



HARYANA REAL ESTATE REGULATORY AUTHORITY, PANCHKULA.

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Extract of the minutes of the 42nd Meeting of Haryana Real Estate Regulatory Authority, Panchkula (HRERA, PKL) held on 18.02.2019.

Item No. 42.8

iv. Promoter - Dhingra Jardine Infrastructure Pvt. Ltd.

Project - "California Country" Group Housing Colony on land measuring 10.38 acres situated in Sector-80, Faridabad.

Chief Town Planner drew attention of the Authority towards its proceedings of the previous meeting dated 11.02.2019, when this application for registration of the project was considered. Various papers submitted by the applicant and the information placed on record was perused. Verbal submissions made by Shri Manveer Singh Oberoi and several other persons who called themselves allottees or members of an association formed by the allottees were heard.

2. After the hearing, before the Authority could announce its decision, a commotion and indiscipline was created by certain individuals who tried to disrupt the functioning of the Authority, therefore, it was decided to lodge an FIR against those individuals for disrupting the lawful functioning of the Court.

3. On consideration of the application for registration of the project, the Authority observes as follows: -

i) That a license was granted by the Town and Country Planning Department, Haryana to M/s BVM Projects Private Limited for development of a Group Housing Colony on land measuring 10.38 acres in Sector-80, Faridabad. Said license was granted on 13.04.2007.

ii) That the licensee M/s BVM Projects Pvt. Ltd. entered into a collaboration agreement with M/s Echo Estates (P) Ltd. for undertaking development works with the conditions that the developer will incur all the expenditure and in lieu of land and license, 10% of the built up area shall be allotted to the land owner/licensee.



- iii) Later on, M/s Echo (P) Ltd. was re-named as Dhingra Jardine Infrastructure Pvt. Ltd. One Shri Varinder Dhingra was Director and major share holder of the company, who as per the statements made by some allottees, ran affairs of the company single handedly. Shri Varinder Dhingra unfortunately expired in April, 2018. No information has been submitted regarding succession of the shares of the Sh. Virender Dhingra. An information has been submitted on the side of the complaint jurisdiction of this Authority that his children are following the matter for succeeding to the share holding of Shri Varinder Dhingra Deceased Director.
- iv) That the total project is comprised of 687 No. of apartments out of which 656 No. have been sold/booked. Reportedly about 60 % of construction work has been carried out. Different towers are at different stages of construction.
- v) Most of the allottees were allotted apartments by the year 2006-2007 against which the possession was to be delivered mostly by the year 2011-2012.
- vi) The construction work of the project is at stand still for the last about six years. Many allottees have filed complaints before the Authority against the said project and their promoters but a concrete outcome could not be worked out because of death of the main promoter Shri Varinder Dhingra. A perusal of the record of certain complaints, more specifically complaint No.431 of 2018 reveals that a reply on behalf of the respondent has been filed but it is not clear who has filed the reply. The name of the signatory of the reply has not been revealed. A comparison of the signatures, however, reveals that it is not by the same person who had filed the application on behalf of M/S Dhingra Jardine Infrastructure Pvt. Ltd. A further fact has come to the notice that the signature of the Director Shri Binod Kumar Jha who is supposed to have signed the application for registration are totally different on his PAN Card. Interestingly all other documents have been filed by under similar signatures but without revealing the name of the signatory. Apparently, some mischievous person is forging the signatures of the Director Binod Kumar Jha.



- vii) This application for registration of the project has been filed by one of the Directors of the company namely Shri Binod Kumar Jha. There is a second Director in the company named Shri Ashok Kumar Trishal. As per record and as per the information available on the web-portal of Ministry of Company Affairs, (MCA) currently there are two Directors in the company. This application for registration of the project on 14.11.2018 is supposed to have been filed by Director Binod Kumar Jha. His signatures on the application however do not tally with the signatures on his PAN Card. Interestingly vide an undated letter placed at page-42 of the correspondence file states that the person signing as Shri Binod Jha is having two signatures. It is not understood how can a person can have two valid signatures. This fact too reveals that there is something wrong with the application.

The information available on the site of MCA reveals that 50% of the shareholders is one Shri Sanjeev Dhingra, 20% Smt. Rajni Dhingra and remaining 30% share are with Shri Virender Dhingra, deceased. There is no information available regarding re-constitution of the Board of Directors after the death of Shri Virender Dhingra. No filing of any kind is available on the site of the MCA since 2015. In these circumstances how was Mr. Binod Jha authorized by the Board of Directors to file this application is not clear. Furthermore, he is not coming forward to pursue this matter.

- viii) This application was filed in the office of the Authority on 14.11.2018. the matter there-after has been considered by the Authority on five different dates i.e. 26.11.2018, 2.1.2019, 21.1.2019, 11.2.2019 and 18.2.2019. Supposed signatory Director or any other Directors have chosen not to come before the Authority for perusing this application for registration of the project. This also gives rise to suspicion that this application has been filed by some unauthorized person in order to wrongfully take over the project. Without presence of both the Directors of the Company before the Authority this matter may not get clarified. The authority has given its detailed observations during each of the



hearings. The speaking orders on each of the earlier hearings shall be read as a part of this order.

4. Shri Manveer Singh Oberoi who is present before the Authority today requested for registration of the project. He presented the case of the applicants on the strength of being a holder of Power of Attorney. The said Power of Attorney was allegedly executed by Shri Varinder Dhingra who is now deceased. The Power of Attorney was perused by the Authority. It is nowhere stated that the said POA was executed on behalf of the company i.e. M/s Dhingra Jardine Infrastructure Pvt. Ltd. Even though Sh. Dhingra has recognized himself as a Director but it nowhere shows that he was acting on behalf of the company. From the said POA, it appears that it was executed in his personal capacity. Accordingly, as per law of the land after death of the executor of the POA, the document becomes invalid. Accordingly, Sh. Oberoi has no locus standi before this Authority to represent the applicant.

5. The Authority observes that as one of the Directors of the appellant's company has unfortunately expired, rest of the Directors should take charge and follow the prescribed procedure under the law and appoint a new management by holding General Body Meeting. Nothing of this sort has been done in the matter. If a duly appointed management of the company comes up before the Authority, their request can be considered in accordance with the provisions of the RERA Act, 2016.

6. It was stated by Shri Oberoi that majority of the allottees have entered into an agreement with him for completion of the remaining development work by paying additional amount of Rs.495/- per Sq.ft. Reportedly, under the arrangement Shri Manbir Singh Oberoi will also be authorized to sell the unsold inventory in the project.

7. Now in the absence of an authorized representative or the Director who has signed the application for registration the registration of the project cannot be allowed otherwise it will amount to handing over the project in the hands of an unauthorized person. The Authority will not handover the project to an unauthorized person. Only duly elected management of the company is competent to file and peruse the application for registration.



8. Today, during the process of hearing, some allottees who called themselves Members of Association of the allottees were present before the Authority. They were being lead by one Shri Vineet Handa, who is probably a Sub Contractor engaged by Shri Manveer Singh Oberoi. While the allottees presented their case that they have invested their hard money in the project and are waiting for the delivery of possession for the last six years but they are being made to suffer mental agony as the developers is not developing the project and the Authority is not registering the project. They further stated that they have entered into an agreement with Mr. Manveer Singh Oberoi for completion of the project by paying an additional amount of Rs. 495/- per sq. ft to him. Accordingly, Mr. Oberoi seeks registration to complete the project on behalf of the purchasers, but practically it will amount to substituting Mr. Oberoi for the developer company i.e. M/s Dhingra Jardine Infrastructure Pvt. Ltd.

The Authority has no power to handover any project to any individual. The Authority however has power to handover the project to the association of the allottees by following the provisions of Section 8 of the RERA Act. The Authority is in the process to handing over certain projects to the Association, but before doing so, it has to ensure creditability and capability of the Association. Some interim orders in this regard have been passed in complaint case No. 388/2018, 386/2018, 389/2018 (Aditya Bhargava Versus M/s Piyush Buildwell Pvt. Ltd.). So that the interest of the allottees is eventually safeguarded, the allottees of this Project may invoke complaint jurisdiction of this Authority by forming an association of atleast 2/3rd of the allottees. The Authority thereafter will guide them through the process of taking over the project. The manner in which supposed POAs, Shri Manveer Singh Oberoi is wanting to take over the project cannot be permitted by this Authority because his request is not supported by any provision of RERA or even general principle of the law of the land.

9. In the circumstances the Authority observes as follows: -

- (i) Only duly appointed Directors of the company are entitled to pursue this matter for registration of the project. Both the Directors should appear personally before the Authority to pursue this matter.
- (ii) In so far as the agreement between the allottees and Shri Manbir Singh Oberoi is concerned this Authority will have nothing to do with it. They



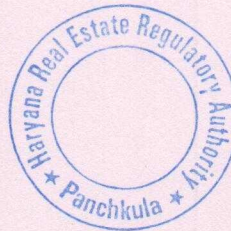
may however face difficulty in handing over the physical possession of the apartments to Shri Oberoi because they themselves may not be in a legal possession of the apartments. In the absence of legal possession having been handed over by the developer company to the allottees, they cannot pass on valid possession to Shri Oberoi.

- (iii) Apparently, Shri Manbir Singh Oberoi has no locus standi to present himself before this Authority. Even the allottees may not have any Authority to press for registration of the project along with granting the rights of development to Mr. Oberoi.
- (iv) This Authority however, is duty bound to protect the interest of the allottees, therefore, two third allottees may form registered association and file a separate application by invoking the complaint jurisdiction of this Authority for taking action under Section 8 for handing over the project to the association of allottees. It is made clear that even after handing over of project to the allottees, they will have all the rights to complete the project but they cannot at their own level sell the unsold inventory.
- (v) As per agreement 10% of the built up space has to be allotted to the land owner licensee. As per statement 656 apartments out of 687 have already been sold/booked. Whether 10% of the inventory has already been allotted to the land owner licensee has not been clarified. In fact, then the remaining inventory is not sufficient to fulfil this requirement of the agreement. In these circumstances it is also necessary to hear the land owner licensee.

10. In the above circumstances this application, does not appear to be good enough for grant of registration of the project with the Authority. It is accordingly liable to be rejected with a liberty to file a better application by the duly appointed management of the company. Now in exercise of the provisions of Section 5 of the RERA Act Shri Binod Jha the applicant and the second Director Shri Ashok Kumar Trishal are directed to appear



before this Authority on 18.03.2019. The Land owner/ licensee M/s BVM Project Pvt. Ltd. is also directed to appear to clarify certain issues listed above. If they fail to appear this application will be rejected and 5% of the fees deposited by them shall be forfeited.



True copy

Executive Director,
HRERA, Panchkula

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