

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

Complaint no. : 6282 of 2019
Date of first hearing : 27.01.2020
Date of decision : 23.08.2021

HARERA, Gurugram
R/o New PWD Rest House, Civil Lines,
Gurugram

Complainant

Versus

M3M India Pvt Ltd
6th Floor, M3M Tee Point,
Sector-65, Gurugram Manesar Urban Complex,
Gurugram 122102

Respondent

CORAM:

Shri KK Khandelwal
Shri Samir Kumar
Shri Vijay Kumar Goyal

**Chairman
Member
Member**

APPEARANCE:

Ms. Shriya Takkar

Advocate for the respondent

HARERA
ORDER
GURUGRAM

1. The present matter relates to the violation of proviso to section 3(1) of the Real Estate (Regulation and Development) Act, 2016 wherein it is provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall



make an application to the authority for registration of the said project within a period of three months from the date of commencement of this Act.

2. The particulars of the project have been detailed in the following tabular form:

S.No.	Heads	Information
1.	Project name and location	"M3M IFC", Sector-66, Gurugram
2.	Area of project	32582.88 sqm
3.	Nature of the project	Commercial
4.	Registered/ not registered	Not registered
5.	RC no.	20 of 2018 dated 02.02.2018
6.	DTCP license no.	165 of 2008 dated 08.09.2008

3. As per information available on website of DTCP, Haryana regarding issue of license(s) it has been observed that license(s) numbering 165 of 2008 dated 08.09.2008 on an area measuring 4.84 acres for the development of CIC project titled M3M GENTLE GUR-66 CIC situated in sector 66 of the village Badshahpur was issued in favour of M3M India by DTCP,



Haryana. It has been further noticed that the promoter has not obtained completion/occupation/part completion/part occupation certificate for the above commercial project in accordance with the terms and conditions of the license(s).

4. That as on today the promoter doesn't have completion/occupation/part completion/part occupation certificate for the same. Therefore, the project is not saved under Section 3(2)(b) of the Real Estate (Regulation and Development) Act, 2016 and is covered under the definition of "on-going projects" as defined under Rule 2(o) of the Haryana Real Estate (Regulation and Development) Rules, 2017 of which provides as under: -

"ongoing project" means a project for which a license was issued for the development under the Haryana Development and Regulation of Urban Area Act, 1975 on or before the 1st May, 2017 and where development works were yet to be completed on the said date, but does not include:

- (i) any project for which after completion of development works, an application under Rule 16 of the Haryana Development and Regulation of Urban Area Rules, 1976 or under sub code 4.10 of the Haryana Building Code 2017, as the*



case may be, is made to the Competent Authority on or before publication of these rules and

(ii) that part of any project for which part completion/completion, occupation certificate or part thereof has been granted on or before publication of these rules."

5. As per the provisions of the RERA, Act "ongoing 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 RERA Act. The Real Estate (Regulation and Development) Act, 2016 came into force on 1st of May 2017 in its entirety and promoters of incomplete projects were required to register their projects before 31st of July 2017.
6. Keeping in view the above facts, and as per the records of the authority the project is registerable under section 3 of the Act *ibid* and the promoter has not registered the project with the Haryana Real Estate Regulatory Authority as on date. This omission on the part of promoter is violation of proviso to section 3(1) of the Act *ibid* which provides as under: -

"Provided that projects that are ongoing on the date of commencement of this Act and for



which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:"

7. Accordingly, a show cause notice no. HARERA/GGM/2018/Suo Motu/Non-Reg./183 dated 22.11.2018 and RERA-GRG-6282-2019 dated 10.12.2019 to M/s M3M India Pvt Ltd was issued for above violations of the Real Estate (Regulation and Development) Act, 2016.
8. The promoter had submitted his reply on 27.01.2020 against the show cause notices stating that the project is being developed by Gentle Realtors Pvt Ltd and not by M3M India Pvt Ltd. Further the project is registered with the authority vide registration no. 20 of 2018 and the necessary compliances are being undertaken.
9. The LR appointed by the promoter appeared before the authority and submitted that the reply submitted by the promoter needs to be considered. Keeping in view the reply submitted by the company, the record of the authority was checked wherein it was observed that the promoter made an application for registration of project on 01.02.2018 as per the



registration certificate issued by Interim Haryana Real Estate Regulatory Authority, Panchkula. The authority on this point is of the considered view that as the project was an ongoing project and in case of ongoing project a window of three months is given for making an application for registration of ongoing projects as per proviso to section 3(1) of Real Estate (Regulation and Development) Act, 2016 and the promoter failed to make an application for registration of project within three months from the date of commencement of this act. Further as per the record available on website of DTCP, Haryana M3M India Pvt Ltd is the developer of the project.


10. On consideration of the circumstances, the evidence and other records and submissions made by the promoter during the course of hearings, the authority is satisfied that the promoter has violated the section 3(1) of the Real Estate (Regulation and Development) Act, 2016. This omission of the promoter is punishable under section 59 (1) of the Act *ibid*. Section 59(1) of the Act is reproduced below: -

"If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent. of the estimated cost of the real estate project as determined by the Authority."

11. Therefore, the authority in the light of the above-mentioned reasons decided to impose a token penalty of Rs. Twenty-Five Lakh (25,00,000/-) on the promoter to be shared by both the companies (Gentle Realtors Pvt Ltd and M3M India Pvt Ltd) under section 59(1) for violating the provisions of section 3(1) of the Real Estate (Regulation and Development) Act, 2016 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.
12. The matter stands disposed off.


(Samir Kumar)
Member


(Vijay Kumar Goyal)
Member


(Dr. KK Khandelwal)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 23.08.2021

