



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 89 of 2019

Piyush Heights Residents Tower J & K
Welfare Association

....COMPLAINANT

VERSUS

Piyush Buildwell India Ltd.

....RESPONDENT

CORAM:

Rajan Gupta
Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 26.08.2021

Hearing: 18th

Present: Mr. M. C. Jain, President of Piyush Heights Residents
Tower
J & K Welfare Association for complainant
Mr. Gaurav Singla, Id Counsel for the respondent

ORDER (RAJAN GUPTA-CHAIRMAN)

Today is 18th hearing of the matter. Brief background of the case is that the project named 'Piyush Heights, Sector-89, Faridabad' is comprised of

16 towers. Possession of 14 towers out of 16 towers had previously been handed over by promoters to the allottees after obtaining occupation certificate from the Town & Country Planning Department. Two towers namely tower J & K remained incomplete when the promoters M/s Piyush Buildwell India Ltd. went into serious difficulties on account of various acts of omission and commission including certain alleged criminal offences. For these reasons, the promoters of the developer company were put to behind bars. They are still in prison.

2. The allottees of towers J & K had approached this Authority by way of several complaints under the RERA Act for getting them possession of their apartments. The Authority in exercise of the powers conferred upon it by Section 8 of the Real Estate (Regulation & Development) Act, 2016, had handed over the towers J & K to the Resident Welfare Association of these towers for completing the same at their own level. The provisions of Section 8 of the Act are reproduced below:

“8. Obligation of Authority consequent upon lapse of or on revocation of registration.—Upon lapse of the registration or on revocation of the registration under this Act, the Authority, may consult the appropriate Government to take such action as it may deem fit including the carrying out of the remaining development works by competent authority or by the association of allottees or in any other manner, as may be determined by the Authority: Provided that no direction, decision or order of the Authority under this section shall take effect until the expiry of the period of appeal provided under the provisions of this Act: Provided further that in case of revocation of registration of a project under this Act, the association of allottees shall have the first right of refusal for carrying out of the remaining development works.”

3. In furtherance of the aforesaid provision of Section 8, consultations were also made with Town & Country Planning Department vide orders dated 06.08.2019. The Town & Country Planning Department vide their email dated 22.11.2019 had granted consent for getting the project completed through the association of the allottees. However, the department had suggested to adopt following safeguards:

- i. The complainant association and all the allottees shall not occupy the apartments without obtaining an occupation certificate under Haryana Building code, 2017.
- ii. The contractor appointed by the complainant association shall be bound to undertake all construction/development/finishing work, vis. fire safety measures, lift installation, electrical infrastructure, public health services etc., entirely in accordance with the provisions of the approved building plan and after following all statutory requirements prescribed under the Haryana Building Code, 2017.
- iii. Upon receipt of proceeds from auction of the unsold apartments, the complainant association shall also clear the outstanding dues of the Department including EDC.
- iv. The complainant association should undertake to abide by the provisions of Apartment Ownership Act, 1983 after obtaining occupation certificate from the Department.

4. The Authority vide its orders dated 06.08.2019 had handed over the possession of these towers to the Welfare Association of Allottees for completing at their own level. The association has worked tirelessly and has now completed all development and construction works at their own level with



the help of money contributed by the allottees from their own pockets. The allottees have contributed money over and above total consideration amount which was to be paid by them to the developer. The association has not sold any apartment for generating money for completion of the construction works. Entire additional expenditure has been borne by the allottees themselves.

5. Shri M. C. Jain, President of the Piyush Heights Resident Tower J & K Welfare Association appeared before the Authority today and stated that their apartments are now complete. All essential services like water supply, sewerage, storm water, electricity and roads etc. have been integrated with rest of the colony of 14 already completed towers. He further stated that they have completed all legal formalities and have also prepared an application for submitting to the Town & Country Planning Department for granting them 'Occupation Certificate', where-after the association will hand over physical possession of the apartments to its members allottees.

6. Shri M. C. Jain, President of the Association stated that the application to be submitted to the Town and Country Planning Department for grant of Occupation Certificate is comprised of the following documents:

1. Authorisation letter from Piyush Heights residents Tower J& K Welfare Association and HRERA's direction.
2. Copy of licence refer enclosed direction of HRERA, Panchkula.



3. 3 sets of approved building plans showing deviations made in the building duly signed by the owner and architect.
4. 3 sets of AS built drawings signed by owner and Architect.
5. Actual photographs of the site signed by Architect and owner.
6. Duly filled and signed copy of form BR-IV(B), m BR-(VI) and BR-V (2).
7. Photograph regarding Civil Aviation light (installed on Tower O, B, E and G).
8. CD containing videography of the site for which OC applied.
9. Copy of valid NOC from Fire and safety from Fire Service, Haryana.
10. Copy of certificate regarding registration of Lift.
11. Copy of Approval of Chief Electrical Inspector, Haryana.
12. Copy of Environment clearance.
13. Certificate of Chartered Accountant as per order dated 9.3.2016 that no stamp duty charges has been collected.
14. Affidavit regarding 100% standby Generator along with automatic switchover for running of lifts.
15. Directions of RERA regarding license validity.

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- 16 Proof of IDC and EDC deposited.
17. Direction of RERA regarding Labour cess.
18. Copy of the occupancy letter already granted.
19. D.D.No.872149 dated 02.08.2021 of amount ₹4,36,892.00 on account of labour cess.

7. The Authority observes that to complete construction work of the project by the allottees at their own level was an extremely difficult task. This Association of Allottees has done a wonderful job by getting the towers completed and making them ready for handing over to the allottees who are awaiting possession of their apartments for the last more than 10 years. Such efforts of the association deserves to be appreciated and encouraged. This approach may give a way out in several similarly stuck projects in which public assets worth thousands of crores of rupees are locked up and thousands of allottees are suffering physical and mental agony. The Authority suggests that such efforts deserve to be encouraged even by the State Government of Haryana and Town & Country Planning Department in particular.

8. In view of the above, the Authority directs the President of the Association to submit their application for grant of occupation certificate to the Director, Town & Country Planning Department accompanied with copy of this order. The Authority would expect the department to deal with this application



as expeditiously as possible and grant Occupation Certificate to the Association not later than 30 days from passing of this order.

9. After obtaining the Occupation Certificate the association shall fix a date for physical handing over of the apartments to the allottees. A representative of the DTP, Faridabad and a representative of the Authority will also be present at the site to oversee the process.

10. The Authority also observes that in case the department has to recover any dues etc. in respect of the project, the same will remain recoverable from the licensee promoter. It is clarified that the Association of Allottees should not be considered a substituted promoter of the project. The associations under Section 8 are created only for the purpose of completion of the project for handing over possession to its members allottees. It is reiterated that in case any dues are recoverable from the promoter and any formalities have to be gone through, the same may be recovered and complied with in lawful manner from the promoter of the project or from any asset of the promoter. The association of allottees is not liable to discharge any legal obligation of the promoter towards the State Government agencies. For those obligations the promoter will continue to be liable.

11. The Authority had announced in the Court that this matter will be taken up for consideration on 12.10.2021. However, the Authority on the



request of the President of the association adjourns this matter to 28.09.2021.



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RAJAN GUPTA
[CHAIRMAN]



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DILBAG SINGH SIHAG
[MEMBER]

