

**BEFORE SHRI J. S. KHUSHDIL, MEMBER
THE REAL ESTATE REGULATORY AUTHORITY, PUNJAB
PLOT NO.3, BLOCK-B, FIRST FLOOR, MADHYA MARG,
SECTOR 18, CHANDIGARH.**

Complaint No. RERA-90 of 2018

Date of Institution : 13.06.2018

Date of Decision : 25.02.2019

President, RWA Silvercity Themes, Dera Bassi (Mohali), Regd. No.5056.

Complainant

Versus

Silvercity Housing and Infrastructure Ltd Zirakpur (Mohali).

Respondent

Present: Sh. B.K. Garg President of complainant with their
representative Shri Pankaj Chandgothia.
Shri Ved Parkash representative for respondent

ORDER

1. President, RWA Silvercity Themes (herein-after referred to as the complainant), has filed this complaint against the Silvercity Housing and Infrastructure Ltd (herein-after referred to as the respondent) alleging certain violations and contraventions on the part of the respondent.


2. Upon notice, respondent has appeared through its representative and filed written reply denying the averments of the complaint challenging its maintainability on the ground that the development works have already been completed and respondent has applied for issuance of completion certificate to the competent Authority and the project to which this complaint relates is does not require registration.

3. I have heard both sides on the point of maintainability of complaint and have gone through the documents on the file as well as additional written submissions furnished by the complainant.
4. It is an admitted fact that the project to which this complaint relates is not registered with this authority. Even the perusal of the written submissions made by the complainant, it is submitted that the complainants may be granted permission to pursue their alternative remedy if it is found that the complaint is not maintainable under the Act on account of non-registration of the project in question.
5. This Authority has held in Complaint No.03 of 2017- titled ***Bikramjit Singh and others Vs. State of Punjab and others***, 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 accordingly rejected. However, in the larger interest of justice, the complainant is 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 registered 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 complainant. A copy of this order be also forwarded to the Administrative Branch through the Secretary of the Authority for further necessary action against the promoter under law. Copy of this order be also placed before the concerned Bench on 19.03.2019 by the nominated officer/employee as per the decision taken in the meeting held on 29.11.2018 (for collecting documentary evidence against the defaulter promoters under Section 59 of the Act) under intimation to this Bench. The file be consigned to the record room after due compilation.

Dated: 25.02.2019


(J.S. Khushdil)
Member
Real Estate Regulatory Authority Punjab, 25/2/2019