

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

1. Complaint No. RERA-PKL- 317 of 2018
Anil Kumar. ...Complainant.

Versus

M/s Express Project Pvt. Ltd. and another. ...Respondents.

2. Complaint No. RERA-PKL- 318 of 2018

Shikha Bhardwaj. ...Complainant.

Versus

M/s Express Project Pvt. Ltd. and another. ...Respondents.

3. Complaint No. RERA-PKL- 319 of 2018

Sucha Singh ...Complainant.

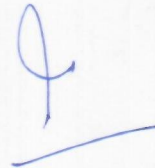
Versus

M/s Express Project Pvt. Ltd. and another. ...Respondents.

4. Complaint No. RERA-PKL- 320 of 2018

Smt. Manju. ...Complainant.

Versus



M/s Express Project Pvt. Ltd. and another. ...Respondents.

5. Complaint No. RERA-PKL- 356 of 2018

Neelam Jain ...Complainant.

Versus

M/s Express Project Pvt. Ltd. and another. ...Respondents.

Date of hearing:- 18.12.2018. (4th Hearing).

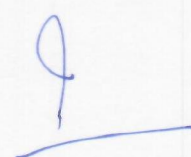
Coram:- Shri Rajan Gupta, Chairman.
Shri Anil Kumar Panwar, Member.
Shri Dilbag Singh Sihag, Member.

Appearance:- Shri Anil Kumar, complainant in Complaint No. 317/18
Shri D.K. Pandey, Advocate for complainants in complaint
Nos. 318/18, 319/18, 320/18 & 356/18.
Shri Kamal Dahiya, Advocate for respondents in all the
above mentioned complaints.

ORDER:-

This matter has come up for hearing before the Authority three times earlier. After the first hearing on 25.09.2018, a detailed order was passed in which inter-alia, following directions were given to both the parties:-

- (i) The respondents shall file a detailed affidavit citing therein the dates when they applied for occupation certificate; the objections if any, from the Town & Country Planning Department; and the dates



when they were actually granted the occupation/completion certificate.

- (ii) The complainant shall hand over stamp papers for executing conveyance deed within a period of 15 days. The respondents shall get the conveyance deed executed within a further period of 15 days from the date of receipt of the stamp papers.
- (iii) A permanent mechanism for addressing the complaints of the allottees of the colonies with regard to maintenance services shall be put in place. Proper staff for this purpose shall be appointed to redress the grievances of the allottees expeditiously.
- (iv) The respondents shall arrange to hold a meeting of all the allottees of the colonies within a period of 15 days. They will also exchange addresses and phone numbers of all the allottees in order to facilitate formation of residents association.
- (v) Current difficulties with regard to services in the colonies shall be redressed within a period of 15 days.
- (vi) The structural defects observed in the colonies shall be repaired without delay.

2. This case was heard 3rd time on 15.11.2018, when inter-alia the following directions were given to both the parties.

- I. Respondent is directed to execute the conveyance deeds of those flats, whose stamp papers have been handed over by the

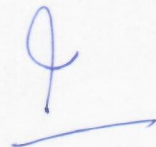


complainants to the respondent till date. In case, the respondent fails to do the same by the next date of hearing, then exemplary costs will be imposed on the respondent.

- II. The Authority observed that the statement of accounts shared by the respondent contained only details of amount receivables from complainant and not with respect to the amount payable to them, if any. The respondent is directed to submit the statement of account in appropriate format along with specific differentiation into categories of amount payable by the complainant.
- III. The Ld. Counsel for complainants is directed to submit to the Authority as well as to the respondent statement of account with respect to all the other complaints separately.
- IV. The respondent is directed to submit the minutes of the meeting to be held on 20.11.2018 consisting of list of allottees attending the meeting, the issues discussed in the meeting and the assurance given to the allottees.

3. In compliance of the aforesaid directions of the Authority, both the parties today submitted as follows:-


- (I) In compliance of the direction given to the respondent to execute the conveyance deed of those flats whose stamp papers were handed over to them by the complainants, the respondents stated



that only one of the complainant Smt. Manju of Complaint No. 320 had handed over the stamp papers. Accordingly, her conveyance deed has been executed. Since other complainants did not handover the stamp papers, their conveyance deeds could not be executed. Their conveyance deed shall be executed as soon as they handover requisite stamp papers.

Accordingly, the Authority decides that no further action needs to be taken in regard to this direction. The respondents however shall do the needful immediately when the complainants handover the stamp papers to the respondents.

- II. In furtherance of the directions of Sr. No. II of Para-2 of the order dated 15.11.2018, respondents have furnished a statement of accounts dated 19.11.2018 given to the complainant Neelam Jain. The complainants also submitted a supplementary written statement on behalf of all the complainants stating that the respondents have demanded an amount of Rs. 28851/- as additional demand for maintenance charges. Complainants allege that these maintenance charges are unjustified because they have already paid the amount for a period of five years. Now the builder is bound to maintain the building for five years without levying additional maintenance charges. Further, the additional demand has been created randomly without any justification.



The Authority observes that complainants have alleged that respondents are demanding excess maintenance charges whereas the case of the respondent is that they are charging as per actual expenses being incurred divided by the developed area and in accordance with the terms of the agreement. The Authority disposes of this part of the dispute with the direction to the respondents to present detailed accounts properly certified by the Chartered Accountant before the Association of the allottees. They will also host the accounts on their website for everyone to see. The respondents will demand proportionate maintenance charges as per the actual expenses being incurred by them and nothing more.

- III. The respondents had also been directed to call a meeting of the allottees and also communicate their addresses etc. to all the allottees. The respondents submitted before the Authority, in seal cover, the addresses and phone numbers of all the allottees. They however requested that this contain certain confidential information which should not be disclosed to the allottees.

The Authority decides not to open the sealed cover envelope. However it directs the respondent to call a meeting of all the allottees and share with them in detail of the expenditure being incurred on the maintenance of the project.

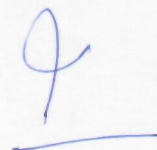


The complainants have also alleged that the respondents have not invited all the allottees for the meeting. The respondents have replied that even in earlier meeting, when 13 persons were present, all the complainants chose not to attend the meeting. The complainants are accordingly answerable for remaining absent rather than holding the respondents answerable for the same. The Authority directs the complainants to attend the meeting of allottees whenever called.

IV. Regarding the direction relating to placing the minutes of the meeting before the Authority, respondents have placed the minutes of the meeting before the Authority today, which was taken on record.

4. In conclusion, The Authority observes that the complainants have taken possession of the apartments three years ago. The respondents are ready to execute the conveyance deeds subject to furnishing of the stamp papers by the complainants. Further, the project is being maintained by the respondents even though it leaves certain gaps as alleged by the complainants. The Authority forcefully directs the respondents to do maintenance of the project properly.

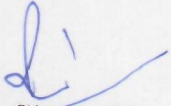
5. Regarding accounts, a proper certified copy of the statement of accounts shall be conveyed by the respondents to the association of the allottees twice a year. The respondents shall not charge more than proportionate actual maintenance cost from the allottees.



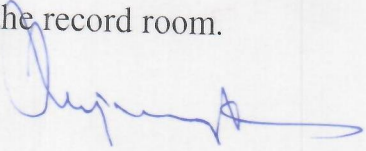
6. The complainant of complaint No. 317, Shri Anil Kumar argued his case separately, He alleges that several common facilities like community centre, shopping centre, school etc. have not been constructed by the respondents, therefore, project cannot be said to be complete. The response of the respondents to their allegation is that out of 190 built up and sold apartments, only 60 are occupied therefore remaining common facilities will be provided in due course of time as per the conditions of the license.

7. Shri Anil Kumar also reiterated the allegation that the possession was handed over to the complainants without obtaining the occupation certificate. The Authority observes that this issue was raised by the other complainants also and the same was disposed of in its earlier three orders. No separate additional direction needs to be given in this regard now.

8. Disposed of in above terms. File be consigned to the record room.


Dilbag Singh Sihag
Member

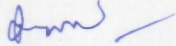
Anil Kumar Panwar
Member


Rajan Gupta
Chairman

Sh. A.K. Panwar, Hon'ble Member vide his email dated 07.01.2019, has approved and consented to the above orders.

Dated:07.01.2019




Executive Director
HRERA, Panchkula