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Before Sh. J. S. Khushdil, Member
The Real Estate Regulatory Authority, Punjab, SAS Nagar (Mohali)

Complaint No. member, RERA 66/2018

Date of Institution : 18.04.2018

Date of Decision : 23.05.2018

1. Subedar Singh son of Sh. Chhanoo Singh, resident of #399, Chhalera Sector-44, Gautam Budh Nagar, Noida (UP).
2. Asha Yadav wife of Subedar Singh, resident of #399, Chhalera Sector-44, Gautam Budh Nagar, Noida (UP).

Complainants

Versus

M/s K. Soni Builder and promoters Private Limited having its registered office at SCF 13-14 Chajju Majra Road, Sector 126, Greater Mohali, Punjab.

Respondent

Present: Sh. Arun Sharma Advocate, representative for the complainants.

None for respondent

ORDER

1) Subedar Singh and Asha Yadav, complainants have filed this complaint in Form-M against the respondent alleging certain violations and contraventions on the part of the respondent. The case was at the initial stage i.e. for consideration of the point of maintainability of the complaint before this authority. Shri Arun Sharma, learned representative for the complainants suffered a statement on 16.05.2018 that the project

Sh. Arun Sharma
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to which this complaint relates is not registered with this authority.

2) I have heard the learned representative for the complainants at length on the point of maintainability of complaint and have gone through the documents on the file. The learned representative for the complainants has also placed on record the brief synopsis of his arguments, which I have taken into consideration.

3) It was contended by the learned representative for the complainants that under the Act or Rules, it has not been mentioned that for the point of maintainability of a complaint it is not the requirement of law that the project to which the complaint relates must be registered with this authority. The learned representative for complainants has also referred to the various provisions of the Act and also the Rules. It was also contended that this is the duty of the promoter to come to the authority to get his project registered as required under Section 3 of the Act, the violation of which entails punitive action under Section 59 of the Act. It was prayed that the proceedings in the complaint in the absence of the registration of the project may be continued and the relief sought for by the complainants may be granted.

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4) I have considered the submissions of the learned representative for the complainants in the light of the record as well as the provisions of the Act and relevant law on this subject.

5) This Authority has held in case of Bikramjit Singh and others, Complaint No. 3 of 2017 decided on 13/12/2017 that the complaint would not be maintainable in relation to the projects which are not registered with this Authority. This decision was further followed in the subsequent cases also. The Hon'ble Bombay High Court has further held in Judicial Pronouncement No. 2737 of 2017 dated 06/12/2017 in case of Neelkamal Realtors Suburban Pvt. Ltd and others that "the Authority concerned would be dealing with the cases coming before it in respect of projects registered under RERA". I have touched several points like maintainability etc. in my detailed orders passed in complaint cases titled as *Suman Mann and another Vs. JLPL and Nikhil Kawatra and another Vs. JLPL decided on 14.05.2018* and therefore at this stage I do not deem it appropriate to reproduce those points, which had been taken for consideration, to avoid the length of the order. Thus, in view of the totality of the above mentioned circumstances, I am of the view that the project, to which, this complaint relates is not registered one. Therefore, this complaint is not maintainable at this stage and the same is

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accordingly rejected. However, in the larger interest of justice, the complainants are given liberty to file fresh complaint, if so, advised in accordance with the law.

6) The promoter, however is required to get a real estate project registered with the Real Estate Regulatory Authority unless such promoter seeks exemption under this Act vis a vis under Section 3 of the Act. Thus, without getting the project registered no promoter shall advertise, market, book sell or offer for sale or invite persons to purchase in any manner any plot, apartment or building as the case may be. Therefore, it is required from the respondent promoter to get his project registered if the same is not registered. The promoter may be asked to get his project register or to explain as to why and how his project is exempted from the requirement of registration of the project under reference. A copy of the order be sent to the complainants. A copy of this order be also forwarded to the Secretary of the Authority for further necessary action against the promoter under law. The file be consigned to the record room after due compilation.

Dated: 23.05.2018

(J.S. Khushdil)
Member, 23/5/2018
Real Estate Regulatory Authority