

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.485 of 2023

Date of Decision: August 27,2025

M/s Brahma City Private Limited, 10th Floor, Building No. 5A,
DLF Cyber City, Phase-III, Gurugram

Appellant.

Versus

HARERA Gurugram, New PWD Rest House, Civil Lines,
Gurugram

Respondent

Present : Mr. Bahul Bungar, Advocate for the appellant.
Mr. Siddhant Arora, Advocate for the respondent.

CORAM:

Justice Rajan Gupta
Rakesh Manocha

Chairman
Member (Technical)
(joined through VC)

O R D E R:

RAJAN GUPTA, CHAIRMAN:

Present appeal is directed against order dated 21.11.2022 passed by the Authority¹. Operative part thereof reads as under:

“29. Therefore, the authority in light of the above-mentioned reasons decided to impose a penalty of Rs.2,50,00,000/- (Rupees Two Crore Fifty Lacs Only) on the promoter for violating the provisions of Section 3(1) (for not applying for registration of ‘ongoing project’ within time allowed under proviso of Section 3(1) of the Real Estate (Regulation and Development) Act, 2016 and also sale of plots without registration)

¹ Haryana Real Estate Regulatory Authority, Gurugram

of the Act which shall be deposited with the authority within one month and shall be credited in the government account within a prescribed period as per the Rules. The promoter is further directed not to violate the provisions of the RERA, 2016.”

2. The appellant was granted licence on 21.08.2010 in respect of land measuring 141.67 acres for developing a residential plotted colony in Gurugram. The licence was renewed from time to time and lastly it was renewed upto 25.08.2025. It came to the notice of the Authority that on the date of commencement of the Act², the appellant had not obtained a completion/part completion certificate for the residential plotted colony in accordance with terms and conditions of licence. Finding that the appellant had sold 87 plots falling in unregistered part of the project to M/s Adani Brahma Synergy Pvt. Ltd. as per conveyance deeds dated 08.10.2018, a notice dated 21.05.2021 was issued to the appellant to show cause why penal proceedings under Section 59 of the Act for violation of Section 3 of the Act be not initiated against it. In reply, the appellant denied sale of plots before registration. It was pleaded that as per the settlement agreement dated 06.08.2012 and addendum dated 31.10.2015, rights were transferred to Krrish Group entities.

3. After hearing the appellant, the Authority came to the conclusion that the appellant had sold 215 plots to its group companies i.e. M/s Adani Brahma Synergy Pvt. Ltd. and M/s Achaleshwar Infrastructure Pvt. Ltd. and four plots to individual customers. It accordingly imposed penalty of

² The Real Estate (Regulation and Development) Act, 2016

Rs.2,50,00,000/- on the appellant for violating the provisions of Section 3(1) of the Act.

4. Counsel for the appellant has assailed the order on the ground that penalty has been imposed without any application of mind and recording of reasons.

5. We have heard learned counsel for the parties and given careful thought to the facts of the case.

6. A perusal of the order shows that on the date of commencement of the Act, the appellant did not have completion/part completion certificate for the project. Thus, the project is not exempted from the requirement of registration under exceptions as provided under Section 3(2) of the Act, which is extracted below:

“(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate shall be required-

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases: Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases for exemption from registration under this Act;

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act; and

(c) for the purpose of renovation or repair or re-development which does not involve marketing,

advertising, selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.”

7. In view of above, the project falls within the definition of “on-going project” as defined under Rule 2(o) of the Haryana Real Estate (Regulation and Development) Rules, 2017. As per the provisions of the Act, “on-going projects” where completion certificate has not been issued, are required to be registered with the Authority within three months from the date of commencement of the Act. From the record, it is evident that 86.04 acres area out of a total of 141.67 acres was registered with the Authority and balance of 55.63 acres was not registered. Finding that the appellant had sold 87 plots falling in unregistered part of the project to M/s Adani Brahma Synergy Pvt. Ltd., notice dated 21.05.2021 was issued to the appellant to show cause why penal proceedings under Section 59 of the Act for violation of Section 3 of the Act be not initiated against it. The only plea raised by the appellant in its reply was that rights were transferred to Krrish Group entities.

8. In our view, the order passed by the Authority imposing penalty on the appellant is well-reasoned as the same has been passed on detailed analysis of promoter’s violations of statutory obligations and penalty has been imposed within the framework of the Act. The reasoning aligns with the statutory scheme. The penalty is proportionate to the nature and gravity of the violations. Counsel for the appellant could not point out any error in the impugned order. The Authority passed the order after hearing counsel for the appellant and following the principles of natural justice.

9. There is no legal infirmity in the order. The appellant has already deposited penalty of Rs.2,50,00,000/- with the Authority.

10. The appeal is without any merit and is hereby dismissed.

11. The appellant shall submit status report regarding the stage of the project in the Registry within one month from today. Secretary of the Authority is directed to ensure compliance and also intimate whether any other proceedings are pending against the appellant.

12. Copy of this order be sent to the parties/their counsel and the Authority.

13. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(Joined through VC)

August 27,2025
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