

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, PANCHKULA.**

Complaint No.641 of 2018

Hearing on : 04.12.2018

Naresh Kumar

..... ..Complainant

Versus

S.S. Cooperative Group Housing Society Ltd.

.....Respondent

CORAM:

Shri Rajan Gupta
Shri Anil Kumar Panwar
Shri Dilbag Singh Sihaag

**Chairman
Member
Member**

APPEARANCE:

1. Shri Pawan Gupta, Counsel for the Complainant.
2. Shri Vineet Sehgal, Counsel for the Respondent.

ORDER:

1. Learned counsel for the complainants has submitted that the complainant had become member of the S.S Co-operative Group Housing Society after making payment of Rs.2.77 lakhs vide receipt No.403 of 11.05.2008. The respondent's society has been offered the land measuring 3224 sq.mts. by Haryana Urban Development Authority vide allotment letter dated 15.10.2013. The complainant states that the society had not taken possession of the plot till 2016. The possession however



was taken in 2016 and the petitioner paid Rs.7.75 lakhs to the society as cost of land. The President of the society has not made any effort to get the project registered with RERA which is mandatory as per provisions of the RERA Act, 2016. Learned counsel for the complainant further states that after taking possession of the plot in 2016 no effort has been made by the society to start construction of the apartments. Since there is complete deadlock in the day-to-day working of the society, suitable directions should be issued to the Managing Committee of the Society for proceeding further for construction of the apartments.

2. Learned counsel for the respondent states that in the year 1999 the society was allotted a plot in Sector 23, Panchkula by HUDA and thereafter an alternate plot measuring 3764 sq.mts. was allotted in the year 2003 in Sector 20 Panchkula, but there was some illegal encroachment on the allotted plot. After numerous rounds of litigations, 540 sq.mts. area was left out of the plot and the society was re-allotted the plot with reduced area measuring 3224 sq.mts. The zoning plan of the said plot was approved on 11.05.2015 but the benefit of original permissible FAR was not granted to the society. The society has made several representations to the authorities concerned but they have not accepted the request for grant of the original FAR which has direct bearing on the size of apartments to be constructed. On account of non-



approval of FAR, the site plans etc. have also not been approved, therefore, the construction work at the site has not commenced. The society has already paid an amount of Rs. 274 lakhs to the HUDA. This money has been collected from all the shareholders of the society. The complainant is one of the 47 shareholders of the respondent society.

Learned counsel for the respondent further states that being a shareholder, the complainant is not an allottee in terms of the Section 2(d) of the RERA Act. For this reason alone this complaint is not maintainable. He further stated that the society has been consistently pursuing the matter with HUDA because it is only after approval of the FAR that further plans are possible to be formulated.


3. After consideration of the matter the Authority observes that without obtaining formal approval of the permissible FAR from HUDA; and without preparing various layout and construction plan in respect of the colony, at this stage the respondent society cannot be called a real estate developer under the provisions of RERA Act. So far the respondent society is only a landowner comprised of 47 members who jointly owns the land allotted to them by HUDA. This land of the owners will become a real estate project only when due approvals are granted by the authorities concerned. At this stage the respondent's society has all the options of developing the land into a colony or to simply surrender the





land to HUDA. The issues raised by the complainant before this Authority should be raised before the Governing Body of the society. All decisions in respect of the society have to be taken by the Governing Body by way of majority vote. Further, if the current Managing Committee of the society is not functioning properly or is violating the provisions of the registration certificate granted to them, the aggrieved members may move the court of Registrar Cooperative Societies for issuing appropriate directions. At this stage, this Authority will not have jurisdiction to entertain this matter. The land in question will become a real estate project when its approvals are received and the process of developing the colony commences.

4. For the aforesaid reasons, this complaint is not maintainable before this Authority at this stage. Accordingly, the same is dismissed being not maintainable.

Disposed of. The file be consigned to the record room and these orders be uploaded on website of the Authority.


Dilbag Singh Sihag
Member


Anil Kumar Panwar
Member


Rajan Gupta
Chairman