



HARYANA REAL ESTATE REGULATORY AUTHORITY, PANCHKULA.

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Subject: Extract of the resolution passed by the Haryana Real Estate Regulatory Authority, Panchkula in its meeting held on 29.07.2019.

Item No. 62.7

(ii) Promoter : Heritage Cottages Pvt. Ltd.

Project : "Ozone Square (Zone E & EWS)" Group Housing Colony on FAR measuring 21135.94 Sq. Mts. situated in Sector-89, Faridabad.

1. This is an application received from M/s Heritage Cottages Pvt. Ltd. for registration of a colony named "Ozone Square (Zone E&EWS)" being developed in Sector-89, Faridabad. This is part of a larger colony for which license Nos. 34, 35 and 36 were granted by the Town and Country Planning Department for development of a colony measuring 48.038 acres to the licensee M/s. Triveni Ferrous Infrastructure Pvt. Ltd. The licensee sold all development rights to the five different companies one of them being the present applicant and retained no area with them for construction of apartments, shops or plots.
2. By way of agreement dated 18.02.2008 executed between the licensee and five developer companies, development rights equivalent to 21135.94 Sq. Mtrs. were sold to the applicant M/s Heritage Cottages Pvt. Ltd. for a consideration of Rs. 9,20,31,356/-. As per agreement, entire consideration amount was paid on or before the date of execution of the agreement. After having paid the full consideration, the applicant became full owner of the said FAR, along with rights to sell the apartments. The applicant's company commenced development work of the colony. 232 apartments were to be constructed out of which 125 have been sold. It has been claimed that nearly 80% construction work is also complete. As per



information given by the applicant, about 35.59 crores were to be collected from the 125 allottees, against of which Rs. 27.84 crores have already been received and Rs. 7.75 crores remains to be received.

3. As per the proforma REP-I, Part CX, Rs. 34.53 crores have been invested on the project. The statement further shows that another Rs. 28 crores may have to be invested for completion of the project. Even though, the applicant has claimed in Proforma REP-1, Part-C that 80% construction work is complete. However, keeping in view the quantum of expenditure incurred so far, the actual completion appears to be of the order of 60%.
4. The Authority in Suo-Moto Complaint No. 245 of 2019 had appointed a Local Commissioner to visit the site and give his report regarding status of construction. Report of the said Local Commissioner is still awaited. Actual status of construction work report will be seen from the report of the Local Commissioner. Ld. Chief Town Planner may collect requisite information and submit to the Authority on the next date of hearing.
5. It is important to note that in Part-C of proforma REP-I, the applicant has written that internal development work shall be done by the licensee company as per the agreement. Further, complete EDC and IDC and infrastructure charges have been paid by the licensee company at the time of executing the agreement.
6. After consideration of the matter and in view of the averments made in the application by the applicant, the Authority observes as follows:-
 - i) That after executing the agreement dated 18.02.2008, the applicant M/s Heritage Cottages Pvt. Ltd. became owner and developer of the purchased FAR amounting to 21135.94 Sq. Mtrs. The applicant thereafter commenced marketing of the project and sold 125 apartments to the allottees and collected the money from them.
 - ii) So far as, the allottees are concerned, M/s Heritage Cottages Pvt. Ltd. is the only developer of the project and the allottees have nothing at all to do with the licensee. The allottees could not be aware of the terms of agreement executed between the licensee and the applicant. Therefore, all



obligations towards the allottees have to be discharged by the applicant/developer and he cannot take shelter of the private agreement made between the licensee and developer. Accordingly, all infrastructure facilities also have to be provided to the allottees by the developer. Accordingly, while the applicant may pursue any legal remedy available to him under the law of the land against the licensee but that cannot come in the way of discharging contractual the responsibilities towards the allottees of the project. The allottees have paid almost more than 75% of the cost of the apartment to the applicant. They are entitled to get possession of the completed apartment along-with functional infrastructure facilities. It is the responsibility of the applicant to discharge his obligation towards the allottees. In case the licensee is not fulfilling its obligations, the applicants may resort to any legal recourse indemnified.

7. It is noteworthy that over all layout plan and other development plans for whole of colony were approved by the Town and Country Planning Department Haryana. The licensee wrongfully has divided the license amongst the five developer companies without seeking approval of the department. To that extent, the licensee has committed violation of law and conditions of license, and he will have to answer to the department for that. The Authority observes that as a condition of the license, the progress of the colony has to be monitored by the department on periodical basis. The licensee and the developer companies divided the project and stopped development works of the project at their own level and the department did not monitor its progress resulting in all these problems.

8. Admittedly, the licensee has violated every law in the book. The department may proceed against the licensee in a suitable manner, but due consideration must be given to protect the interest of gullible allottees who on the faith of the license granted by the State, purchased the apartment in the colony and are now suffering for the last more than 10 years. Real Estate Regulatory Authority has been enacted by the Parliament to resolve all situations by exercising powers conferred upon it. The Authority has been empowered to issue suitable directions to all concerned parties including departments of the State Government, for taking such actions as are considered just and fair for protecting the interest of the allottees and for getting the real estate project completed.



9. The Authority is of the view that action on the following lines should be taken: -

- i) The developers/applicants should consider their part of colony as a separate and independent colony from rest of the land of the license. They should prepare layout plan for providing infrastructure facilities in their part and for connecting those facilities with the external services of the State Government/HSVP. They should submit these plans to Town and Country Planning Department for approval. The estimate of the expenditure likely to be incurred should also be intimated to the department.
- ii) Since the matter is already delayed by more than a decade, it would be expected from the department that plans to be submitted by the developers/applicants are examined expeditiously.
- iii) Keeping in view the facts of this case, and findings of this Authority in Complaint No. 772 of 2019 titled as Rakesh Bangay & Others Vs Heritage Cottages Pvt. Ltd. it is observed that this project is facing complete legal hurdles. Those problems are not likely to be resolved in the near future.

Therefore, in the interest of allottees, this project of the applicants should be considered an independent project, separate from the rest of the project of the license. Further, beneficial rights should be transferred in favour of the applicants/developers. The department however, in view of the facts of the case, may impose any other condition as it consider appropriate while approving transfer of beneficial rights in favour of the applicants.

10. The applicants should also submit timelines for completion of the project. The time line to be prepared should be discussed with all the existing allottees of the project by convening a meeting at the site of the project.

11. Chief Town Planner shall send a copy of the order to the applicants as well as to the Town and Country Planning Department for necessary action.



12. Adjourned to 09.09.2019.

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.

 5/8/19. LA(Jaun)