

Uttar Pradesh Real Estate Regulatory Authority

Naveen Bhawan, Rajya Niyojan Sansthan,
Kalakankar House, Old Hyderabad, Lucknow - 226007

No. 5468/U.P. RERA/Rehabilitation Order/LKO/2021-22

Date: 02/05/2022

Office Order

Whereas Uttar Pradesh Real Estate Regulatory Authority, hereinafter called "The Authority", vide its judgment and order dated 3rd August 2019, has revoked the registration of the project "Rohtas Plumeria Homes" promoted by M/s Andes Town Planners Pvt. Ltd. on the following grounds -

1. The promoter has not uploaded the required documents as required under the provisions of Section 4 and 11 of the RERA Act and Rule 3 and 14 of The Uttar Pradesh Real Estate (Regulation and Development) Rules on the website of Authority.
2. The promoter had declared, on the website of the Authority, 2nd June 2015 as the date of start and 30th June 2023 as the date of completion of the project. The promoter failed to comply with its assurances given to the Authority for completing the pending development work in the project in 6-12 months and further no physical progress was observed in the development of the project.
3. With view to resolve the problems of the allottees in terms of the provisions of RERA Act and the rules thereof, a meeting with the directors of the promoter company was held and a detailed order dated 17th October 2018 was issued by the Authority. The promoter was ordered to comply with the following directions -
 - a. Ensure the completion of pending works in the project by March 2019.
 - b. Not create any third-party interest in the project until further orders of U.P. RERA.
 - c. Ensure construction as per the sanctioned layout plan of Lucknow Development Authority.
 - d. Ensure all the funds received and to be received be deposited in the separate account of the project and until the requirements of Section 4(2)(1)(D) of the RERA Act are fulfilled, 90 percent of all future receivables be deposited in the separate account.
 - e. Publish details of the separate account of the project in the newspapers -Dainik Jagran, Amar Ujala, Hindustan Times, Times of India, at least twice in the next one month.
 - f. Ensure the funds deposited in the separate account of the project be utilized only for construction and development of the project. Further, withdrawals from the separate account be done only after the submission of the Architect, Structural Engineer and Chartered Account certificates and upon the recommendation of the nominated officer of Vice Chairman, Lucknow Development Authority.
 - g. Appoint a 'Concurrent Auditor' for monitoring the physical and financial progress in the project.
 - h. Publish the physical and financial progress in the project in at least one of the leading daily newspapers every month.
 - i. Constitute an association of the allottees in the project within a month and submit the details to U.P. RERA.
 - j. Share the details of all bookings in the project with Lucknow Development Authority and ensure that registration of new agreement of sale at sub-registrar office shall be only with the consent of Vice Chairman, Lucknow Development Authority.

The promoter failed to comply with any of the directions of above said order dated 17th October 2018.

4. It is further substantiated from the complaints preferred by 63 Allottees of the project in U.P. RERA that the promoter has not complied with the terms and conditions of the agreement and has indulged into fraudulent and corrupt activities by way of double sale of some of the units.

5. The promoter did not respond to the show cause notice dated 18th June 2019 issued under Section 7 of the RERA Act. Despite public notice published in the daily newspapers 'Dainik Jagran' and 'Hindustan' on 17th July 2019 directing the promoter to submit its response on the show cause notice, no response was received by U.P. RERA.
6. Whereas there is no stay order against the orders of the Authority dated 3rd August 2019, therefore, the Authority issued a public notice in two daily newspapers, namely the Times of India and Dainik Jagran, published from Lucknow on 2nd January 2020 calling upon the association of allottees of the project to submit a viable proposal for completion of the remaining development work of the project within 6 weeks from the date of public notice.
7. Whereas the Authority, vide its order dated 30th December 2019 had constituted a Project Advisory & Monitoring Committee under the chairmanship of Sh. Bhanu Pratap Singh, Hon'ble Member, U.P. RERA to oversee the remaining development work of the project as per the provisions of Section 8 of the Act.
8. Whereas the Plumeria Resident Welfare Association, a society registered on the registration no 2852 under the Societies Registration Act on 21st March 2016 currently submitted a detailed project report (DPR) on 25th November 2020 highlighting the pending works across all the towers of the project 'Rohtas Plumeria Homes'. Subsequently, a revised DPR was submitted on 6th March 2021 with clarification on some of the issues flagged to the Association in its meeting with the project advisory and monitoring committee of the Authority. As per revised DPR the estimated cost of pending and additional works (as listed by AOA) is Rs. 28.07cr (including additional works requested by AOA of Rs. 0.87 Cr and a contingency at the rate of 2% of Rs. 0.056 Cr). The pending and additional works in the project are proposed to be completed in a period of 12 months.
9. The proposal and the DPR submitted by the Plumeria Resident Welfare Association, herein after called 'The Association' was evaluated by Project Advisory & Monitoring Committee constituted under the chairmanship of Sh. Bhanu Pratap Singh, Hon'ble Member, U.P. RERA. The committee after scrutinizing the proposal and holding discussions with the office bearers of the Association and the Lucknow Development Authority, had, prima facie concluded, that the proposal of the Association is promising and made the following recommendations vide the minutes of its meeting dated 02-07-2021:-
 - a. That the committee was agreeable to the proposal of the Association of the Allottees to complete the remaining development work in the project in association with a new developer. The committee further felt that the process of selecting a new developer should be transparent and approved by the Project Advisory and Monitoring committee. The draft/EoI document should be submitted to the committee within 30 days of the order under section 8 of the RERA Act.
 - b. The committee concluded that there are multiple challenges in developing the project and it would be prudent to keep the financial criteria for shortlisting the new developer simple and straight forward. It recommended that the new developer should be selected based on the quantum of surplus it can generate from the project.
 - c. The committee recommended that the new developer should be allowed to negotiate and settle with all the allottees of tower P and Q who are not agreeable to the terms of the association of allottees and developer.
 - d. The committee recommended the proposal of the association to be presented before the Authority for in-principal approval authorizing the Plumeria Resident Welfare Association for completing the remaining development of the project.

Whereas the proposal submitted by the Association has also been examined by Project Management Division of the Authority. The salient points in the report of the Project Management Division are as follows:-

- a. It is a residential group-housing project located in Vibhuti Khand, Lucknow with provision of various facilities.
- b. As per the map sanctioned by Lucknow Development Authority, the promoter proposed to construct 18 residential towers in the project (ranging from G+10, G+13, and G+15 with single basement), one commercial tower in the name of 'Rohtas Summit' (registered as a separate

project with U.P. RERA), and one residential tower under the name 'Stylus' (not registered with U.P. RERA).

- c. Out of 18 residential towers i.e. towers A, B, C, D, E, F, G, H, J, K, L, M, N, P, Q, R, S and T, the construction work has been completed in 14 towers and possession given to the allottees, i.e. except in towers P, Q, S and T. Moreover, as mentioned by the AoA, some miscellaneous internal work is still pending in some of the units of completed towers. In the tower L and N, the construction work till 15th floor is partially complete.
- d. Civil structure of towers P & Q are partially complete. There are currently 60 allottees in tower P of the project. The land-use of tower Q has been converted from residential to commercial vide sanction letter dated 4th February 2019 issued by Lucknow Development Authority. M/s Satya Residency is the sole owner of tower Q of the project and proposed to develop it as a commercial tower.
- e. The Association has proposed to complete the pending development work in the 16 residential towers within a period of 9 to 12 months from the date of authorization order.
- f. The Association proposed that the balance receivables from existing allottees of the 16 residential towers including tower L and N will be received for the completion of pending development works. The amount recovered will be deposited in an 'Escrow Account' and will be utilized only for completing the pending development works.
- g. The Association proposed to enter into an agreement with a developer for completing the pending development works in the project, after the receipt of authorization order under Section 8 of the RERA Act. The selection of the developer will be done through a transparent process.
- h. The Association proposed to give its consent for the commercial development of tower P by utilizing current FAR or additional purchasable FAR or joint development of towers P and Q by the developer, subject to the following conditions –
 - Developer must settle the claims of all the 60 allottees in tower P.
 - Developer must cover the cost for completing the pending development works in the 16 residential towers, irrespective of amount collected against pending dues of the existing allottees, from its own funds.
 - Developer must make a provision for the entire IFMS amount that was originally paid to M/s Andes Town Planners Pvt. Ltd. by the allottees, at a rate of Rs. 40 per sq.ft of super area sold in the 16 residential towers.
 - Developer must settle the issues related to double mortgage of units fraudulently done by M/s Andes Town Planners Pvt. Ltd.
- i. The total estimated net cost of completion of the pending development works across the 16 residential towers amounts to Rs. 27.15 cr. The Association further proposed additional works to be taken up in the project amounting to Rs. 0.87 cr. Overall the total estimated cost of pending and additional works, including 2 percent contingency, amounts to Rs. 28.07 cr.

Whereas it has come to the notice of the Authority that the total FAR available under the project is 2,19,056.22 sq.mts and at present balance purchasable FAR is 51,402 sq.mts at the rate of Rs. 16,250.

And whereas the proposal of the Association was considered by the Authority in its meeting dated 27-07-2021. The Authority, after careful and thorough deliberation of the proposal submitted by the Association and report of the Project management Division, agreed with the recommendations of its Project Advisory & Monitoring Committee that the proposal of the Association is, prima facie, worth accepting in the interest of the allottees of the project.

Therefore, with a view to facilitate the completion of the project 'Rohtas Plumeria Homes' in a time bound manner and to protect the interest of the allottees, the Authority, using all the powers conferred under Section 8 of the RERA Act read with Section 37 of the Act, other enabling provisions of the Act, the Rules, and Regulations made there under, as per the principle laid down by the Hon'ble Bombay High Court in the Neelkamal Realtors and others Vs the Union of India and the others, and as per the policy directives issued by the Government vide its letter dated 26-06-2020 for action at the end of the Authority in such matters, decided to authorize the Plumeria Resident Welfare Association

for undertaking the completion of remaining development and construction work of the project, subject to the following terms and conditions: –

1. The Association shall submit, within 15 days of this order, a resolution of the Association signed by more than 50 percent of the allottees of the project giving their explicit consent to the Association to undertake the remaining development and construction work of the project.
2. The Association shall submit a copy of its bye-laws along with the list of its office bearers with their names and addresses within 15 days of this order.
3. A notarized affidavit duly sworn by the president and the secretary of the Association undertaking to complete the balance development work by the date so declared by them to RERA, in conformity with the provisions of the RERA Act, U.P. RERA Rules and the Regulations and the terms and conditions of this order.
4. The Association shall follow a transparent process for selection of the new developer.
5. The Association, within 30 days of this order, shall issue an 'Expression of Interest' for the selection of a developer for completion of the remaining development work in the project as per the sanctioned plan and development of additional work, if any, as per the revised sanctioned plan against the additional FAR purchasable by the Association (Developer). The Association shall submit the model tender document to the Project Advisory and Monitoring committee of the Authority for approval of the Authority.
6. The Association, with the approval of the Authority, shall execute a statutory agreement with the developer.
7. The new developer shall be selected based on the quantum of surplus it can generate from the project which can be later on utilized for completing the remaining development work of the other incomplete projects of the promoter under the orders of the Authority.
8. The Association shall, jointly with the selected developer, prepare a 'Detailed Project Report' (DPR) and submit the same to the Authority for approval.
9. **The project will be migrated to the separate category of 'Projects Under Rehabilitation' as per the provisions of Section 8 of RERA Act on the website of the Authority.**
10. **The original RERA registration of the project will be retained for all future reference and the Association along with the developer will be required to update the periodical progress and upload all the relevant documents as provided under Section 4 and Rule 3 and 14 of the U.P. RERA rules. The Authority will import the project data of this project under the Rehabilitation category and provide login ID and password to the Association.**
11. The Association will open a separate account of the project in a scheduled bank which will be updated on the webpage of the project under the relevant category. All the money collected from the existing allottees, the sale of unsold inventory and the sale of units consequent upon the purchase of additional FAR/conversion from residential to commercial, if any, shall, from time to time, or any amount raised as debt against the project would be deposited only in the separate account to be utilized for the work relating to construction and development work of the project and any expenditure pertinent thereto.

Provided that the amount from the separate account of the project shall be withdrawn only after it is certified by the Architect, the Engineer and the Chartered Accountant that the withdrawal is in proportion to the percentage completion of the project and the same has also been duly certified by the Construction Consultant appointed by the Authority for this project. The Association, jointly with the developer, shall upload the three certificates and the authentication by the Construction Consultant with the quarterly progress report on the website of the Authority

12. The separate account of the project shall be operated jointly by the Association of Allottees and the developer.

Provided further that the separate account of the project shall get audited at the end of the financial year and annual audit report shall be uploaded on the website of the Authority.

13. All the money collected by the Association, jointly with the developer, from the allottees and spent towards completion of the project will be on behalf of the original promoter M/s Andes Town Planners Pvt. Ltd. and shall only be to the extent necessary and budgeted for completion of the balance development work in the existing towers and the development of additional FAR in the DPR.
14. The Association along with the developer shall approach the concerned competent regulatory / statutory authorities for seeking /renewing such permissions /approvals for completion of balance development work and for handing over possession of units to allottees, as may be required.
15. The Association along with the developer shall approach Lucknow Development Authority for settlement of outstanding land dues, if any, and shall be liable for payment of the same from the future receipts of the project.
16. The Authority shall appoint a Construction Consultant for monitoring of the project till the completion of the project, the cost thereof will be met from the receipts of the project.
17. The Association, or the developer jointly with the Association, may execute revised agreement for sale with the existing allottees of the project, if required, and also execute new agreement for sale with the prospective buyers in order to be able to mobilize the required funds for the completion of the project. The Association (and the developer jointly with the Association), however, shall be doing it as a 'Trustee' of the original promoter, i.e. M/s Andes Town Planners Pvt. Ltd. The developer may, subject to overall supervision and control of the Association, may were as an 'Agent' of the Association for the sale of existing unsold inventory and the additional FAR and the collection of payments from prospective buyers.
18. The Association shall be bound by the terms and conditions of the existing and future agreement of sale, barring the payment of penalties / compensation, if any, and will be responsible for completion of the project within the stipulated time.
19. No Charge/Security or any other arrangement with any third party, other than as contemplated herein, shall be made without prior approval of this Authority.
20. The Association along with the developer shall update the Quarterly Progress Reports (QPR) of the project on the website of the Authority at the end of each quarter as required by relevant provision of RERA Act and Rules.
21. The Association along with the developer shall be responsible for all relevant statutory compliances in order to complete the balance development work, development of additional FAR and handover of the possession of the units to the allottees.
22. The Association (Plumeria Resident Welfare Association), the developer, the erstwhile promoter of the project M/s Andes Town Planners Pvt. Ltd., the allottees and all other connected with the development and completion of the project shall be bound to comply with these orders.
23. The Association, jointly with the developer, will have the freedom to determine the sale price of the unsold units, if any. However, the proposed sale price cannot be lower than the floor price determined by the Construction Consultant appointed by the Authority. Similarly, the Association will have the liberty to renegotiate the revised unit price of the units with the existing allottees in order to be able to mobilize financial resources for completion of the project. The Association shall not have any discretion to offer rebates / discounts to any of the buyers, existing or prospective. However, all the matters relating to the execution of revised / new agreement for sale or fixing the revised sale price of the units will be audited by the Construction Consultant and submitted to the Authority at the end of every quarter.
24. The Project Advisory & Monitoring Committee will carry out quarterly verification of the project and submit its report to the Authority.
25. The Association, after completion of the project, shall apply to the competent authority for completion certificate as provided under local laws.
26. After the completion certificate has been issued, the erstwhile promoter M/s Andes Town Planners Pvt. Ltd. shall be ordered by the Authority to execute a sale deed in favor of the Allottees and handover possession to the concerned allottees, and in case it does not comply with the directions within the stipulated time, the Authority may pass such orders and make

such arrangements for execution of the sub-lease deed as it may deem fit for discharging its responsibilities under Section 8 and other relevant provision of RERA Act, the Rules and Regulations.

27. The Association and its office bearers will be individually and jointly responsible for compliance of the provisions of this order and all the relevant provisions of RERA Act, U.P. RERA Rules, and the provisions of other relevant Acts and Rules including the maintenance of financial discipline and proprietary.
28. After the completion certificate for the project has been issued and project account duly settled, and after the safe deposit of the surplus amount committed by the developer, the balance amount in the separate account of the project may be withdrawn after due authorization by the Authority.

The orders are being issued in conformity with the directive guidelines issued by the government on 26-06-2020 for proceeding in such matters.



(Rajesh Kumar Tyagi)
Secretary

U.P. Real Estate Regulatory Authority

Letter and Date as above.

Copy: For information and relevant action: -

- 1- Hon'ble Chairman, Uttar Pradesh Real Estate Regulatory Authority.
- 2- Hon'ble Members, Uttar Pradesh Real Estate Regulatory Authority.
- 3- Hon'ble Chairman and Members, Project Advisory and Monitoring Committee.
- 4- Principal Secretary, Housing & Urban Planning Department, Govt. of Uttar Pradesh.
- 5- Principal Advisor, Uttar Pradesh Real Estate Regulatory Authority.
- 6- Vice Chairman, Lucknow Development Authority.
- 7- Finance Controller, Uttar Pradesh Real Estate Regulatory Authority.
- 8- Technical Advisor, Uttar Pradesh Real Estate Regulatory Authority.
- 9- Project Management Division, Uttar Pradesh Real Estate Regulatory Authority.
- 10- AD (Systems), Uttar Pradesh Real Estate Regulatory Authority.
- 11- Manager, concerned banks/Financial Institutions.
- 12- M/s Andes Town Planners Pvt. Ltd.
- 13- Plumeria Resident Welfare Association.



(Rajesh Kumar Tyagi)
Secretary

U.P. Real Estate Regulatory Authority