

## BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Order for revocation of the registration for residential plotted colony namely "Krrish World" admeasuring 59.93 acres situated in sector- 62 & 65, Gurugram, Haryana under section 7(1) read with section 34(f) and section 37.

Date of Decision	14.02.2022
Project Name	Krrish World
Project Area	59.93 acres
Project Location	Sector- 62, 65, Gurugram
Project Category	Residential Plotted Colony
RERA registration no.	RC/REP/HARERA/GGM/371/103/2019/65 dated 22.10.2019
Ground for revocation	Non- compliance of condition mentioned in the Registration Certificate.

1. On coming into force of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called "Act") and Rules and Regulations made thereunder, every ongoing project for which OC or CC or part CC was not obtained, was obligated to get such project registered with the Real Estate Regulatory Authority within a period of 3 months form the date of commencement of the Act *ibid*.

Section 3(1) is reproduced below:

*(1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:*

*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:*

*Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter*



*of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.*

2. The Directorate of Town & Country Planning, Chandigarh granted the license no. 64 of 2010 dated 21.08.2010 in favour of individual landowners and associate companies in collaboration with Krrish Buildtech Pvt. Ltd. to develop the residential plotted colony over an area admeasuring 151.569 acres falling under Sector 60,61,62,63,65, Gurugram.
3. The applicant i.e., M/s Krrish Realtech Pvt Ltd. made an application before the Haryana Real Estate Regulatory Authority (hereinafter referred as "Authority") along with the required documents under section 4 of the Act the Haryana Real Estate Regulatory Authority, Gurugram for registration of the real estate project namely "Krrish World". The section 4 of the Act provides as under:  
Section 4 -  
*"Every promoter shall make an application to the Authority for registration of the real estate project in such form, manner, within such time and accompanied by such fee as may be prescribed by the Authority"*
4. On scrutiny of the documents submitted at the time of registration, it was found that the applicant i.e., M/s Krrish Realtech Pvt. Ltd. was neither the licensee nor the collaborator. The license no. 64 of 2010 dated 21.08.2010 was issued by the Directorate of Town and Country Planning Department, Haryana, in favour of individual landowners and associate companies in collaboration with Krrish Buildtech Pvt. Ltd. to develop the residential plotted colony over an area measuring 151.569 acres in Sector 60,61,62,63,65 Gurugram.
5. However, the promoter along with the application for registration had annexed a settlement agreement to prove his legal capacity as a promoter. On perusal of the settlement agreement under Company Law Board so submitted it was found that an agreement was executed between M/s Krrish Realtech Pvt Ltd and M/s Brahma Opportunities Ltd and others whereby 49.99 % of licensed land was allocated in



favour of the M/s Krrish Realtech Pvt Ltd. A land admeasuring 70 acres was allocated to M/s Krrish Realtech Pvt. Ltd. out of which 6.67 acres college site was transferred to government, 3.40 acres commercial site was transferred to M/s Brahma City Pvt. Ltd. The applicant promoter applied for the registration of balance area i.e., 59.93 acres.

6. Based on the allocation made as per the settlement agreement under the Company Law Board, the Authority, in the interest of the allottees, who have invested their hard-earned money in the abovementioned ongoing project, deemed it necessary to grant the registration to M/s Krrish Realtech Pvt. Ltd. for the residential plotted colony namely "Krrish World" situated in Sector-62 & 65, Gurugram so that the development/construction of the project may be regulated in an efficient manner.
7. Accordingly, the Authority in exercise of its powers under Section 5 of the Act ibid, granted the registration to the real estate project "Krrish World" and issued registration certificate vide Registration no. RC/REP/HARERA/GGM/371/103/2019/65 dated 22.10.2019 which is valid upto 24.12.2022 with certain general and specific conditions. The general conditions attached to the registration certificate are reproduced herein below:

S.No.	Conditions
1.	The registration granted by this authority shall be treated invalid in case any adverse orders/ findings are decided by Hon'ble Supreme Court/ CBI in future. Area falling under sector 58 to 67 are under CBI investigation hence all the buyers are advised to consider that point before any property is purchase in this particular area.
2.	As the agreement for sale is under revision and under consideration by the Government, the promoter shall enter into an agreement for sale with the allottees in the revised format as prescribed by the Government.





3.	The Payment Plan should be commensurate of development of the project. The payment plan should match with the date of possession/ completion of the project.
4.	The promoter shall enter into an agreement for sale with the allottees as prescribed by the Government.
5.	The promoter shall offer to execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of the Act.
6.	The promoter shall convey/allow usage of common areas as per Rule 2(1)(f) of the Haryana Real Estate (Regulation and Development) Rules, 2017.
7.	The promoter shall deposit seventy percent of the amounts realized by the promoter in a separate account to be maintained in a schedule bank to cover the cost of construction and the land cost to be used only for that purpose as per sub-clause(D) of clause (I) of sub-section 2 of section 4 of the Act.
8.	The promoter shall comply with the provisions of the Real Estate (Regulation & Development) Act, 2016 and the Haryana Real Estate (Regulation and Development) Rules, 2017 and regulations made thereunder and applicable in the State.
9.	The promoter shall not contravene the provisions of any other law for the time being in force as applicable to the project.
10.	The promoter shall comply with all other terms and conditions as mentioned in the attached brief and as conveyed by the Authority from time to time. Additional terms and conditions given at the end of the attached brief and if any observation same may be rectified within three months.



The specific conditions, attached to the registration certificate, obligated to be complied within stipulated time are mentioned below:

Sr. No.	Conditions
1.	The promoter shall submit the renewal copy of license no. 64 of 2010 and BIP Permission, Land title search report, Non-encumbrance certificate within 3 months from the date of grant of registration certificate.
2.	The promoter shall submit deficit amount of Rs 72,76,101/- within 15 days from the date of grant of registration certificate.

A brief of the specific conditions is mentioned below:

Sr. No.	Conditions	Time frame within which the conditions are to be complied with
1.	Deficit amount Rs. 72,76,101/-	15 days
2.	Renewal of license no. 64 of 2010	90 days
3.	BIP Permission -	90 days
4.	Land title search report	90 days
5.	Non-encumbrance certificate	90 days

8. However, on periodic examination of records, it was noticed that the promoter had not fulfilled the conditions in timebound manner as laid down in the registration certificate. It was observed that the promoter had only submitted a fee of Rs. 11,00,000/- vide DD No. 229021 dated 31.12.2019 and Rs. 13,25,367/- vide DD No. 011000 dated 08.02.2021 (total Rs. 24,25,367/-) and non-encumbrance certificate. The promoter failed in his obligation to submit the remaining deficit fee of Rs 48,50,734/-; renewal of license no. 64 of 2010; BIP permission; and land title search report within not only in the stipulated time of 90 days, as incorporated in the said registration certificate but even after more than 2 years 1 months.
9. Although, at the time of registration of the project it was noticed that some documents were deficient as per the requirement of section 4 of the Act, yet the authority acting in the interest of the allottees, took a lenient view and issued the registration certificate with the conditions mentioned hereinabove directing the promoter to comply with those condition within the specified time, but the latter did





not pay heed, hence, he made himself liable for penal proceedings under Section 63 of the Act. The section 63 of the Act provides as under:

*"if any promoter, who fails to comply with, or contravenes any of the order or directions of the authority, he/she shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to a five percent of the estimated cost of the real estate project as determined by the authority"*

10. Along with penal proceedings under Section 63 of the Act for non-compliance of the directions issued by the Authority, such acts of non-compliance/non-fulfilment of the conditions of registration on part of the promoter also make him liable to be proceeded under Section 7 of the Real Estate (Regulation and Development) Act, 2016. i.e., revocation of registration. In view of failure on part of the promoter to discharge his obligation by complying with the conditions attached to the registration within the stipulated time, the Authority was constrained to issue a show cause notice and initiate proceedings for revocation of the registration certificate under Section 7 of the Act *ibid*. Consequently, as provided under Section 7(2) of the Act read with Rule 7 of the Haryana Real Estate (Regulation and Development) Rules, 2017 the Authority issued a show cause notice dated 28.10.2021 in writing, to the promoter, stating the grounds on which the registration of the project is proposed to be revoked.
11. Section 7(1) of the Act *ibid* empowers the Authority to revoke the registration certificate granted under section 5 of the Act *ibid* if the authority is satisfied that the promoter has indulged into the acts as mentioned in clause (a), (b), (c), or (d) sub section (1) of Section 7 of the Real Estate (Regulation and Development) Act, 2016. This provision confers powers on the authority to regulate conduct of the promoter and in a deserving case cancel the registration. Under section 7(4) of the Act, the authority is conferred with power on revocation to debar the promoter and to carry out the remaining work in accordance with the provisions of section 8 of the Act. It also authorizes the authority to freeze the account of the promoter and to protect the interest of the allottee and in the public interest issue such directions as it may deem necessary.



12. Hence, in view of the omissions/non-compliance of the conditions for registration on the part of the promoter, it was served with a notice dated 28.10.2021 to show cause as to why the registration no. RC/REP/HARERA/GGM/371/103/2019/65 dated 22.10.2019 be not revoked by this authority and the penalty as proposed should not be imposed:

- i) Revocation of the registration certificate under section 7(1) for non-compliance of the conditions mentioned in the RC at the time of grant of registration.
- ii) A penalty of Rs. 10,000/- per day during which such default (non-compliance of the conditions/directions of registration certificate) continues as per section 63 of the Act for non-compliance of the orders of the authority. The penalty comes out to amounting Rs 76,00,000/-. The cumulatively penalty amount can extend up to five percent of the estimated cost of the real estate project, as declared by the promoter in detailed project information report submitted along with the application for registration of the project.

13. Accordingly, the promoter was served with the notice, as above, to which vide his reply dated 30.11.2021 stated that the **licensee Brahma City Pvt Ltd.** vide application dated 13.07.2018 has applied to the Directorate of Town and Country Planning, Haryana for renewal of the license no. 64 of 2010 dated 21.08.2010. The same was under the consideration of the Directorate and pursued actively.

14. In reply to submission of BIP it was submitted that the promoter is seeking clarification from the Directorate of Town and Country Planning Dept., Haryana whether the company had to take permission under the beneficial interest policy but till date no clarification has been received from the said department.

Regarding condition of land title and search report, it was submitted by the promoter that after considering and being satisfied with all the land title records and other documents submitted by Brahma City Pvt Ltd., Directorate of Town and Country Planning Haryana has duly granted the license no. 64 of 2010 dated 21.08.2010 to





Brahma City Pvt Ltd for development of the project on land measuring 141.66875 acres in sectors 60, 61, 62, 63 and 65 Gurugram and the **Directorate never asked the company and Brahma City Pvt Ltd to submit any land title search report.** As such the company has not obtained any land title search report.

Likewise, in response to the payment of deficit amount of Rs. 72,76,101, the company is liable to pay the following amounts to the Authority as under :

- i. Rs. 24,25,367/- towards application fee.
- ii. Rs. 24,25,367/- towards processing charges.
- iii. Rs. 24,25,367/- towards late fee.

However, company has submitted that they have already deposited a sum of Rs. 24,73,390 with the authority towards the application fee in the following manner :

Sr. No.	Details of demand drafts	Dated	Bank	Amount
1.	006266	22.11.2017	HDFC	6,00,000/-
2	126771	19.12.2017	P.N.B.	3,32,000/-
3	126770	19.12.2017	P.N.B.	3,31,000/-
4	006333	11.01.2018	HDFC	7,38,890/-
5	026414	15.06.2018	HDFC	1,96,000/-
6	026413	15.6.2018	HDFC	2,53,000/-
7	026467	29.6.2018	HDFC	4,500/-
8	026466	29.6.2018	HDFC	18,000/-
				24,73,390/-

The promoter also stated that they have submitted a fee of Rs. 11,00,000/- vide DD No. 229021 dated 31.12.2019 and Rs. 13,25,367/- vide DD No. 011000 dated 08.02.2021 (total Rs. 24,25,367/-).


At the time of grant of registration, it was mentioned by the promoter that they deposited Rs 24,73,390/- towards project registration fee but as per the record of the Authority that amount was deposited along with the registration application for (Phase I-IV) which were rejected by the authority vide orders dated 16.11.2018 and above mentioned amount was forfeited treating against processing fee.


Henceforth, the total deficit fee comes out to be Rs 72,76,101/- out of which the promoter submitted only Rs 24,25,367/- and the remaining deficit fee comes out to be Rs 48,50,734/-.



The reply submitted by the promoter appears to be a very general reply without providing any justifiable reasons for non-compliance of the conditions mentioned in the registration certificate. Thus, the reply so submitted by the promoter is merely an eye wash and it is found to be lacking in seriousness to comply with the conditions of registration or for that matter towards completion of the project and thus it is found to be totally unsatisfactory.

15. Further, the DTCP has passed an order vide memo no. LC-2365-Vol-III/ATP(RB)/2022/3556-3563 dated 10.02.2022 wherein it is stated:
1. That no third-party rights on the licensed land allocated to Krrish shall be created.
  2. Further, no part of commercial and community sites situated in the licensed colony shall also be alienated or transferred in favour of any third party till further orders.
16. Relying on the order passed by the DTCP, Haryana, it becomes amply clear that the promoter is not only defaulting/omitting in discharge of its obligations under the Real Estate (Regulation and Development) Act, 2016 but at the same time violating the provisions of the Haryana Development and Regulation of Urban Areas, Act 1975 also. Therefore, in view of same as the promoter has failed to comply with the conditions of registration, the Authority deems it appropriate to revoke the registration for the project "Krrish World".

  
Vijay Kumar Goyal  
(Member)

  
Dr. K.K. Khandelwal  
(Chairman)

**Copy To:**

1. Directorate of Town & Country Planning, Haryana, for information.
2. Planning branch, for further action as provided under Section 7(4) and 8 of the Real Estate (Regulation and Development) Act, 2016



