

**BEFORE THE CHAIRPERSON, REAL ESTATE REGULATORY
AUTHORITY, PUNJAB**

Complaint No.62 of 2018

Date of Decision 25.09.2018

M/s APS International Pvt. Ltd. through Mr. Ravi Kant Sawhney,
Deputy General Manager of M/s APS International Pvt. Ltd., B-XXX-
891, Near Mothu Ram Pump, Sherpur, Ludhiana.

....Complainant

Versus

Emaar MGF Land Limited, 306-308, 3rd Floor, Square One, C-2,
District Centre, Saket, New Delhi

2nd address:-

Emaar MGF Land Private Limited, 40, Ground Floor, Central Plaza,
Sector 105, Mohali 160062

.... Respondent

Present : Ms. Kashika Kaur, Advocate with Shri Ravi Sahni, DGM for
complainant

Ms. Nahrika Sharma, Advocate for respondent.

ORDER

The present complaint has been filed under Section 31 of the
Real Estate (Regulation and Development) Act, 2016 read with Rule
36 of the Punjab State Real Estate (Regulation and Development)
Rules 2017. The basic contention is that the promoter had developed

been allotted an apartment in this building. The complainant had filed a complaint before the Adjudicating Officer on 27.10.2017 pointing out that an Agreement to Sell has been executed between the parties on 29.02.2008 and a sum of Rs.1.01 crores had been paid to the respondent. The possession of the unit was to be delivered within a period of 36 months from the date of the Agreement. But it had not been delivered till the filing of the complaint. Accordingly the complainant had sought refund of the amount paid to the respondent along with interest and compensation. Vide his order dated 05.04.2018, the Adjudicating Officer dismissed the complaint on the ground that Tower 'K' was not registered with this Authority. In doing so he followed the decision of the Authority in '*Bikramjit Singh and others versus H.P. Singh and others*' (Complaint No.3 of 2017 decided on 13.12.2017).

2. The present complaint arises out the dismissal of the original complaint by the Adjudicating Officer. It is contended in the current complaint that the respondent was liable to register the entire project including Tower 'K', with the Authority and in omitting to do so had violated Sections 3 and 4 of the Real Estate (Regulation and Development) Act, 2016. Thus violation was liable to punishment under Sections 59 and 60 of the Act. The relief claimed is the imposition of penalty as well as moving the appropriate forum for imposing the punishment of imprisonment.

3. In the reply submitted on behalf of the respondent, it has been pointed out that Tower 'K' could not be said to be ongoing project on

in obtaining it had been on the part of the Greater Mohali Area Development Authority. The respondent could not be penalised for a default on the part of an agency of the State Government. It was further contended that in any case the respondent had applied for registration of the entire land 14.084 acres. This includes the area in which Tower 'K' stood, hence there was no intention to evade any statutory fee and liability on the part of the respondent.

4. When the matter was taken up for arguments, counsel for both the parties reiterated the contentions of the complaint and reply respectively. Complainant's counsel vehemently argued that there had been violations of the relevant provisions of the Act and respondents were liable to be punished. On the other hand, the respondent's counsel has denied any wrong doing and further pointed out that Tower 'K' has already been registered on 01.06.2018.

5. I have carefully considered the rival contentions and have perused the record of the case. The record relating to registration of entire project, and various Towers comprised therein, has also been examined. The facts that emerge are that on 13.09.2017 the respondent had applied for registration of Group Housing project called "Mohali Hills" over an area of 14.084 acres. Registration of the same was granted vide Authority's Memo No.RERA/2018/844-45 dated 26.09.2017. Subsequently, the Authority revised its format for issue of letters of registration, and a revised certificate was issued on 07.05.2018 in which it was specifically mentioned that the project comprised Towers 'F', 'L' and 'H' having 136, 104 and 148 units

submitted that Partial Completion of Tower G and J had been received in August 2014 and June 13 respectively, while for Tower 'K' it was received on 02.08.2017. Hence, though the 3 towers were not liable to be registered the respondent would not object if these 3 Towers were also included in the registration certificate. Thereupon a revised certificate was issued vide Authority's Memo No.RERA/2018/411 dated 01.06.2018 in which all 6 Towers comprising a total of 696 units were included. It may be noted that respondent's contention regarding Tower 'K', is not correct since the Completion Certificate relating to it was issued only on 02.08.2017 after the commencement of Act and it therefore is liable to be registered.

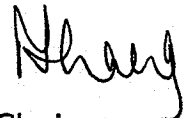
6. The above narration of facts show that Tower 'K' is now registered with this Authority as such the main contention in the complaint is now devoid of any substance. The question, however, remains whether the respondent is liable for imposition of penalty on account of delay in applying for registration?

7. Having carefully considered the question, I am of the view that this is not a fit case for imposition of penalty. As already noted, the respondent had applied for registration of the entire area of 14.084 acres including the land on which Tower 'K' was situated, and hence there was no intention to evade any fee. Even though some of the Towers had been completed in the years 2013 and 2014, the respondent has also now submitted these for registration, meaning thereby the allottees of the units in these Towers can also take recourse to safeguards provided under the Act. Finally, it is true that

cases of this nature before the Authority and it cannot be held that the respondent alone was remiss in following this line of reasoning. Thus there does not seem to be any mala fide on the part of the respondent and imposition of penalty does not seem to be called for in this case.

8. As a result of the above discussion, this complaint is without merit and dismissed.

Announced.



Chairperson
Real Estate Regulatory Authority
Punjab