



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 26.07.2023.

Item No. 220.39

(viii) Promoter : Maximal Infrastructure Pvt. Ltd.

Project: "Maximal" - Group Housing Colony on land measuring 20.189 Acres in Sector-89, Faridabad.

Temp ID : RERA-PKL-587-2019

AND

(ix) Promoter: ORS Infrastructure Pvt. Ltd.

Project: "Royal Residency" - Group Housing Colony on land measuring 3.456 acres (FAR measuring 35,355 Sq.Mts.) (part of 20.189 acres) in Sector-89, Faridabad .

Temp ID: RERA-PKL-625-2019

Present: Sh. Sourabh Goel, Counsel on behalf of applicant via online video conferencing.

AND

(x) Promoter : Heritage Cottages Pvt. Ltd.

Project : "Ozone Square Zone-E & EWS" - Group Housing Colony on land measuring 2.064 acres(FAR measuring 21135.94 Sq. Mts.) (part of 20.189 acres) in Sector-89, Faridabad .

Temp ID : RERA-PKL-633-2019

Present: Shri Sourabh Goel, Counsel on behalf of applicant via online video conferencing, Sh. Parveen Khurana Director of Company and Sh. Akhil Mahajan, President of Heritage Cottage Homebuyers Association and Adv. Deepak Aggarwal on behalf of Maximal Infrastructure Pvt. Ltd.



1. The matter was previously considered by the Authority on 12.06.2023 and following directions were passed:

- i. *In the application filed for registration of project by M/s Maximal, no information whatsoever has been submitted. They have not paid the requisite registration fee. The Authority therefore decides to return the application filed by M/s Maximal Infrastructure Pvt. Ltd.*
- ii. *Before considering grant of registration certificate to M/s ORS Infrastructure Pvt. Ltd. and M/s Heritage Cottages Pvt. Ltd. following observations are conveyed:*
 - a) *A comprehensive resolution plan regarding completion of project be submitted having relevant information such as but not limiting to date of completion, expenditures to be made in each quarter, funds for completion of project and for discharge of the statutory obligations.*
 - b) *Timelines within which the applicants undertake to submit all statutory approvals. Expenditure to be made in each quarter needs to be mentioned till date of completion of project.*
 - c) *Fresh REP-II i.e. Affidavit-cum Declaration needs to be submitted.*
 - d) *M/s Maximal to submit details of the units sold by it along with details of the allottees, amounts collected from the allottees against sale of those units, account details/statements of the bank in which the amount were received, and affidavit if any such amounts were used by it towards the construction of the project. Details of amount paid as EDC & IDC from the payments collected by M/s Maximal from sale made by them.*
9. *After compliances of aforesaid observations Authority will consider registration of the projects of ORS and Heritage. In the meantime M/s ORS Infrastructure Pvt. Ltd. and M/s Heritage Cottages Pvt. Ltd. are also directed to file their response/rejoinder to the application filed by M/s Maximal Infrastructure Pvt. Ltd. today, copy of which was supplied to Sh. Saurabh Goel, Ld. Counsel.*

2. On the last date of hearing i.e. 17.07.2023, Authority took on record the documents filed by ORS and Heritage on 12.07.2023 and observed that since no one has appeared on behalf of Maximal therefore the matter will be heard on 24.07.2023.

3. Today, Adv. Deepak Aggarwal on behalf of Maximal asserted that no intimation was sent to them regarding the preponement of hearing to 17.07.2023. It is pertinent to mention that as a matter of practice fresh dak as and when received is placed for information of the Authority in its following meeting which is held every Monday. However, in the instant case before listing the matter on 17.07.2023 all the parties (including Maximal) were informed through email on 14.07.2023 to join the hearing on 17.07.2023. However, the email sent to Maximal was received back undelivered. Therefore, today Authority directed Maximal to update their email address.



4. Subsequently, C.M. No. 11457-59 of 2023 in C.W.P No.12971 of 2023 filed in Maximal Infrastructure Pvt. Ltd. v. State of Haryana & Others was listed before the Hon'ble High Court on 24.07.2023 and Adv. Ankur Mittal was briefed that though the case was listed on 17.07.2023 but no decision was taken. However, this fact could not be brought to the knowledge of the Hon'ble Court correctly and in the orders dated 24.07.2023 it has been observed by the Hon'ble High Court that the matter was preponed and decided on 17.07.2023.
5. Today, Authority considered the replies filed by Maximal, ORS and Heritage. Maximal vide reply dated 19.06.2023 has informed that DTCP vide orders dated 07.03.2022 has only granted Joint Development Rights to ORS and Heritage. It is contended that since Maximal has not issued any NOC to Heritage and ORS and that the development agreement and GPA in favour of them also got expired in 2010 and subsequently cancelled in 2016, therefore, Maximal has the right to develop and market the project jointly with ORS and Heritage. Maximal submitted that DTCP's order will not be adhered because the conditions which are imposed by DTCP have not been agreed or consented by them.
6. That the letter issued by DGTCP dated 07.03.2022 granting Joint Development and Marketing Rights to ORS and Heritage has been challenged by Maximal by way of CWP 12971-2023 before Hon'ble Punjab and Haryana High Court and the case is now adjourned to 10.10.2023.
7. Further, a reference has been made to the judgment of Hon'ble Supreme court, Ghanshyam v. Yogendra Rathi in Civil Appeal No. 7527-7528 of 2012, wherein the Hon'ble Court has held that recognizing GPA to be documents of title or documents conferring right in any immovable property is in violation of the statutory law.
8. MIPL also submitted that the cancellation/termination of the development agreement along with Power of Attorney was never challenged by the ORS and Heritage before any competent jurisdiction till date and thus cancellation/termination of the development agreement and GPA has attained finality.
9. Maximal asserted that the requirements of Section 4 (2)(I)(B) have not been fulfilled by ORS and Heritage in their application for registration and after termination of development agreement and GPA, charge/lien has been created by Maximal on 77 and



160 unsold flats of the projects in question. A list of allottees of 160 units and 77 units allotted by Maximal post cancellation of agreement and power of attorney have also been enclosed.

10. Further, the applications for registration filed by ORS and Heritage are not fulfilling the mandatory requirements of Section 4 of the RERA Act 2016, mainly pointing out to the Ownership of the land, a valid sanctioned plan, land free from encumbrances and plan of development works. The applicant ORS and Heritage cannot be sanctioned building plans as the applicants do not have ownership document which is a mandatory requirement of Haryana Building Code, 2017.
11. Vide reply dated 12.07.2023 applicants ORS and Heritage submitted that Hon'ble Supreme Court in its orders dated 24.04.2020 had categorically observed that Maximal has sold the entire FSI of 48.03 acres and out of which 3.456 acres (FSI of 5 acres) have been sold to ORS and 2.06 acres (FSI of 3 acres) to Heritage.
12. The applicants ORS and Heritage have submitted the resolution plan regarding the completion of project Royal Residency and Ozone Square respectively. Both the applicants have submitted Revised Quarterly Schedule and duly revised REP II showing the date of completion as 23.01.2025 for their respective projects.
13. On 17.07.2023, Adv Sourabh Goel counsel on behalf of the applicant ORS and Heritage submitted that the details of unsold inventory submitted by Maximal is false and baseless. Maximal Infrastructure Pvt Ltd had not disclosed about the alleged allotment of 77 and 160 units either before HRERA in earlier proceedings nor before DGTCP, nor before the Hon'ble Supreme Court or even before the Hon'ble High Court of Punjab and Haryana. Further, no payment has been received by Maximal with respect to this unsold inventory.
14. On being asked by the Authority as to how the conveyance deeds will be executed and interest of the allottees will be secured, Adv. Sourabh Goel assured that the applicants ORS and Heritage are ready to undertake all the liabilities of the Town and Country Planning Department qua their share. He also submitted that on the basis of irrevocable power of attorney, the applicant is fully empowered to execute the registry in favour of the allottees.



15. Sh. Akhil Mahajan, President of Heritage Cottage Homebuyers Association, submitted a resolution dated 19.07.2023 passed in the zoom meeting by the allottees of Heritage Cottage Homebuyers Association resolving that they are aware of the registry issue which can be tackled later on as per the directions of department who has given the beneficiary rights and requested to grant RERA registration to the project Ozone Square.

16. The applicant MIPL in furtherance of para no. 8 (ii) (d) of the order of the Authority referred above vide reply dated 21.07.2023 submitted balance sheet stating that booking received has been duly shown.

17. Today, Adv Deepak Aggarwal on behalf of Maximal submitted a copy of CM No. 11457-59 in CWP No.12971-2023 filed by them in the Hon'ble Punjab and Haryana High Court requesting the Hon'ble Court to prepone the hearing in CWP 12971 of 2023 and staying the creation of 3rd party rights. He further submitted the orders dated 24.07.2023 of the Hon'ble Punjab and Haryana High Court passed in CM No. 11459 in CWP No.12971-2023 directing,

"that the interim order passed earlier regarding not-creating third party right would necessarily have to be enforced, till the next date of hearing i.e. 10.10.2023".

He made reference to the orders of the Authority passed vide Item No. 167.16 dated 10.03.2022 when the matter of registration was adjourned taking note of the orders of Hon'ble High Court passed in CWP 4383-2022 directing that "no 3rd party interest henceforth would be created by the respondents".

18. Keeping in view the interest of the allottees who have invested their hard earned money and still running post to pillar to get their units. Authority was previously inclined to grant registration to ORS and Heritage. However, taking note of the orders of Hon'ble Punjab and Haryana High Court and the pending dispute between the parties the Authority decides to adjourn the matter sine die till the final decision of the Hon'ble High Court.



True copy

Executive Director,
HRERA, Panchkula

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