



# 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:** 21.12.2021

**Hearing:** 21<sup>st</sup>

**Present:** Mr. M. C. Jain, President of Piyush Heights Residents  
Tower J & K Welfare Association for complainant-  
association

Mr. Rahul Rathore, Counsel for RWA through VC

None for respondent

## ORDER (RAJAN GUPTA-CHAIRMAN)

This matter was last heard on 28.10.2021 when detailed orders were passed for handing over possession of completed apartments to allottees who had fulfilled various requirements of submission of requisite documents. Shri M.C. Jain, President of Piyush Heights Residents Towers 'J' and 'K' Welfare Association today submitted compliance report. Sh. Rahul Rathore, learned counsel of RWA stated that a copy of report has not been supplied to them. The Association will send a copy to Sh. Rahul Rathore.

2. Sh. Jain, President of the Association stated that a handing over function was held on 26<sup>th</sup> November, 2021. Representatives of Deputy Commissioner and Superintendent of Police did not attend the function, however, representative of District Town & Country Planning attended the function. During the function out of 124 members 107 took possession of their apartments (92 persons on 26<sup>th</sup> November and 15 persons on 12<sup>th</sup> December, 2021). After taking possession few families have already shifted in their apartments.

3. Shri Jain highlighted some problems and issues being faced by them on which directions of the Authority have been sought:

- i) The association is facing several problems from Resident Welfare Association (RWA) of rest of the project. The RWA is creating problems in providing electricity connections and installation of



DG sets. He stated that allottees of Tower J and K are not being given rights equal to the rights available to members of RWA. Shri Jain requested for issuing directions to the RWA to treat allottees of Tower J and K as equal to the members of RWA and to facilitate **enjoyment of peaceful possession of their apartments.**

- ii) Certain scrap materials available at the site generated from works of Tower J and K. Shri Jain sought directions of the Authority to auction such scrap materials and to credit the amount so realised in the accounts of Association of Tower J and K. He stated that RWA is obstructing the sale of scrap.
- iii) Term of executive body of the Association of Tower J and K has expired on 19<sup>th</sup> December, 2021. Since now term of the executive body stands expired, therefore, the Association will be facing problems of operating bank account, handing over 17 apartments to respective allottees, conduct of auction of scrap, and discharging other residuary functions. Shri Jain requested for guidance of the Authority as to how functions of Association are to be discharged now after expiry of term of the Executive Body.
- iv) There are 20 non-associated members in whose flats certain development works like common areas/utilities works have been carried out. As per the calculation, an amount of ₹1,39,340/- per

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flat totalling to ₹27,86,818/- is payable by allottees of such flats belonging to non-associated members. Shri Jain sought guidance of the Authority as to how to recover this amount from these people. He requested that such flats should be allowed to be locked and sealed by the executive body and possession may be handed over to respective allottees after effecting recovery of due amount whenever they come forward.

- v) Shri Jain also sought guidance of the Authority for execution of conveyance deed in favour of allottees and to proceed further for filing claim by allottees for recovery of delayed interest and the extra amount spent by allottees from the promoters.

4. Authority has gone through the report submitted by President of Tower J and K Welfare Association. At the outset, Authority highly appreciates the efforts made by the Association in completing this incomplete project for the benefit of all the allottees. It is one of the rare achievements and probably amongst the first such achievements in whole of the country wherein provisions of Section 8 of RERA Act have been constructively and usefully used for welfare of ordinary allottees and homebuyers. Authority is confident that this precedent set by the Association will be used for completing other similarly situated stucked projects. The Authority congratulates Shri M.C. Jain, President,

office bearers and members of the Association for their efforts and perseverance.

5. Authority would strongly recommend that Association of Tower J and K should continue to remain a registered association till such time as all pending works are to be executed and Association is lawfully merged with RWA of rest of the project. The Association should continue to engage itself for welfare of the allottees till all pending works are also accomplished and conveyance deeds are executed. Ordinary allottees may need assistance of this association for getting their rights delivered to them.

6. For above purpose, Executive Body of the Association should get itself reconstituted/re-elected as per law. Mr. Rahul Rathore, Ld. Counsel appearing for the RWA guided the Authority that as per provisions of Cooperative Societies Act, it is statutorily mandated that Executive Body should be re-elected after 3 years and same Executive Body cannot continue after 3 years. This being mandate of law even Registrar of Societies may not be able to grant relaxation.

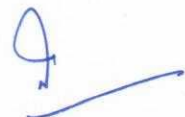
In these circumstances, Authority would suggest that all members of the Association should elect their new Executive Body after complying with the provisions of law.

7. The Authority reiterates that all towers of the project including Tower J and K constitute one single project. The money contributed by allottees of



Tower J and K has also been used for laying common facilities of the project including essential services like electricity, water supply, rain water drainage, roads, parks etc. Residents of Tower J and K have equal right over all those facilities and also have a right to become members of the main RWA. The Authority would strongly recommend that the main RWA and the Association of Tower J and K should sit together and resolve their differences amicably. The Authority under provisions of RERA Act is empowered to ensure that an appropriate RWA is constituted for maintenance of the project. The Authority would expect that RWA will welcome the allottees of Tower J and K as equal members and facilitate their peaceful living in their homes. The Authority would like to avoid intervention in their affairs, however, if two associations are not able to get along, the Authority will be constrained to intervene and pass appropriate order.

8. Regarding recovery of due amount from the non-associate member, a notice should be issued to them for paying due amounts. Since, 124 members of Tower J and K have contributed money from their own pocket for laying infrastructure in the apartments belonging to non-associate members, the claim of association of Tower J and K will remain alive till such payments are duly made. For this purpose, the Association of Tower J and K should continue and should not dissolve itself. It should continue with the help of duly elected Executive Body. The Authority would further order that apartment of the non-



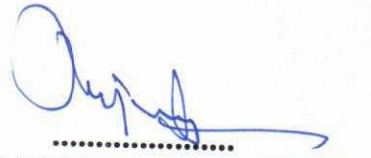
associate members should be properly sealed & locked and their keys be kept in the custody of Secretary of the Association. They may even consider handing over such keys to the respondent company with a clear direction that possession of such apartments should be handed over to non-associate member only in consultation with Association of Towers J and K and after recovery of due amounts. The association may discuss this matter and submit their views to the Authority.

9. Regarding sale of scrap, if entire scrap was generated from Tower J and K only, the association will have full right to sell the same by way of open auction and the amount so realised should be credited into the account of the Association. RWA of the other towers has no right to obstruct the process of such auction. If the RWA is obstructing the auction for the reason that some portion of scrap also belongs to their towers, they should file a clear statement along with evidence to that effect. The association of towers J and K may go ahead with auction proceedings and Authority will pass final order regarding apportionment of such proceeds on the next date of hearing after receiving the views of main RWA.

10. Regarding execution of conveyance deeds, Authority would direct the respondent company to facilitate the same. Since, at present the Directors of Respondent-company are in jail, the question regarding execution of conveyance deed will be handled on the next date of hearing.

Since the respondents are in jail, the Association should deliver a copy of this order to the respondents by hand.

11. Adjourned to 25.01.2022.



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**RAJAN GUPTA**  
**[CHAIRMAN]**



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**DILBAG SINGH SIHAG**  
**[MEMBER]**

