

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,
1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,

3rd Cross, Mission Road, Bengaluru-560027

ORDER U/S 8 OF THE ACT

COMPLAINT No. CMP/201001/0006742

Dated: 8th November 2021

M/s. Unishire Spacio Association

.. Complainant

85/1. 85/2, Arakere Village

Bannerghatta Road

Bangalore-560 076

AND

M/s. Unishire Buildtech LLP & Ors.

.. Respondent

No.36, Railway Parallel Road, Nehru Nagar

Bangalore-560 020

Project Name : UNISHIRE SPACIO

Registration No. : PRM/KA/RERA/1251/310/PR/180516/001682

1. The Complainant is an Association of Allottees (AoA) with common interest in the project viz., Unishire Spacio, which was undertaken as a Joint Development Project between the land owners of the project and the Project Promoter viz., Unishire Buildtech LLP. By virtue of the Joint Development Agreement dated 27.05.2013, the land owners had entrusted the development of the project to M/s.Unishire Buildtech LLP.

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2. This project is stated to have commenced sometime in 2014. Since the project was incomplete as on the date of the commencement of the Act, the registration was obtained in 2017 with the completion date as 31.07.2020. The project was required to be developed into various types of residential apartments, totalling to 235, with an aggregate carpet area of 2,80,335 sq.ft.
3. The allottees of the project, in their capacity as an Association of Allottees (AoA) have filed a complaint before the Authority on 01.10.2020. It is stated in the complaint that there is no progress in the project implementation since February, 2017. The overall project progress was reported to be only 35%. The AoA has raised several grievances and serious concerns about the status of progress of the project as well as financial mismanagement on the part of the promoter of the project. This project is financed by a NBFC, namely, Altico Capital, which was also represented during the hearing proceedings. Altico Capital has also alleged that there is financial mismanagement on the part of the promoter of the company and consequently the project was not completed and the project lenders were exposed to the financial risks by the promoter of the project.

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4. As per the materials on record, the registration of the project has expired on 31.07.2020, without any progress in the project implementation during the validity of the registration, spanning over 3 year period from 2017 to 2020. A COVID Extension Certificate, extending the validity of the registration upto 30.04.2021 has been issued, but the promoter of the project has defaulted on the duties, obligations and conditions applicable to a registered project in certain important aspects such as achieving the requisite progress of the project and completion of the project within the stipulated time period.

5. The AoA has sought the following reliefs:

- (i) Authority to issue directions to divest the Respondent-Promoter/Developer-Promoter of its control over the project and to further issue appropriate orders for handing over of the project to the AoA u/s 8 of the Act and to facilitate further necessary action by the AoA to complete the project. A proposal to this effect is submitted by the AoA, which includes consent of the allottees as well as that of the land owners.
- (ii) Authority to order a forensic audit to enquire and investigate the utilization of the funds collected from the allottees of the project.

6. The promoter of the project has submitted its objections vide its written submission dt.06.04.2021 in respect of the issues raised in the complaint of the AoA. The gist of the objections are as under:

- (i) The promoter has questioned the locus standi of the Complainant Association as well as the cause of action.

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- (ii) The promoter has objected to the AoA's plea of revocation of the registration of the project, by contending that the promoter has neither defaulted on any count, nor violated any terms and conditions of the approval nor involved in any unfair practice or irregularity.
- (iii) The respondent-promoter has also objected to the proposal of the AoA to take over the project on the ground that substantial rights of the respondent-promoter are created in respect of the property of the project.
- (iv) The Respondent-Promoter has also denied any liability on account of delay in the completion of the project.

7. The Respondent-Promoter has filed one more set of statement of objections dated 21.04.2021, running into 30 pages and without providing a synopsis of the same. Several contentions have been raised, which do not have any direct bearing on the lack of any progress in the project implementation, since the date of registration of the project with this Authority in 2017. However, the salient points are as under:

- i. The statement of objections dated 06.04.2021 has been reiterated.
- ii. It is admitted in the statement of objections that the project land was mortgaged to an NBFC viz., Altico Capital and a secured loan was raised by the Promoter of the project. However, the extent of funds borrowed specifically for investing in this project on the basis of the said mortgage is not clearly explained. The requirement of utilizing the borrowed funds, from Altico Capital on the basis of the mortgage of the project land and assets, wholly and exclusively for implementation and completion of the project is also not explained.
- iii. It is also admitted that the Respondent-Promoter had entered into Agreements of Sale in the year 2013-14. It is further submitted that all the units falling to the share of the Respondent-Promoter have been sold.
- iv. It is contended that mortgage has not been created on the unsold units.

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- v. It is also admitted that construction work of the project was stopped in February, 2017 and attributed such stoppage of work to the alleged defective titles of the property. However, such contentions have not been substantiated.
- vi. It is also contended that the Promoter-Respondent has not diverted the funds pertaining to the project to any other purpose. However, such contentions are not substantiated with requisite certificates of progress of the project vis-a-vis the utilization of funds, as required u/s 4 (2) (l) (D) r/w Sec.11(1) of the Act. In view of this, the contentions of the Respondent-Promoter are not credible.
- vii. The Respondent-Promoter has submitted that it was subjected to several legal proceedings that were initiated against it on account of the business activities undertaken by it. Such submissions do not have any direct bearing on the duties and obligations of the Promoter of the project in ensuring completion of the project.
8. Materials placed by the AoA have been examined with reference to Sec.7 and 8 of the Act. As observed, the promoter of the project has achieved very little progress in the project, even after extending the timelines while registering the project with the Authority. The materials placed before the Authority by the AoA to the effect that the progress in the project is a mere 35% over the last 7 years is not challenged by the promoter-respondent with any reliable documents and submissions. The basic contentions and objections of the Respondent-Promoter were considered

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and thereafter proceedings of the Authority dated 26.07.2021 have been issued. The said proceedings have dealt with the reasons and justification for proposing to revoke the registration of the project in accordance with Sec.7 of the Act and more than 30 days time was also given to the Respondent-Promoter to file its objections, if any. The Respondent-Promoter has submitted its written submissions dated 25.09.2021 in the Office of the Authority on 27.09.2021. Further, the Authority has given adequate opportunity of hearing to the parties on 22.10.2021.

9. The Respondent-Promoter vide his written submission dated 25.09.2021 has contended that the Authority shall not revoke the registration of the project u/s 7 of the Act for the reasons stated therein. The gist of the submission dated 25.09.2021 is as under:

- (i) The issue of maintainability of the complaint is reiterated.
- (ii) Attention of the Authority has been drawn to the detailed written submissions dated 21.04.2021. Since the issues raised in the said written submissions are already taken into consideration in the foregoing paragraphs, the same are not repeated.
- (iii) It is also contended that the land owner being the co-promoter, it is not permissible for the land owner to be a part of the AoA.

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- (iv) The proceedings dated 26.07.2021 has not taken into consideration the objections filed by the Respondent dated 21.04.2021.
- (v) The date compiled by the Complainant's Association with regard to financial aspects is incorrect.
- (vi) There is no default attributable to the Promoter within the meaning of Sec.7 of the Act and therefore revocation of the registration of the Project is not called for.
- (vii) It is alleged that the reports appearing in the print and electronic media are incorrect statements attributable to the Complainants.

10. The objections and contentions raised by the Respondent-Promoter are dealt with as under:

- (i) The statement of objections dt.06.04.2021, filed by the respondent-promoter, have merely assailed the locus standi of the complainant AoA, but has not transparently addressed the issue of very little progress in the project completion. The stand taken by the respondent-promoter, in the statement of objections, has very little relevance with regard to the duties and obligations as a promoter to ensure timely completion of the project, scrupulously accounting for the amounts collected from the allottees and filing

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the statutory compliances with the Authority to establish its bonafides as a Promoter.

- (ii) The detailed statement of objections dated 21.04.2021 have essentially reiterated the objections dated 06.04.2021 and therefore the contention of the Respondent-Promoter that the detailed submissions dated 21.04.2021 is not considered by the Authority has very little relevance. Several issues which are extraneous to the duties and obligations of the Promoter have been incorporated in the statement of objections dated 21.04.2021 and therefore such contentions do not merit specific consideration of this Authority.

11. The final objections and contentions of the Respondent-Promoter in its written submissions dated 25.09.2021 pertain to maintainability of the complaint, non-consideration of the statement of objections dated 21.04.2021, incorrect presentation of financial data by the Complainant, ineligibility of the co-promoter to be a part of AoA, print and media reports which are adverse to the Respondent-Promoter and inadequate justification for revocation of the project registration given to the Promoter of the project. All these issues are dealt with as under:

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12. The contentions of the Respondent Promoter with regard to the locus standi of the Complainant Association and the maintainability of the complaint are examined. M/s.Unishire Space Association was initially registered as a Society under the Societies Registration Act and represented the collective cause and the enforcement of the rights of the allottees by filing a complaint before the Authority with regard to the lack of progress of the project since its registration with the Authority and the unacceptable delay and the uncertainty with regard to the completion of the project. The Authority has found it appropriate to entertain the complaint by giving adequate opportunities of hearing to all the parties by conducting hearings on 17.11.2020, 27.11.2020, 24.02.2021, 10.03.2021, 06.04.2021, 21.04.2021, 07.09.2021 and 22.10.2021. Since the Authority is mandated by the provisions of the Act to initiate, *suo motu*, regulatory intervention in appropriate cases of defaults on the part of the Promoters, the issues such as locus standi and maintainability as contended by the Promoter-Respondent are not required to be treated as legitimate legal hurdles in exercising the jurisdiction conferred upon the Authority and conducting the hearings in accordance with the letter and spirit of the provisions of Sec.7 and 8 of the Act. The facts of the case, lack of project progress after the registration of the project, financial hardship faced by the allottees and such other factors have been taken into consideration by the

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Authority on account of several hearings conducted. The track record of the Promoter in respect of the other registered projects with the Authority has also been taken into consideration and it is found that similar defaults have been committed by the Respondent-Promoter in respect of the other registered projects. In this context the letter dated 30.07.2020 addressed by the Promoter of the project to the K-RERA, wherein the Promoter has sought the revocation of the registration of the project and enabling the AoA to take over the construction of the project u/s 8 of the Act was also taken into account. The Act mandates the Authority to take appropriate measures and invoke the timely regulatory intervention so as to ensure that the incomplete projects are completed in accordance with provisions of Sec.7 and 8 of the Act. In view of this, the Authority is required to take *suo motu* action to ensure that the interest of the allottees is not jeopardised even in cases wherein the allottees are unable to form an Association or represent themselves in an effective manner. The objects of the Act and the powers vested in the Authority to effectively monitor and deal with the registered projects towards their timely completion, if need be by invoking the powers vested in the Authority u/s 7 and 8 of the Act, make it abundantly clear that the contention of the Respondent-Promoter to the effect that the Authority has incorrectly entertained a complaint of the Association, which is not registered under the

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applicable law is not a justifiable consideration. In the larger interest of the allottees, the Authority has exercised its *suo motu* powers and has taken cognizance of all the relevant facts and considerations in order to take effective and permissible steps to achieve the completion of the project. It is also a matter of record that the Association of Allottees has also registered itself as a Co-operative Society vide registration No.DRB3/SOR/142/2021-22 dated: 27.07.2021. Having regard to these legal aspects, the contentions of the Promoter-Respondent on the issue of locus standi and maintainability are viewed as an attempt to prevent the completion of the project by the allottees in accordance with Sec.8 of the Act and therefore the said contentions are hereby rejected.

13. The other contention of the Respondent-Promoter that it is not permissible for the land owner, being the co-promoter, to be a part of the AoA is examined. In any real estate project, the role of the land owner is one of facilitator of the project development in accordance with the statutory approvals. Even though the land owner is a co-promoter, the duties and obligations of the Developer-Promoter and the land owner promoter are very different, which are essentially governed by the terms of Joint Development Agreement. In this case, as in most similar cases, the land owners have entered into a Joint Development Agreement with the Respondent-Promoter

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and have restricted themselves to the role and responsibilities in accordance with the Joint Development Agreement. The entire responsibility to obtain the requisite approvals, plan sanction and such other clearances and to ensure the implementation and completion of the project vests with the Developer-Promoter. The Respondent-Promoter has also mortgaged the land on which the project is being developed and a financial liability has been created on the land belonging to the land owners. Consequently, the land owners who are entitled to their share of constructed units on completion of the project, in accordance with the Joint Development Agreement, have been placed in a position similar to that of allottees of the project with the attendant hardship and financial difficulties. In cases where the Developer-Promoter has failed to complete the project in accordance with the agreements entered into with the land owners on the one hand and the allottees on the other hand cannot be expected to be completed without the consent, cooperation and collaboration of land owners and the allottees. Sec.8 of the Act intends that the project is completed either by a Competent Authority or by the AoA or in any other manner, as determined by the Authority. In this case, the Authority is of the view that the proposal placed before the Authority by the AoA, which includes the consent and active participation of the land owners is a pre-requisite for carrying out the remaining developmental work of the project and satisfactory completion of the

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project. Accordingly, the proposal placed before this Authority by the AoA is found to be satisfactory. Consequently, the objections of the Respondent-Promoter, with regard to the participation of the land owners in order to achieve completion of the project, are rejected.

14. The other contention of the Respondent-Promoter pertains to the alleged incorrect financial data presented by the AoA. On the basis of the materials available on record, and the data compiled by the AoA indicate that about 67% (Rs.67.42 crores) of the sale consideration from the allottees has been received by the respondent-promoter and the progress achieved is only 35%. The submissions made by the AoA, for taking over the project u/s.8 of the Act, indicates that there is a huge cost escalation in the project. As per the data compiled in support of the development plan submitted by the AoA, the balance cost to be incurred for completion of the project varies between Rs.85 to Rs.100 crores. Even after collecting the balance amount of Rs.32 crores from the allottees, and other inflows of about Rs.11 crores, there is a shortfall of about Rs.41 crores, which is required to be mobilized by the AoA to complete the project. These financial aspects of the project indicate that the contentions of the Respondent-Promoter, if entertained would contribute to further hardship to and financial burden on the allottees. On the other hand, the

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Respondent-Promoter has not submitted any credible financial data certified by the Chartered Accountants of the projects and further substantiated by the Architect and Engineer of the Project with regard to the progress achieved, balance developmental work, the requisite finances, the sources of finance thereof and definitive timelines for project completion. It is evident from the facts of the case that there are huge time and cost overruns that have impacted the project and consequently there is a higher financial burden in achieving the completion of the project. On a consideration of these facts, the Authority is of the view that the delays and defaults attributable to the Respondent-Promoter are of significant nature.

15. As regards the contention of the Respondent-Promoter that there is no default attributable to the Promoter within the meaning of Sec.7 of the Act and therefore revocation of registration of the project is not justified, the said contention has to be evaluated in the totality of the facts and circumstances of the case and the failure on the part of the Respondent-Promoter in complying with the duties and obligations as per the provisions of the Act. Defaults attributable to the Promoter include non-completion of the project even after seven years after entering into agreements with the allottees, not achieving the requisite progress after the registration of the project with the Authority, non-compliance with the provisions of Sec.4 (2) (1) (D) r/w. Sec.11 (1) of the Act,

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unsatisfactory submissions with regard to the utilization of the amounts collected from the allottees and so on. The Authority has also taken into account, inter alia, the above facts, the default on the part of the respondent-promoter in achieving the project progress commensurate with the amounts collected from the allottees of the project and the hardship caused to the allottees consequent to the promoter's failure in taking effective steps to complete the project over a period of 7 years. It is also pertinent to highlight the fact that the initial registration of the project was for a period of 3 years commencing from 31.07.2017 to 31.07.2020. On account of the COVID-19, deemed extensions allowable for this project have ended by 01.10.2021. These relevant facts also indicate that the registration of the project has lapsed w.e.f. 02.10.2021. The progress achieved till date is only 35% of the project work, which is stated to be almost same while registering the project in 2017. The Authority has also taken into consideration the relevant facts such as no further progress in the project, since the time of registration of the project. The facts of the case clearly indicate that the defaults attributable to the Respondent-Promoter are significant and have cumulatively impacted the project and consequently the allottees have been subjected to severe hardship. Such events and circumstances do form substantive basis for initiating the proceedings u/s 7 of the Act and taking further appropriate steps for achieving

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project completion in accordance with Sec. 8 of the Act. On an overall consideration of the facts and circumstances of the case and the requirement of facilitating the project completion in accordance with Sec.8 of the Act, the following directions are issued by the Authority.

ORDER AND DIRECTIONS U/S 8 OF THE ACT

- (i) The Authority hereby directs the AoA to take over the project and achieve completion of the project within a period of 24 months, with a grace period of 6 months, commencing from the date of taking over of the project. This direction of the Authority shall take effect immediately after the expiry of the period of appeal provided under the Act.
- (ii) As regards the statutory approvals / renewals / permissions, the same are deemed to have been extended, so as to facilitate the AoA to achieve the completion of the project.


(H.C. Kishore Chandra)

Chairman


(D. Vishnuvardhana Reddy)

Member-1


(Neelamani N. Raju)

Member-2

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PROCEEDINGS OF THE AUTHORITY

COMPLAINT No. CMP/201001/0006742

Dated 26th July 2021

M/s. Unishire Spacio Association

.. Complainant

85/1, 85/2, Arakere Village

Bannergatta Road

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AND

M/s. Unishire Buildtech LLP

.. Respondent

No.36, Railway Parallel Road, Nehru Nagar

Bangalore-560 020

Project Name : UNISHIRE SPACIO

Registration No. : PRM/KA/RERA/1251/310/PR/180516/001682

This project is stated to have been commenced sometime 2014. Since the project was incomplete as on the date of the commencement of the Act, the registration was obtained in 2017 with the completion date as 31.07.2020. The project was required to be developed into various types of residential apartments, totalling to 280, with an aggregate carpet area of 2,80,335 sq.ft.

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The allottees of the project, in their capacity as an Association of Allottees (AoA) have filed a complaint before the Authority by the complaint dt.01.10.2020. It is stated that there is no progress in the project implementation since February, 2017. The overall project progress was reported to be only 35%. The AoA has raised several grievances and serious concerns about the status of progress of the project as well as the financial mismanagement on the part of the promoter of the project. This project is financed by a NBFC, namely, Altico Capital, which was also represented during the hearing proceedings. Altico Capital has also alleged that there is a financial mismanagement on the part of the promoter of the company and consequently the project was not completed and the project lenders were exposed to the financial risks by the promoter of the project.

As per the materials on record, the registration of the project has expired on 31.07.2020, without any progress in the project implementation during the validity of the registration, spanning over 3 year period from 2017 to 2020. A COVID Extension Certificate, extending the validity of the registration upto 30.04.2021 has been issued, but the promoter of the project has defaulted on the duties, obligations and conditions applicable to a registered project in certain important aspects such as achieving the implementation of the project,

Notaranda

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recording the progress and completion of the project within the stipulated time period. The AoA has sought the following reliefs:

- (i) Authority to issue directions to divest the project promoter of its control over the project and to further issue appropriate orders for handing over of the project to the AoA u/s.8 of the Act and to facilitate further necessary action by the AoA to complete the project.
- (ii) Authority to order a forensic audit to enquire and investigate the utilization of the funds collected from the allottees of the project.

The promoter of the project has submitted its objections, vide its written submission dt. 06.04.2021, in respect of the issues raised in the complaint of the AoA. The gist of the objections are as under:

- (i) The promoter has questioned the locus standi as well as the cause of action.
- (ii) The promoter has objected to the AoA's plea of revocation of the registration of the project, by contending that the promoter has neither defaulted on any count, nor violated any terms and conditions of the approval nor involved in any unfair practice or irregularity.
- (iii) The respondent-promoter has also objected to the proposal of the AoA to take over the project on the ground that substantial rights of the respondent-promoter are created in respect of the property of the project.
- (iv) The respondent-promoter has also denied any liability on account of delay in the completion of the project.

Vishwvardhan

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿರಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,

3rd Cross, Mission Road, Bengaluru-560027

As observed the promoter of the project has achieved very little progress in the project, even after extending the timelines while registering the project with the Authority. The materials placed before the Authority by the AoA to the effect that the progress in the project is a mere 35% over the last 7 years is not contraverted by the promoter-respondent with any reliable documents and submissions. The statement of objections dt.06.04.2021, filed by the respondent-promoter, have merely assailed the locus standi of the complainant AoA, but has not transparently addressed the issue of very little progress in the project completion. The stand taken by the respondent-promoter, in the statement of objections, has very little relevance with regard to the duties and obligations as a promoter to ensure timely completion of the project.

The data compiled by the AoA indicates that about 67% (Rs.67.42 crores) of the sale consideration from the allottees has been received by the respondent-promoter and the progress achieved is only 35%. The submissions made by the AoA, indicate that there is a huge cost escalation in the project. As per the data compiled in support of the development plan submitted by the AoA, the balance cost to be incurred for completion of the project varies between Rs.85 to Rs.100 crores. Even after collecting the balance amount of Rs.32 crores from the allottees, and other inflows of about Rs.11 crores, there

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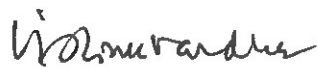
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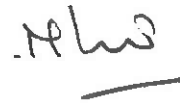
is a shortfall of about Rs.41 crores, which is required to be mobilized by the AoA to complete the project.

The Authority has taken into consideration, inter alia, the above facts, the default on the part of the respondent-promoter in achieving the project progress commensurate with the amounts collected from the allottees of the project and the hardship caused to the allottees consequent to the promoter's failure in taking effective steps to complete the project over a period of 7 years. The respondent-promoter has not satisfactorily explained the utilization of the money collected from the allottees for the completion of the project. It is also noted that Altico Capital India Ltd., the NBFC, which is a financial creditor to the Unishire Group of Companies, is also a financial creditor to this project. There is also a significant default on the part of the promoter-developer of the project, in not submitting the requisite quarterly statements and updates u/s.4(2)(I)(D) read with Sec.11(1) of the Act. Such a non-compliance for several quarters till date is an indication of the financial mismanagement on the part of the promoter-respondent, which is also evident from the very little progress made in the completion of the project, even subsequent to the registration of the project.

On a careful consideration of the materials placed before the Authority, there is a prima facie case that the project promoter-developer has not wholly







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and exclusively utilized the sale consideration paid by the allottees of the project for the development and completion of the project. This Authority is mandated to protect the interests of allottees of the project by conducting an enquiry and investigation into the utilization of the allottees' funds for implementation of the project by the project promoter.

Order u/s.35 of the Act

Having regard to the facts and circumstances of the case and the materials placed on record, the Authority is satisfied that this is a fit case for conducting a forensic audit by invoking the powers vested in the Authority u/s.35 of the Act. The respondent-promoter of the project is hereby directed to extend the necessary co-operation for carrying out the forensic audit by the Auditors to be appointed by the Authority. The respondent-promoter shall make available the audited and unaudited accounts statements with schedules, books of accounts, copies of the bank accounts and all other supporting materials and documents pertaining to the project as well as that of the project developer-promoter, to the Auditors appointed under this order.


(H.C. Kishore Chandra)
Chairman


(D. Vishnuvardhana Reddy)
Member-1


(Neelamani N. Raju)
Member-2

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,
1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,

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PROCEEDINGS OF THE AUTHORITY

COMPLAINT No. CMP/201001/0006742

Dated 26th July 2021

M/s. Unishire Spacio Association

.. Complainant

85/1, 85/2, Arakere Village

Bannerghatta Road

Bangalore-560 076

AND

M/s. Unishire Buildtech LLP

.. Respondent

No.36, Railway Parallel Road, Nehru Nagar

Bangalore-560 020

Project Name : UNISHIRE SPACIO

Registration No. : PRM/KA/RERA/1251/310/PR/180516/001682

This project is stated to have been commenced sometime 2014. Since the project was incomplete as on the date of the commencement of the Act, the registration was obtained in 2017 with the completion date as 31.07.2020. The project was required to be developed into various types of residential apartments, totalling to 280, with an aggregate carpet area of 2,80,335 sq.ft.

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The allottees of the project, in their capacity as an Association of Allottees (AoA) have filed a complaint before the Authority by the complaint dt.01.10.2020. It is stated that there is no progress in the project implementation since February, 2017. The overall project progress was reported to be only 35%. The AoA has raised several grievances and serious concerns about the status of progress of the project as well as the financial mismanagement on the part of the promoter of the project. This project is financed by a NBFC, namely, Altico Capital, which was also represented during the hearing proceedings. Altico Capital has also alleged that there is a financial mismanagement on the part of the promoter of the company and consequently the project was not completed and the project lenders were exposed to the financial risks by the promoter of the project.

As per the materials on record, the registration of the project has expired on 31.07.2020, without any progress in the project implementation during the validity of the registration, spanning over 3 year period from 2017 to 2020. A COVID Extension Certificate, extending the validity of the registration upto 30.04.2021 has been issued, but the promoter of the project has defaulted on the duties, obligations and conditions applicable to a registered project in certain important aspects such as achieving the implementation of the project,

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recording the progress and completion of the project within the stipulated time period. The AoA has sought the following reliefs:

- (i) Authority to issue directions to divest the project promoter of its control over the project and to further issue appropriate orders for handing over of the project to the AoA u/s.8 of the Act and to facilitate further necessary action by the AoA to complete the project.
- (ii) Authority to order a forensic audit to enquire and investigate the utilization of the funds collected from the allottees of the project.

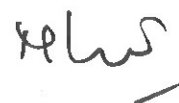
The promoter of the project has submitted its objections, vide its written submission dt. 06.04.2021, in respect of the issues raised in the complaint of the AoA. The gist of the objections are as under:

- (i) The promoter has questioned the locus standi as well as the cause of action.
- (ii) The promoter has objected to the AoA's plea of revocation of the registration of the project, by contending that the promoter has neither defaulted on any count, nor violated any terms and conditions of the approval nor involved in any unfair practice or irregularity.
- (iii) The respondent-promoter has also objected to the proposal of the AoA to take over the project on the ground that substantial rights of the respondent-promoter are created in respect of the property of the project.
- (iv) The respondent-promoter has also denied any liability on account of delay in the completion of the project.

Materials placed by the AoA is examined with reference to Sec.7 and 8 of the Act. As observed the promoter of the project has achieved very little progress in the project, even after extending the timelines while registering the project with the Authority. The materials placed before the Authority by the







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AoA to the effect that the progress in the project is a mere 35% over the last 7 years is not contraverted by the promoter-respondent with any reliable documents and submissions. The statement of objections dt.06.04.2021, filed by the respondent-promoter, have merely assailed the locus standi of the complainant AoA, but has not transparently addressed the issue of very little progress in the project completion. The stand taken by the respondent-promoter in the statement of objections, has very little relevance with regard to the duties and obligations as a promoter to ensure timely completion of the project.

The data compiled by the AoA indicates that about 67% (Rs.67.42 crores) of the sale consideration from the allottees has been received by the respondent-promoter and the progress achieved is only 35%. The submissions made by the AoA, for taking over the project u/s.8 of the Act, indicates that there is a huge cost escalation in the project. As per the data compiled in support of the development plan submitted by the AoA, the balance cost to be incurred for completion of the project varies between Rs.85 to Rs.100 crores. Even after collecting the balance amount of Rs.32 crores from the allottees, and other inflows of about Rs.11 crores, there is a shortfall of about Rs.41 crores, which is required to be mobilized by the AoA to complete the project.

Vishwanath

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The Authority has taken into consideration, inter alia, the above facts, the default on the part of the respondent-promoter in achieving the project progress commensurate with the amounts collected from the allottees of the project and the hardship caused to the allottees consequent to the promoter's failure in taking effective steps to complete the project over a period of 7 years. Sec.8 of the Act recognizes the right of the AoA to take over the project in certain circumstances.

On a careful consideration of the materials placed before the Authority, it is found to be a fit case to issue a notice to revoke the registration of the project as provided u/s.7 of the Act.

ORDER

The respondent-promoter of the project is hereby directed to show cause as to why the registration of the project should not be revoked u/s.7 of the Act? The reasons and explanations of the respondent-promoter, if any, against this notice of revocation may be submitted in writing, after availing not more than 30 days time, from the date of receipt of this order. Office is directed to post the hearing of the case on 7th September, 2021, at 11.30 a.m.


(H.C. Kishore Chandra)
Chairman


(D. Vishnuvardhana Reddy)
Member-1


(Neelamani N. Raju)
Member-2

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