

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, GURUGRAM**

Complaint no.	:	5402 of 2022
Date of complaint	:	26.07.2022
Date of decision	:	01.07.2025

ILD Owners Welfare Association
R/o: 216, 2nd Floor, ILD Trade Centre, Sector 47,
Sohna Road, Gurugram

Complainant**Versus**

M/s ALM Infotech Pvt Ltd.
Registered office at: Sector -47, Sohna Road,
Gurugram

ILD Owners Welfare Association
R/o: 216, 2nd Floor, ILD Trade Centre, Sector 47,
Sohna Road, Gurugram

Respondents**Coram:**

Sh. Arun Kumar
Sh. Ashok Sangwan

**Chairperson
Member****APPEARANCE:**

Mr. Sonal Anand (Advocate)
Ms. Arpita (Advocate)

**Complainant
Respondents****ORDER**

1. The present complaint has been filed by the complainant association under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Facts of the complaint:

2. The complainant has made the following submissions in the complaint:
 - a. With great pain and apathy, we the shop keepers and owners of offices in ILD trade centre, Sohna road, Gurugram are writing to your good self after struggling for all these years through the hands of the said erstwhile developer of the said Building, namely M/s. Alm Infotech Pvt Ltd and his self-owned maintenance service providing company M/S Finnesse Facility Services Pvt Ltd.
 - b. There seems to be no end to our miseries and misfortunes, as each day one or the other unit owners in the ILD trade centre has to go through the harassment and high headedness of this erstwhile developer of the said Building, who is also running the maintenance service providing company M/S Finnesse Facility Services Pvt Ltd., illegally and against the laws for last 12 years approx.
 - c. Before we delve more into the problem at hand, as office bearers of the owner's welfare association, we will like to explain you in brief about the development and progression of this Building and circumstances which have risen because of this erstwhile developer's attitude and arrogance. resulting in our miseries.
 - d. That the said ILD trade centre has been operational for more than 12 years now. Occupation certificate has been received from the competent Authority on 19.11.2010. That this erstwhile developer did not allow the formation of owner's welfare association creating one or the other hurdles in formation of same. That with great struggle, persuasions and tenacity we all (around 250 nos. owners) ensured that a duly elected owners welfare association is formed and we succeeded finally in April 2022 to form and have our own welfare association.

- e. That the said erstwhile developer till date, has never complied 100% with the guidelines for running & maintaining a commercial building like ILD trade centre. That the said erstwhile developer has not installed & maintained the sewage treatment plant (STP) properly in place and has never even bothered to check the working of same, nor monitored the output / treated effluent parameters.
- f. Due to this default in output / treated effluent parameters, the ILD trade centre was sealed by Haryana pollution control board in April 2021 for causing grave injury to the environment and remained sealed for 4 months.
- g. The same was desealed on 15th August 2022, after efforts of individual unit owners unfortunately, the said erstwhile developer till date has not installed the sewage treatment plant (STP) properly as per undertaking given at the time of de-sealing of the ILD trade centre and the said building runs risk of being sealed again for non-compliance of undertaking and default in output / treated effluent parameters
- h. The DG sets are running below capacity, chillers are not working resulting in uncomfortable temperature inside the building, offices/shops, lifts are worn out & jerky, basements are full of water due to leakages and run risk for spreading of dengue, the facade look worn out & shabby and whole complex looks non-functional & abandoned. The overall ambience is so poor that no one will like to either purchase or even rent a space in the said building.
- i. That never has this erstwhile developer maintained the fire security equipment's and their annual licenses are also not renewed & in place, thus putting the lives of thousands of people visiting and occupying offices in the building at risk of losing lives. This is a major criminal

negligence on the part of this erstwhile developer. That the said erstwhile developer has the reputation of delaying the projects harassing the people and using intimidating methods to keep the innocent owners voice less.

- j. That this erstwhile developer has been collecting Maintenance from all the unit owners @ Rs 22 sq. ft. and Rs 18 Sq. ft. which is exorbitantly high and on top of that your honourable self on inspection will realize that not even 25% of the collected maintenance amount is spent on the upkeep of said building. The major part of collected maintenance amount from this building is being siphoned off and is being used by this erstwhile developer for his personal gains
- k. That there is clear and ample evidence of siphoning of the money, embezzlement of funds, usage in their other construction projects and satisfying their own life styles which are known to one and all in the ILD trade centre. That on coming to know of coming together of the owners of shops and office spaces, the erstwhile developer has started his old method of harassment, intimidation and threats to unit owners by raising fake maintenance dues, disconnecting of their shop electricity and even going a step ahead of threatening them with Police complaints and legal actions.
- l. That the erstwhile developer has even violated the original building plan approvals by building almost a floor extra (9th floor) in the said commercial tower. He has also encroached on a huge open space of the building and, has leased out areas which are in violation of the interests of unit owners. The said encroachments on 9th floor, have been done after obtaining the OC in 2010 and CC in 2016. This act of erstwhile

developer is a clear violation of license conditions as well as conditions of completion certificate.

- m. The erstwhile developer has rented out the 3rd level basement to cars 24, which was sanctioned & approved for providing free parking to owners & visitors to ILD trade centre. This erstwhile developer is earning huge amounts as rent from cars 24, which is once again violation of license conditions as well as conditions of completion certificate.
- n. This perceived notion of the erstwhile developer in general and the said erstwhile developer in particular, that they can do whatever they want at the expenses of the innocent small time investors, shop keepers and office owners who invest their hard-earned money of life in their projects needs to be stopped and seriously investigated and probed. This will keep the faith and trust on the law of land intact and will allow the "truth to prevail" and rewarded and also will send serious warnings and intimation to such developers to not indulge in such activities in future.

B. Reply by the respondent.

- 3. The respondent has contested the complaint on the following grounds:
 - a. That as per the facts of the complaint mentioned in the notice dated 27.07.2022, the Respondent No. 1 humbly states that the present complaint, filed by the Complainant, is bundle of lies and hence liable to be dismissed as it is filed without any cause of action.
 - b. That the Complainant herein, has failed to provide the correct/complete facts and the same are reproduced hereunder for proper adjudication of the present matter. That the Complainant has got the interim order in its favour by concealing the material facts and levying baseless

allegations against the Respondent with intent to prevent their illegal acts in contravention to various laws.

- c. It is pertinent to mention herein that the present Complaint has been filed before the Ld. Authority on 26.07.2022 and the same was listed before the Authority on 27.07.2022. Further, on 27.07.2022 the Ld. Authority granted the interim relief in favour of the Complainant without hearing the Respondent and the notice was served to the Respondent on 27.07.2022, however, no copy of the Complaint was served with the said notice.
- d. At the outset, the project "ILD Trade Centre" has been developed by the Respondent No. 1 "ALM Infotech City Pvt. Ltd." over an area admeasuring 3.305 acres situated in Sector 47, Gurugram, Haryana. It is submitted that the Occupation Certificate (OC) for the said project was obtained on 09.11.2010 and Completion Certificate (CC) on 03.06.2016.
- e. It is pertinent to mention that the present complaint is not maintainable before the Ld. Authority as the Completion Certificate for the same has been received on 03.06.2016 i.e. prior to commencement of the RERA Act, 2016. It is very specifically held by the Hon'ble Supreme Court in civil appeal No. 6745-6749 of 2021 that the project in which the Completion Certificate has been received prior to commencement of the RERA Act 2016 are not covered within the ambit of the RERA Act. Thus, the present complaint at hand is not maintainable before the Ld. Authority and liable to be dismissed.
- f. It is submitted that the present complaint of the Complainant association is with respect to the maintenance services which is being controlled and managed by the maintenance agency with whom the unit owners have entered into a Maintenance Agreement. It is submitted that

the Respondent No. 1 is a separate legal entity and not entitled for maintenance of the project in question and thus, there is a misjoinder of parties as the Respondent No. 1 is not a necessary party to the present complaint.

g. That the unit buyers of the project had themselves formed an Association namely "ILD Owners Welfare Association" on 16.01.2017 legally by adopting the due process of law. However, the members of the Complainant Association have formed this subsequent Complainant association illegally in violation of the provisions of the Haryana Registration & Regulation of Societies Act, 2012 and the members appointed therein are not competent to preside their respective designations. Aggrieved by the same the Respondent has preferred a complaint before the District Registrar on 07.01.2022 which is pending adjudication before the Ld. District Registrar. A similar complaint has also been filed before the Ld. Civil Court.

4. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submissions made by the complainants.

C. Findings on the relief sought by the complainant.

5. The complainant has filed the present complaint on 26.07.2022 i.e., after around 12 years from grant of occupation certificate i.e., 09.11.2010 for the project. Further, the completion certificate for the project was issued on 03.06.2016 i.e., prior to commencement of the RERA Act, 2016. In view of the above, the project cannot be said to be an "On-going" project in terms of Section 3(1) read with rule 2(o) of the Act, 2016 and Rules, 2017.

6. The complainant has filed the present complaint neither in the form CRA and nor has it specified the provisions of the Act, 2016 which have been violated by the respondent. In view of the above, this Authority does not find the complaint filed by the complainant maintainable under the provisions of the Act, 2016 and the same is therefore dismissed being not maintainable since any of the assertions made by the complainant in his complaint or during the course of hearing does not attract any of the violations of Act of 2016 or rules of 2017. It is pertinent to mention here that no documentary proof or evidence of whatever has been alleged by the complainant in its complaint has been put forth before this authority. In view of the above, the complaint is liable to be dismissed as not been maintainable.
7. Ordered accordingly.
8. Complaint as well as applications, if any, stands disposed of accordingly.
9. File be consigned to registry.


(Ashok Sangwan)
Member
(Arun Kumar)
Chairperson

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 01.07.2025