



Complaint No. 14, 25, 146, 495 of
2019 and 1383, 1393, 1425, 1440,
1447 of 2018

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 14 OF 2019

SabihaCOMPLAINANT(S)

VERSUS

Anil JindalRESPONDENT(S)

2. COMPLAINT NO. 25 OF 2019

ShikhaCOMPLAINANT(S)

VERSUS

SRS Real Infrastructure Ltd.RESPONDENT(S)

3. COMPLAINT NO. 146 OF 2019

Amit MalikCOMPLAINANT(S)

VERSUS

SRS Real Infrastructure Ltd.RESPONDENT(S)

4. COMPLAINT NO. 495 OF 2019

Omvir SinghCOMPLAINANT(S)

VERSUS

SRS Real Infrastructure Ltd.RESPONDENT(S)

5. COMPLAINT NO. 1383 OF 2018

Gajender SinghCOMPLAINANT(S)

VERSUS

SRS Real Infrastructure Ltd.RESPONDENT(S)

6. COMPLAINT NO. 1393 OF 2018

Gauri KumariCOMPLAINANT(S)

VERSUS

SRS Real Infrastructure Ltd.RESPONDENT(S)

7. COMPLAINT NO. 1425 OF 2018

Suresh Kumar VermaCOMPLAINANT(S)

VERSUS

SRS Real Infrastructure Ltd.RESPONDENT(S)

8. COMPLAINT NO. 1440 OF 2018

Manju SethiCOMPLAINANT(S)

VERSUS

SRS Real Infrastructure Ltd.RESPONDENT(S)



9. COMPLAINT NO. 1447 OF 2018

Renu Saini

....COMPLAINANT(S)

VERSUS

SRS Real Infrastructure Ltd.

....RESPONDENT(S)

**CORAM: Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag**

**Chairman
Member
Member**

Date of Hearing: 30.07.2019

Hearing: 6th

Present: - Mr. Gajender Singh, on behalf of complainants

Mr. Suresh Kumar Verma, complainant in person

Mr. Krishna Kant Pathak, President of RWA, on behalf of
complainants

None for respondent

ORDER (RAJAN GUPTA- CHAIRMAN)

1. This is a bunch of 9 complaints. All complaints except the lead complaint case no. 14 of 2019 are disposed of and stand merged with the lead case. All further action now will be taken only in the lead case.

2. This matter had last come up for hearing on 24.07.2019 when inter-alia it was observed that the allottees of the project have formed an association (RWA in brief) and got it registered under the Haryana Registration and Regulation of Societies Act, 2012. RWA has estimated that an amount of about Rs. 6.5 crore have to be incurred to complete the project. They had also submitted a plan of action for mobilisation of the funds which has been recorded in the orders passed by the Authority.

3. Today, Mr. Krishna Kant Pathak, President of the RWA submitted as follows:-

(i) That all the complaints pertain to Tower -C of the project, comprised of 96 apartments out of which 12 apartments are un-allotted. Out of the 84 allottees, 79 allottees have formed this association. Further, efforts are being made to enroll rest of the allottees also in the association. The association has been registered.

(ii) A bank account has been opened and Rs. 1 lakh has already been contributed by each member. An affidavit has



been furnished by each member stating to the RWA that they are ready to bear additional cost for completing the project.

(iii) That possession of Tower-C of the project may be handed over to the association for completing it at their own level by way of resources to be mobilised in the following manner:

- a) Rs. 1.5 crore will be collected from the allottees as their remaining dues.
- b) Rs. 2.5 crore can be raised by selling 12 un-sold units.
- c) The remaining amount will be raised from the allottees as extra money, to be recovered from the developers later on as per law.

(iv) The association requested that respondent should be restrained from creating any third-party rights in the project.

(v) CTP/STP/DTP should be asked to invoke bank guarantee furnished by the developers out of which requisite funds may be provided to the association for completing infrastructural facilities like fire system, peripheral roads, rain water harvesting, development of park etc.

(vi) Directions should be given to the Town & Country Planning Department as well as their local officials to fully

cooperate with the RWA and not insist on making any payment on account of dues payable by the respondent company.

(vii) Appropriate directions should be issued to relevant Authorities of the State for providing electricity supply, drinking water, sewer connection, law and order support, so that the association is able to complete the work and hand over possession to the allottees.

(viii) Directions should be given to the RWA of Towers-A and for not obstructing the work of completion of Tower-C by the RWA.

4. The Authority after consideration observes that RWA of Tower-C is comprised of 79 members out of 84 allottees. The remaining allottees may also decide to become member of the RWA. RWA has opened a bank account; got themselves registered; formed a Governing body; secured affidavits from the members and token advance of Rs. 1 lakh for creating an initial corpus has been obtained. The Authority observes that RWA has done a good work and appears serious about getting the project completed. They have also got the estimate of the remaining works made which is about Rs. 6.5 crore.

5. As per Section 3 of the RERA Act the promoters of all ongoing projects have to get the project registered with the Authority within three



months of coming into force of the Act. Clearly this is an ongoing project. The respondent company has failed to file an application for its registration, as such they have violated the mandate of Section 3 of the Act they made themselves liable for penal action under Section 59.

6. Section 7 of the Act provides for revocation of the registration. The Authority has been empowered to take cognizance for action under Section 7 suo-motu or on a complaint filed before it. Clause (a), (b) and (c) of Section 7(1) provides for the situations in which registration of the project can be cancelled.

Section 7 has been so worded as to say that it is applicable on the projects which have been registered with the Authority but the promoters have failed to fulfil the obligations cast upon them by the law or by the Authority while granting the registration certificate, thus the registration is liable to be cancelled. It does not expressly cover situation like the present case in which the promoters who have violated all the conditions of the license as well as of agreement made with the buyers and are also failing to get the project registered.

When a promoter fails to register the project despite clearly being aware that he should do so, such projects must be treated at par with the projects of which the registration is cancelled by the Authority. Not taking this view will create an anomalous situation and would adversely

jeopardise the interest of the allottees of the project of which the promoters are deliberately refusing to finish the project. Not taking such a view would also amount to saying that the protection of Section 8 is not available to the Allottees of an unregistered project. In the considered view of this Authority an unregistered project shall be considered at par with the project of which the registration has been cancelled.

8. Having said so, now the protection of Section 8 must be granted to the allottees of the present project of the respondent. The association having fulfilled all the tasks assigned to it by the Authority has a right to take over the project for completing it themselves.

9. In furtherance of the aforesaid conclusion, the Authority directs all concerned to take actions as follows:

- (i) The RWA shall prepare a detailed inventory of all the materials lying at the site of the project with the help of a three members committee.

When the list is prepared, a notice shall be sent to the respondent company for deputing their representative if they so desire. A request shall also be made to the DTP for deputing its representative to be present at the time of preparing the list. The list so prepared shall be kept in the record and its copy shall be sent to the respondents as well as to DTP. A copy of the said list



shall also be submitted before this Authority on the next date of hearing.

- (ii) A committee consisting of the DTP, a representative of Deputy Commissioner (who shall be in Class-I officer in the district) and two representatives of the RWA (including President of RWA) shall be constituted which shall issue an advertisement in the leading newspaper for sale of the unallotted apartments on as and where basis. The sale shall be made only by way of open auction after making wide publicity by way of advertisements in the newspapers.
- (iii) A copy of this order shall be sent to the Director, Town and Country Planning Department who shall after consultation with the government file objections, if any, to the aforesaid course of action of handing over the project to the RWA. The Director will submit his reply before the next date of hearing failing which it will be assumed that the department and the government has no objection to the proposed course of action.
- (iv) A copy of this order shall be sent to the respondents to file their objections, if any, to the aforesaid course of action to be adopted for completion of the project.



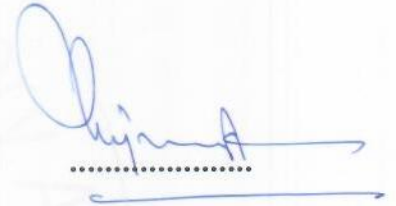
- (v) The Authority hereby orders that if any amount towards EDC, license fee or any other levies/charges remains to be recovered from the respondent company, the same may be recovered by way of invoking the bank guarantee or by any other lawful means but the departments shall not obstruct the functioning of RWA. The RWA will not be liable to discharge liabilities of the promoter towards the State Government Departments.
- (vi) The Director should issue necessary instructions to the DTP for associating with the RWA and for assisting and guiding them in every possible way so that the construction work is completed in accordance with approved plans and RWA does not face any difficulty in obtaining the Occupation Certificate later on.
- (vii) The RWA may file applications with the concerned departments for providing infrastructural facilities like water, electricity, sewage connection, storm water drainage, access roads. If any difficulty is faced by them, they may approach this Authority for guidance.
- (viii) The respondents are hereby restrained from creating any third- party rights in the project in any manner.



(ix) Deputy Commissioner, Palwal is requested to provide law and order support to the RWA.

10. After uploading of this order on the website of Authority, the Law Associate concerned shall issue an advertisement in the newspaper on behalf of this Authority informing all concerned about these orders and to draw their attention towards uploading of the order and the availability of same on the website of the Authority for information.

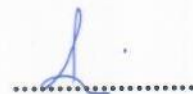
11. Adjourned to 12.09.2019.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]



DILBAG SINGH SIHAG
[MEMBER]