) and that a moratorium under the Insolvency and Bankruptcy Code had been imposed. However, during the 11th hearing held in 2023, the complainant's counsel apprised the Authority that there were no ongoing insolvency proceedings against



the respondent and that the moratorium had been stayed by the Hon'ble National Company Law Appellate Tribunal. Despite this clarification, no further progress was made by either side.

5. Now, it is relevant to refer to Section 31 of the Real Estate (Regulation and Development) Act, 2016, which states as follows:-

"31(1) Any aggrieved person may file a complaint with the Authority...

Explanation. For the purposes of this sub-section, 'person' shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force."

It clearly allows "any aggrieved person" to file a complaint before the Authority. The explanation to this section specifically includes under the definition of person- an "association of allottees" or any "voluntary consumer association registered under any law" as a valid complainant. However, in the present matter, the complainants themselves have mentioned in the complaint and also admitted in an earlier hearing dated 10.08.2022 that no proper association had been formed to represent allottees. They claimed to be a group of 213 buyers facing common issues and while they stated their intention to form a welfare association, no proof was ever submitted to show that a registered association had actually been formed, elections were held or that any registration certificate existed.

6. As a matter of record, the complainants were given several opportunities by this Authority to either implead a validly registered RWA or place on record



documents to prove the existence of such an association. They were even specifically directed to call a representative of the RWA if such body existed. However, no such representative ever appeared, nor any documentary proof of registration was ever submitted despite repeated chances. Later, the complainants started claiming that they were already a registered association, but once again, failed to support this claim with even a single valid documentary proof.

7. As a result, Authority finds that the present complaint, as it stands, is not maintainable under the RERA Act, because it is filed by a group of individual allottees who do not constitute a legally recognized association. The Act only permits the handover of maintenance and related functions to a duly registered association of allottees. Without such registration and representation through an elected body, no relief for handover can be granted.
8. Further, for reference, Section 18 of the RERA Act is reproduced below:

“18. Return of amount and compensation

(1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of




that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.

(2)The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.

(3)If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act”.

9. A bare reading of Section 18 shows that the type of reliefs sought in the present case such as refund of CAM charges, sewer charges, administrative fees, compensation, and handing over of maintenance do not fall within the purview of this section. Even if we assume, for argument's sake, that the complainants had formed an association, the nature of the reliefs claimed does not align with the provisions of Section 18, which primarily deals with refund with interest, delayed possession, compensation etc.
10. Thus, the complaint is not only premature but also legally unsustainable in its present form. The complainants failed to cure the basic defect despite repeated



opportunities and failed to bring their claim within the four corners of the RERA Act.

11. Furthermore, Authority observes that it is mindful that section 11(4)(e) of the Real Estate (Regulation and Development) Act, 2016 casts a statutory duty upon a promoter to facilitate the formation of an association of allottees and to hand over common areas and attendant maintenance responsibilities to such association. The provision is clear : hand-over can take place only in favour of a duly constituted and registered body corporate of allottees. The complainants before us constitute an informal group of individual purchasers; no registration certificate under the Haryana Registration and Regulation of Societies Act, 2012 (or any other local law) has been produced, nor has any resolution of an elected governing body been placed on record. Again, it is very clear that despite numerous opportunities afforded during the hearing, the complainants neither impleaded an existing registered RWA nor placed on record any document to substantiate that they themselves comprise such an association as observed above.
12. Hence, keeping in mind all the above-stated reasons and grounds, Authority observes that the relief claimed by present complainants (handover of maintenance) can only be granted to duly constituted RWA through their executive body. This complaint is infructuous at present as said relief cannot be granted at this stage. It is clear that the maintenance of the society alongwith other rights including IFMS amount shall be handed over by the promoter to the



duly elected body after its due constitution. Until an association of allottees is registered and proper RWA is formed, the statute does not permit this Authority to compel the promoter to effect hand-over.

13. If RWA feels aggrieved in any manner by conduct of respondent-promoter, then said RWA may approach this Authority for enforcing obligations of promoter in accordance with principles of RERA Act. Further, if present complainants feels dissatisfied with workings of executive body of the RWA they may file a petition before Registrar of Societies for redressal of those grievances. Accordingly this complaint is dismissed as being premature and non-maintainable.
14. For the same reason all ancillary monetary and declaratory reliefs, which flow from the hand-over of maintenance, cannot be examined on merits at this stage. The complainants were specifically invited to cure this defect by impleading a registered society or by producing documentary proof of registration; but nothing substantial has been placed on record. Accordingly, the complaint is held to be premature.

Nothing contained in this order shall prejudice the right of the allottees to organise themselves into a duly registered association in accordance with law, conduct elections, obtain a certificate of registration, and thereafter approach this Authority afresh with an appropriate petition supported by: (i) the registration




certificate of the society/RWA, and (ii) a resolution authorising the institution of proceedings in respect of hand-over and other consequential reliefs.

15. In view of the foregoing reasons, the present complaint stands **dismissed** as premature & non-maintainable.


CHANDER SHEKHAR
[MEMBER]


NADIM AKHTAR
[MEMBER]


PARNEET SINGH SACHDEV
[CHAIRMAN]