



HARYANA REAL ESTATE REGULATORY AUTHORITY, PANCHKULA.

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Extract of the resolution passed by the Haryana Real Estate Regulatory Authority, Panchkula in its meeting held on 30.05.2022.

Item No. 175.15

Consideration of the applications received by the Authority for Registration of New Projects.

(i) **Promoter :** Ferrous Infrastructure Pvt. Ltd.

Project : “Ferrous Beverly Homes” – Group Housing Colony on land measuring 11.85 Acres situated in Sector-89, Faridabad.

Temp ID: RERA-PKL-748-2019

Present: Sh. Sourabh Goel Counsel for the applicant/ promoter.

1. Shri Sourabh Goyal Ld. counsel for applicant promoter stated that due registration fee of Rs.13.38 lakhs has been deposited. Now the application for registration of the project should be considered by Authority.

2. Authority has examined the information submitted by applicant promoter in respect of this ongoing project and has also gone through its own order dated 12.05.2022 passed in complaint No.843 of 2019.

3. Relevant part of the order passed by Authority in complaint No.843 of 2019 is reproduced below:

“....

7. Learned CTP of Authority was appointed the Local Commissioner to submit a site report. Learned CTP submitted his report on 19.04.2022. A copy of report was sent to learned counsels for complainants as well as respondents by email on 22.04.2022. Physical copy of the report was sent to Sh. Dinesh Kumar Dakoria, learned counsel for complainants on 27.04.2022, which was successfully delivered on 29.04.2022, and to Sh. Sourabh Goel, learned counsel for respondents on 28.04.2022. However, Sh. Gaurav Arora, learned counsel for complainant in complaint case no. 1831 of 2019 and Sh. Pradeep Srivastava, learned counsel for complainant in complaint case no. 2705 of



2019 did not insist on delivery of physical copy as same was already sent to them through e-mail.

8. None of the parties have filed any written objection to the report of Local Commissioner.

9. The report submitted by the learned Local Commissioner is reproduced below:

“1. License No. 229 of 2007 dated 28.09.2007 was granted for a Group Housing Colony on land measuring 11.85 Acres in Sector-89, Faridabad. This license was transferred under Rule 17, of the HDRUA Rules' 1976 to M/s Ferrous Infrastructure Pvt. Ltd. on 22.09.2008. The site plan/building plans of this Group Housing scheme were approved vide Memo No. 10053-59 dated 16.08.2010. This scheme comprises of 4 Group Housing Blocks having a total of 540 Units an EWS Block of (stilt + 8 floors) having 151 units and 313 Units of (G + 2 and G + 1 floor).

2. No multistoried apartment except 'Block D' (1 Bed room apartments having 56 units) has been constructed. The structure of this building is complete, however, no internal finishes have started. However, all G + 1 and G + 2 units have been constructed at site.

3. The construction of the G + 1 and G + 2 units seem to be 7 to 8 years old. The photographs taken at site (Annexure A) show that the quality of construction is poor. No maintenance is taking place. However, residents are being charged a maintenance fee of Rs. 2000/- per month.

4. The Service Plans/rough cost estimates of this project were forwarded for approval on 09.10.2014 by the chief Administrator HUDA to the Directorate of Town and Country Planning. However, the same are yet to be approved by the Town and Country Planning department.

5. Above 40 families are actually residing in the project.

6. The EWS block within the complex is yet to be constructed and therefore it will be difficult for the promoter to obtain Occupation Certificate for the general category units. Most of the allottees are therefore reluctant to take over the possession of the constructed units as occupation certificate has to be obtained by the promoter.

7. The Sewerage treatment plant though under construction is still not operational and the sewer is being transported through tankers.

8. Water supply is being supplied through bore wells and the water testing report of the Private Agency i.e. MICRO Engineering and Testing Laboratory in Dec'2021 shows that the water of the bore well is fit for drinking purpose.



9. As far as the electricity supply system is concerned a temporary commercial connection of 180 kw has been obtained by the promoter on 06.01.2020, wherein the per unit rate is Rs. 11/- for the first 2 years and Rs. 14 per unit thereafter. At present DHBVN is supplying electricity to the said complex @ of Rs. 14/unit. This electricity is being supplied to the residents who are charged Rs. 9/ per unit, the remaining amount of Rs. 5/ is being paid by the promoter from the maintenance fee being collected at the rate of Rs. Two thousand per month.

When the promoter applied for approval of electrification plan for release of individual/multipoint connections in Oct'2021, certain observations were conveyed by DHBVN on 22.11.2021. The observations basically included

- (i) The ear making of land for electrical Infrastructure/sub-station.
- (ii) A copy of the valid license.
- (iii) The load calculation sheet of the complete scheme.

The said information has yet to be provided by the promoter.

Thereafter, learned counsel for complainant requested to take into consideration the photographs placed on record by learned CTP of the Authority during his site visit, which proves the abandoned and dilapidated condition of the project.”

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13. The Authority in its project jurisdiction, in its meeting held on 20.12.2021 had passed following orders in respect of this project of the respondent:

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3. Today, Id. Counsel for respondent, Sh. Sourabh Goel and Sh. Ashish Seth appeared before the Authority and requested for two months time for depositing license renewal fee to Director Town and Country Planning Department. They further informed the Authority that project is complete and only EWS flats remains to be constructed. Further, they are yet to recover Rs.28 Crores from the allottees of apartments but they are not paying the due amounts due to non-renewal of their license and non-registration of project. It was also stated that promoters had requested Town and Country Planning Department to adjust the due amount of license renewal fee out of certain other amounts deposited by them in regard to another project. Learned Counsel also informed that 150 allottees have taken possession of apartments and 55 families are residing in the project.

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Looked at from any angle, it is the respondents only who are at fault by discharging their statutory obligations.

5. In order to protect interests of allottees and to generate their confidence in the project, the Authority directs the respondents as follows: -

- i. The respondents should organise a meeting with all the allottees of the project on 8th January, 2022 at 12:00 O'clock at the project site. Progress of the project should be informed to them. Further plan of action for completing remaining works be also brought to their notice. Detailed minutes of meeting should be prepared and submitted before this Authority.
- ii. A representative of Authority will also attend the meeting to note proceedings.
- iii. The promoter should individually deposit deficient licence fees of Rs.26 lacs. Further, this being an ongoing project, deficient registration fees etc. as recorded in opening paragraphs of this order should also be paid to the Authority without which this application cannot be considered.
- iv. Offer of possession should be made to all the allottees. Those allottees who wish to take possession may do so as per their choice. It should be clearly stated in the letter of offer of possession that the occupation certificate of the project will be obtained in due course of time when remaining portion of the project is also completed. Allottees who do not wish to take possession without receipt of occupation certificate therefore may wait."

14. Authority has tried to resolve problems of the project and is surprised by the fact that respondents are not even ready to deposit due license fee to the department to renew their license. Without such renewal of license many approvals including electricity connection will not be granted to them. From reticence of respondents in fulfilling their basic obligations, Authority is forced to arrive at conclusion that respondents are deliberately not completing the project for reasons best known to them.

15. During the hearing dated 20.12.2021 the Authority had also directed the respondents to organise a meeting with all the allottees of the project to inform them of the plan of action for completing remaining works. Authority accordingly had made an attempt to resolve problems of the project by building confidence amongst allottees. Respondent have failed to even hold a meeting with the allottees. Agreed, that in January,2022 such a meeting could not have been held because of outbreak of omicron variant of Covid-2019, but no such situation is prevailing for last nearly 3 months, but respondent have failed to held such a meeting.



16. Authority accordingly is forced to conclude that respondents are deliberately neglecting to fulfil their obligations and are probably seeking to abandon the project. Report of learned CTP is categorical on several counts. The photographs submitted by him, which have been made part of record of the file shows extremely dilapidated condition of the project. It is evident that it has not been maintain for the last many years. The photographs give impression that it is not safe for human habitation.

17. Admittedly there is no authorized water supply in the project and water is being drawn through bore-wells. It has been alleged that extraction of water from such bore-wells is prohibited by guidelines of Hon'ble NGT.

18. It is not understood why the promoters apart from not getting license renewed have also not got EWS apartments constructed. It is an obligation which has to be fulfilled. For the past many years, they have been making claims that EWS apartments will be constructed but nothing appears to have been done on the ground. It has been reported by Ld. CTP that the respondent had submitted their service plan estimates to the Chief Administrator, HUDA on 9.10.2014. The same has not yet been approved. It is to be presumed that same has not been approved on account of some default on the part of the promoters. Surely, the respondents have failed to pursue the matter with HUDA. In this regard they have failed to discharge their responsibilities. This by itself amounts to deficiency in service.

19. For a large colony as this, only 180 KW commercial electricity connections has been taken which is grossly insufficient for colony of this size. Such electricity connection actually amounts to no electricity in the colony. The respondents have been claiming that most of allottees out of 149 who have taken the possession are living in the project. If so, the connection available per apartment will be less than 1 KW. Accordingly, this also amounts to severe deficiency in service. Even now application of the respondent for grant of electricity connection is at very preliminary stage as HDBVNL have asked the promoters to earmark land for electrical infrastructure/sub-station. In the absence of valid license etc. receipt of electricity connection will face several hurdles.

20. In conclusion, Authority observes that project is not complete; OC has not been even applied for; services are highly deficient; project is in a dilapidated condition; even an offer of possession sans occupation certificate also has not been made; statement of account has not been furnished; and no effort has been made to take the project further even after filing of captioned complaints in 2019, therefore, right of the complainants to seek refund of the money paid by them along with applicable interest as per rules cannot be denied.

21. Authority accordingly orders refund of the money paid by all the complainants along with interest as shown in the table below.

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4. Upon examination of information submitted by applicant, it is observed that license of the project was valid upto 27.09.2015 which has not been got renewed. Authority observes that many prospective allottees may like to avail finance from banks/financial institutions for purchase of apartments, for which two essential requirements are registration of the project with Authority and license renewed by the State Government. Therefore, in the absence of renewal of license, Authority is not in a position to consider the application for registration.

5. Further, as has been observed by Authority in its complaint jurisdiction, promoters have not yet constructed EWS apartments. They have not obtained occupation certificate in respect of said phase of the project which is built up. Service plan estimates have not been got approved, and services are highly deficient. For these reasons many allottees are seeking refund of the money paid by them. Authority observes that registration of the project at this stage will amount to allowing sale of apartment in a project which is already facing serious legal and financial difficulties. Authority cannot authorise further sale of apartments in the project unless physical and financial issues relating to already sold apartments are resolved.

Authority had directed the promoters to hold a meeting with allottees of the project and after that submit a precise plan of action for discharging their obligations towards existing allottees, but the promoters have failed to do so. No plausible reason at all has been submitted as to why the already sold project has not been finished properly; why EWS apartments have not been constructed, and why an application for grant of occupation certificate has not been filed. In these circumstances, Authority is not in a position to consider this application for registration of remaining portion of the project.

6. Authority would consider this application after already sold project is completed and occupation is obtained. It is only thereafter that next phase of project can be allowed to be registered and advertised for sale.

7. It is reiterated that applicant promoter should fulfil his obligations in respect of already sold project. It is thereafter that he can be allowed to implement remaining portion of the project. The promoter should comply with their obligations and obtain occupation certificate in respect of the apartments already sold.



8. In view of above facts and circumstances, Authority, issues a show cause notice to the promoter as to why their present application be not rejected. Promoter-applicant should submit his reply within 30 days of uploading of this order.

9. Adjourned to 08.08.2022.

True copy



[Signature]
Executive Director,
HRERA, Panchkula

LA (Indu)

A copy of the above is forwarded to CTP, HRERA Panchkula, for information and taking further action in the matter.