



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Promoter:

Maximal Infrastructure Pvt Ltd

Project:

"Maximal" Group Housing Colony on land measuring 48.038 Acres in Sector-89, Faridabad.

Temp ID:

RERA-PKL-587-2019

AND

Promoter Name:

Ferrous Infrastructure (P) Ltd

Project Name:

"Ferrous City Phase-I" Group Housing Colony on land measuring 14.80 acres (FAR 1,04,817 Sq. Mts.) (part of 48.038 acres) in Sector-89, Faridabad.

Temp ID:

RERA-PKL-612-2019

AND

Promoter Name:

ORS Infrastructure (P) Ltd

Project Name:

"Royal Residency" Group Housing Colony on land measuring 3.456 acres (FAR measuring 35,355.07 Sq.Mts.) (part of 48.038 acres) in Sector-89, Faridabad

Temp ID:

RERA-PKL-625-2019

AND

Promoter Name: Heritage Cottages (P) Ltd
Project Name: "Ozone Square Zone-E & EWS" Group
Housing Colony on land measuring 2.064
acres (FAR measuring 21135.94 Sq. Mts.)
(part of 48.038 acres) in Sector-89,
Faridabad.
Temp ID: RERA-PKL-633-2019
Date of consideration: 09.05.2022
Present: Shri Reshabh Bajaj, Counsel for the
applicants/promoters.
Shri Sourabh Goel, Counsel for the
applicants/promoters.

ORDER (Rajan Gupta – Chairman)

This matter was taken up for consideration by Authority in its meeting held on 09.05.2022 when after hearing learned counsel for applicant-promoter order was reserved because a Civil Writ Petition No.4383 of 2022 had been filed in which certain decisions taken by Town & Country Planning Department pertaining to the project in question had been challenged.

2. Shri Sourabh Goel, learned counsel appearing for applicant promoter vehemently argued that Town & Country Planning Department, Haryana vide their orders Memo No.LC-810-Vol.XI-JE(SK)-2022/3409-10 dated 08.02.2022



had written a letter to M/s Ferrous Infrastructure Pvt. Ltd. (Seth Group) and M/s Maximal Infrastructure Pvt. Ltd. (Mittal Group) granting permission for "Assignment of Joint Development and Marketing Rights" for area measuring 10.27 acres (FSI 14.80 acres) out of total licensed area measuring 48.038 acres. Said permission was granted by department under policy dated 18.02.2015. Citing said permission, learned counsel Shri Sourabh Goel requested for registration of their project.

3. It is relevant to observe that a similar letter dated 07.03.2022 has been written by Town & Country Planning Department to M/s ORS Infrastructure Pvt. Ltd. and M/s Heritage Cottages Pvt. Ltd. granting them also permission for "Assignment of Joint Development and Marketing Rights" for land area measuring 3.4568 acres (FSI 5.0 acres); and 2.0643 acres (FSI of 3.00 acres) respectively.

4. M/s Maximal Infrastructure Pvt. Ltd. have filed afore-mentioned CWP No.4383 of 2022 against decision of the department in granting Joint Development and Marketing Rights to M/s ORS Infrastructure Ltd. and Heritage Cottages Pvt. Ltd. The ground taken by M/s Maximal in CWP No.4383 of 2022 is that the agreement executed by them with M/s ORS and M/s Heritage Cottages Pvt. Ltd. had been revoked by them in the year 2016, and now no rights for development of parts of the project remained with M/s ORS and M/s Heritage Cottages Pvt. Ltd. Therefore, decision of Director, Town & Country Planning

Department in granting such rights to these two companies is wrong and against law.

5. Numerous complaints had been received, and are still being received against five companies who had obtained rights for development of respective of portions of the project out of the total project measuring 48.038 acres, in respect of which license No. is 34-36 of 2007 was granted. Over the past four years numerous order have been passed by this Authority in its complaint jurisdiction as well as in its projects jurisdiction.

To avoid making this order a bulky one, Authority decides not to reproduce those orders. Simply a reference to some relevant orders passed on the following dates is being made:

- (i) Order dated 30.09.2019 passed by Authority in its 69th meeting vide item No.69.10.
- (ii) Order dated 27.01.2020 passed by Authority in its 84th meeting vide item No 84.13.
- (iii) Order dated 13.07.2020 passed by Authority in its 101st meeting vide item No.101.9.

6. Another facet of the case which came to the notice of the Authority later on is that M/s Ferrous Infrastructure Pvt. Ltd., who was a sub developer of original licensee company had sold to another developer M/s Zion Promoters Ltd. to develop an independent project over land measuring about 3 acres out their own share of land. M/s Zion Promoter is not being recognised as a promoter or a

sub licensee or a person eligible to be conferred with Joint Development and Marketing Rights under the policy of 18.02.2015 by Town and Country Planning Department.

7. Upon analysis of facts of the matter, Authority observes as follows:

(i) As observed by Authority in its order dated 07.07.2022 passed in complaint No 772 of 2019 entire 48.038 acres land has been divided into 6/7 parts by the licensee company at their own level without approval of competent authorities. One part earmarked for development of common facilities has already been disposed of by licensee company in open market. M/s Maximal now do not hold any land under their ownership. Their liability has to be determined in respect of development of common facilities and certain other common infrastructure facilities over the land which has already been sold. In the application filed for registration of the project by M/s Maximal no information whatsoever has been submitted. They have not paid requisite registration fees. Therefore, their application has no meaning whatsoever. It is purposeless application.

(ii) No application has been filed by M/s Triveni Infrastructure Development Company, (TIDCO) who had been allotted 10.335 acres land, because liquidation proceedings are going on against them. Town & Country Planning Department had already bifurcated the license in



respect to TIDCO in furtherance an order passed by Hon'ble Apex Court.

- (iii) No application whatsoever has been filed by M/s Pal Infrastructure Pvt. Ltd. which been allocated 7.243 acres land by the licensee company. Fate and status of their part of project is unknown. Apparently, this also is an ongoing project as several complaints have been received from their allottees seeking refund of the amount paid.
- (iv) Three applications have been filed by M/s Ferrous Infrastructure Pvt. Ltd., M/s Heritage Cottages and M/s ORS Infrastructure in respect of areas apportioned to them by the licensee company. Even though license granted to original licensee company for 48.03 acres has been renewed by the department vide their order dated 01.03.2021, but ground realty is that the entire licensed area stands divided into 6/7 parts since last over 10-12 years. Clear title of each applicant company has not been established before the Authority to enable it to determine their respective rights and liabilities vis-à-vis existing allottees as well as future allottees.
- (v) Grant of Joint Development and Marketing Rights in favour of M/s ORS and M/s Heritage Infrastructure Ltd. are under challenge before Hon'ble High Court in aforesaid CWP No 4383 of 2022. The development and marketing rights granted to M/s Ferrous Infrastructure Pvt Ltd do not take into account all the ground realities especially the fact that they have

further sold about 3 acres land to M/s Zion Promoters. Unless department recognised this ground reality, they cannot be granted completion certificate. Since there is doubt regarding grant of completion certificate to successor companies, Authority cannot authorise them to sell apartments which may jeopardise interests of allottees in future also.

- (vi) Authority has repeatedly recommended for bifurcation of licensed land in accordance with ground realities. Rightly or wrongly, original licensee company has sub divided the project land into six parts and one of the successor companies M/s Ferrous Infrastructure has further alienated three acres land to M/s Zion. The fact, therefore, is that there are seven successor companies. Unless this fact situation is recognised by Town and Country Planning Department all successor companies can face legal hurdles in future and may not get completion certificates.
- (vii) Against the recommendation of division of license, Town & Country Planning Department has granted "Joint Development & Marketing Rights". Implication of the concept of "Joint Development and Marketing Rights" has not been elaborated in the policy. Whether holder of such rights substitutes the licensee for all intents and purposes including for the purpose of obtaining completion certificate needs to be clarified. Provisions of Real Estate (Regulation and Development) Act, 2016 mandates that promoter who execute agreement with an allottee is

obliged not only to deliver completed apartment free from all encumbrances but also execute conveyance deeds in favour of the allottee; and in respect of common areas in favour of association of allottees. It is not clear whether holder of Joint Development Rights will be eligible to also obtain completion certificate. Further, whether a holder of such rights can execute conveyance deed of the apartments as well as of the common areas.

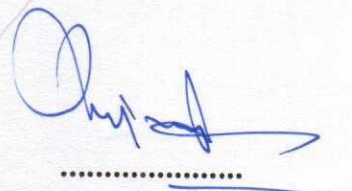
- (viii) In the light of the foregoing observations, Authority considers that the application being pressed for by learned counsel Shri Sourabh Goel is not possible to be processed further in isolation from other developers of the project. Necessarily, all six parts of the project divided by original licensee, and 7th part created by M/s Ferrous Infrastructure Pvt. Ltd. in respect of Zion Infrastructure Ltd, will have to be taken up together. Such parts, necessarily, therefore have to be first recognised by Town & Country Planning Department. Individual and separate plans in respect of each project have to be approved. It has to be clearly recognised that they will be entitled to apply for grant of completion certificate in respect of their respective portions. Further, original licensee M/s Maximal has to accept responsibility to complete common infrastructure facilities. It is only thereafter that individual applications for registration of the projects are possible to be considered by Authority. Registration of one project in isolation from this will create further confusion.

(ix) Authority reiterates its views expressed on numerous occasions that policies of the State should be liberal in nature. They must recognise ground situation. Department has approved various plans of overall project in a manner so as to facilitate sub division of the project and their development by five different companies. Authority would once again reiterate and recommend that a committee of senior officers should be constituted to understand the ground situation and make recommendation for a creative solution to the problem. If it is not done, future of the nearly 2000 allottees will remain jeopardised and faith of ordinary people in the system will be shaken.

8. A copy of this order be sent to the Secretary to the Government Haryana, Town & Country Planning Department as well as Director, Town & Country Planning Department, Haryana for appropriate action.

9. Applicant promoters may submit their written replies to above observations which will be taken into consideration by the Authority on the next date of hearing.

10. Adjourned to 03.10.2022.


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RAJAN GUPTA
[CHAIRMAN]


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DILBAG SINGH SIHAG
[MEMBER]