



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 06.11.2019.

Item No. 72.11

(viii) Promoter : Parsvnath Developers Ltd.

Project : "Parsvnath City Karnal" a Residential Plotted Colony on land measuring 81.136 Acres in Sector-35, Meerut Road, Karnal.

1. In furtherance of the order of the Authority dated 14.10.2019, it was stated by Shri Amreek Singh, Senior Town Planner (STP), Panchkula Circle that the promoter had filed an application for renewal of the license along with a request for adjustment of the license fee from certain other projects of which the licenses have been surrendered. The request of the promoter has been considered sympathetically by the department and suitable recommendation was sent to the State Government for permitting adjustment of fees. Shri Amreek Singh stated that orders of the State Government are likely to be received in due course. It was further stated by the STP that promoter is yet to file an application under EDC Relief Policy and is yet to deposit a sum of Rs. 10.50 crores with the Town and Country Planning Department for availing the benefits under the relief policy.

2. In furtherance of the direction dated 14.10.2019 of the Authority, the promoter has also not deposited Rs. 5.00 crores in the escrow account for completing remaining works of the project. Shri Sanjeev Jain, Managing Director of the promoter company stated that they are in a position to offer the possession to all the allottees within 60 days after completing the remaining works. Majority of the allottees, can be offered possession immediately. He stated that possession is not being offered to the allottees because of non-renewal of the license which in turn



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has not been renewed for want of deposit of Rs. 10.50 crores for availing the EDC relief policy and non-approval of revised layout/demarcation plan.

3. Keeping in view the above submissions, it is ordered as follows:-
- i) Large number of plots of the project have already been sold and the allottees have deposited almost entire consideration amount, as such strong third party interest have been created in the colony. The allottees of the colony are awaiting for possession of their plots from many years. It has been ruled by the Authority in the case of Dwarkadhis bearing Registration no. HRERA-RWR-105-2019 dated 21.05.2019 that renewal or otherwise of the license is a subject to be dealt with between the promoter and the department after creation of substantial third party interests. Delay in renewal of the license should not adversely affect the rights of the allottees. Relevant part of the said orders dated 09.05.2019 passed by this Authority in the Dwarkadhis case is reproduced hereunder:-

“vi. *At this point of time, the Authority is considering it appropriate to analyze the theory of granting of license to a project and its renewal from time to time.*

A piece of raw land becomes a project after grant of a license and approval of building plans by the State Government. Granting of license and approval of plans pre-supposes that the builders has paid all the dues and also complied with all prescribed terms and conditions as per law/ rules/ guidelines framed by the State Government from time to time. Accordingly, after receipt of license and approval of plans the developer become fully entitled and authorized to launch the project and seek booking from prospective allottees.

The allottees pay their hard money for the developers' licensed colony with duly approved plans. The licensed and approved plans were thus attained the status of an assurances of the State Government. This assurance given by the Town and Country Planning Department a sovereign assurance to the public. A sovereign assurance granted to the allottees cannot be amended, altered or re-structured in any manner with retrospective effect or without appropriate Authority of law of the legislature grant of license and approval of plans becomes a commitment of the State Government to the allottees that they will get the apartment in terms of the agreement as



per the approved plans. It also implies guarantee of the safety of their investment.

vii. *Now, after creation of 3rd party interests, the license and the development plans becomes irrevocable. It is possible that the developers becomes defaulters in payment of EDC, license fee etc. to the State Government but to enforce the payment of such over-dues, the State Government is entitled to adopt any lawful means to recover the said over-dues but it cannot implicitly or explicitly imply that the license of the sanctioned project would be withdrawn/withheld/ altered. In other words, the State Government is entitled to recover its over-dues by attaching any property of the developers or by filing civil suit or by attaching unsold or undeveloped portion of the project third party rights are not created but the project in respect of which third party rights have been created goes out of the powers of the State Government except for the purpose of granting occupation certificates at the relevant stage or for ensuing that development has been done in accordance with the approved plans, etc. The State Government cannot withhold renewal of license of a project in respect of which third party rights have been created. The Authority is of considered opinion that in the event of delay in renewal of license on the part of the State Government, the Authority cannot and should not withhold grant of registration because banks and financial institutions will not finance an apartment in a project which has not been registered with the Authority. Thus, a project which is otherwise being developed as per plans cannot denied registration if tis delay is being caused in renewal of its license."*

ii) In accordance with the above principle, the Authority directs the promoter to start offering possession of the plots to the allottees after approval of revised layout/demarcation plan and after completing requisite infrastructure works.

4. Shri Jain, Managing Director stated that they could not offer the possession to all the allottees because the Town and Country Planning Department has not yet approved their revised demarcation plan of the colony. Said revised plan was submitted to the department in the year 2015 but the same has not been approved only for the reason that one of the allottees had filed a complaint in the department that the promoters had sold the plots by pre launching the project. Taking cognizance of the said complaint, Town and Country Planning Department has imposed a penalty of Rs. 4.00 crores upon the promoters by assuming that the entire colony had been advertised for pre launching i.e.



launching before obtaining the license. Shri Jain stated that the department has wrongly imposed the said penalty on the basis of a single frivolous complaint filed to infame them. He also stated that against the said penalty, they have filed a representation before the department for reconsideration of their decision. The said representation is pending consideration in the department since February, 2017 i.e. for the last more than 2 ½ years.

5. The Authority observes that the department has to bear in mind that each of their decision/lack of decision affects hundreds of allottees. While dealing with a sold colony, the department not only deals with the promoter but also decides the fate of hundreds of allottees. Such decision cannot be kept pending for such a long period of time. It has to be understood that for such delay, the allottees are entitled to get the delay compensation. If the delay is caused by department for no good reasons, would the State Government pay compensation to the allottees? Surely, the promoter can plead Force-majure conditions because the delay had been caused for the reasons beyond his control.

6. Accordingly, the Authority directs that the department should decide the representation of the promoters within a period of 30 days. A copy of this order be sent to the department for early action.


7. The Authority further observes that 'in principle' approval of the revised layout/demarcation plan has not been granted only for the reason of non-payment of penalty imposed by the department. It is ordered that department should convey its views regarding the approval of the revised layout plan already submitted by the promoters so that pending rest of the disputes between them and the promoters, possession could be offered to the allottees. If the pending issue is only in respect of non-payment of the penalty, on the next date, the Authority will issue orders to the promoters for handing over the possession on the basis of in-principle approved demarcation plan. The department should express its views on this course of action proposed by the Authority.



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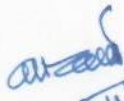
8. It is expected from the department that they will resolve all the issues listed above for renewal of license and approval of demarcation plan before the next date of hearing.
9. The Authority further considers it appropriate to order the promoters to deposit the entire amount hence forth to be received from the allottees in an escrow account and the entire amount so received shall be transferred to the State Government towards payment of overdue EDC. If the promoters wishes to use some portion of the money collected in the escrow account for investment in the project, they may apply to the Authority from time to time and the Authority will take its decision as per given facts and circumstances.
10. Case is adjourned to 23.12.2019.

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.




11/11/19 LA (Devya)

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