

Uttar Pradesh Real Estate Regulatory Authority

Regional Office, H-169, Sector Gamma – 2
Greater Noida City, Gautam Buddh Nagar - 201310

No. 793/UPRERAPRJ2537/PMD/P.R./NCR/2021-22

Date: 29/10/2021

Order under section 8 read with section 11 and 37 of the RERA Act

1. The project 'Unibera Towers' Reg. No. UPRERAPRJ2537 (herein referred as 'Project'), being developed by M/s Unibera Developers Pvt Ltd. (herein referred as 'Promoter'), is a group housing project located at Plot No. GH-16F, Sector 1, Greater Noida West, district Gautam Buddh Nagar. The development work of the Project, comprising 5 towers having 705 units, commenced in August 2016.
2. The completion date of the Project, as declared at the time of registration of the project with U.P. RERA, hereafter called as "Authority", lapsed on 30th November 2019.
3. The Promoter failed to complete the Project within the specified period i.e., 30th November 2019. Although the registration of the Project has lapsed, the Promoter still expressed its intent to complete the Project and approached the Authority for guidance and appropriate directions in the matter.
4. Since it is not permissible for the Promoter to get extension of registration of the Project under Section 6 of the RERA Act, the only course available to facilitate the completion of this Project is under Section 8 of the RERA Act, wherein it has been provided that upon lapse of the registration or on revocation of the registration under this Act, the Authority may consult the appropriate Government to take such action as it may deem fit including the carrying out the remaining development work by competent authority or the association of the allottees or in any other manner as may be determined by the Authority.
5. The Authority, using the enabling provisions of the Section 8 of the Act, offered to the Promoter to consider its request for permitting it to undertake the remaining development work of the project if it submitted a proposal to the Authority in this regard jointly with the association of the allottees of the Project.
6. The allottees of the Project have formed an association under the name "Unibera Flat Owner Association" (herein after called as Association) and got the same registered under the Societies



Registration Act, 1860 on 15th January 2021 at Reg. No. 3229/2021. The Association also approached the Authority requesting it to intervene and facilitate the completion of the Project so that allottees of the Project could get the possession of the units booked by them.

7. Subsequently, a series of meetings were held with the Promoter and the Association to understand the issues and to arrive at an appropriate strategy for completing the balance development work in the Project. A meeting of the committee as envisaged under the G.O dated 26th June 2020 was held on 5th October 2021 under the chairmanship of Sh. Balvinder Kumar, Hon'ble Member, U.P. RERA. The meeting was attended by the Promoter and Association, wherein a consensus was reached between the parties on the proposal submitted by the promoter for completing the remaining development work in the project as per the provisions of Section 8 of the RERA Act and under the orders and supervision of the Authority. The Promoter also submitted the written consent of more than 50 percent of the allottees of the project for completing the remaining development work under Section 8 of the RERA Act.
8. The proposal of the promoter and Association were examined in the Project Management Division of the Authority. The appraisal report of the Project Management Division, based on the information and assurances of the Promoter is as follows:
 - a. Project is a group-housing project located at Plot No. GH-16F, Sector 1, Greater Noida West, district Gautam Buddh Nagar. As per the promoter, there are 5 towers in the project i.e Tower A, B, C, D and E comprising 705 sanctioned units.
 - b. Building plan of project was sanctioned on 28th August 2016 with a validity of five years which lapsed on 25th August 2021. The promoter informed that they have applied to GNIDA for revalidation of the sanctioned plan.
 - c. Out of 705 sanctioned units in the project, 579 units had been sold. However, the allottees of 36 units have been awarded refund by U.P. RERA and thus those units are now being considered as part of unsold inventory. Further, 21 units are mortgaged with the contractor which were initially considered as part of sold inventory. Therefore, the promoter is now counting the 36 units against the order of refund and 21 units hither to mortgage with the contractor as unsold units and as per his statement, there are currently 522 sold and 183 unsold units in the project.
 - d. Estimated construction and development cost of the project is Rs. 44.60 cr, which includes Rs. 11.40 cr for construction, Rs. 19.35 cr for internal finishing works, Rs. 8 cr for external finishing works and Rs. 5.85 cr for utilities. Further, pending dues against land to GNIDA is Rs. 31 cr. Thus, overall estimated cash outflow (excluding refunds, recovery certificates, pending payments to vendors etc) is Rs. 75.60 cr.

- e. Balance receivables from existing allottees in the project is Rs. 43.96 cr, the value of unsold inventory is Rs. 60.79 cr and value of saleable car parking is Rs. 11.25 cr. Thus, the overall estimated cash inflow is Rs. 116 cr.
- f. A sum of Rs.10 cr will be infused by the Promoter to the Project from its own sources - Rs. 3 cr would be utilized for pending dues such as GST and TDS of concerned government agencies, Rs. 2 cr for site mobilization and Rs. 5 cr for construction and development work in the project. The promoter assured to deposit a sum of Rs. 7 cr in the separate account of the project within 30 days from the date of order and it further assured to infuse additional funds as and when required for the completion of the project.
- g. The promoter has in the meanwhile approached SBI Capital Markets for sanction of loan under 'SWAMIH' Fund, which, if approved, would further augment availability of funds for the project.
- h. Prima facie, the project has positive cash inflows, and it is also financially viable considering the balance receivables and value of unsold inventory. The capital infusion proposed by the promoter is sufficient to commence construction work in the project.
- i. A detailed plan for raising quarterly demand towards balance receivables and forthcoming payments to be made by the allottees, which is directly linked to construction milestones of individual towers of the project is as under.
- (i) For Tower A, three construction milestones have been defined i.e., Phase 1, Phase 2 and Offer of Possession. After reaching Phase 1 milestone, the promoter would raise demand for 88 percent of total cost of the unit. Likewise, after reaching Phase 2 milestone, the promoter would raise demand for additional 6 percent of total cost of the unit. Demand for remaining amount i.e., 6 percent of total cost of the unit would be raised at the stage of offer of possession.
- (ii) For Tower B, three construction milestones have been defined i.e., Phase 1, Phase 2 and Offer of Possession. After reaching Phase 1 milestone, the promoter would raise demand for 88 percent of total cost of the unit. Likewise, after reaching Phase 2 milestone, the promoter would raise demand for additional 6 percent of total cost of the unit. Demand for remaining amount i.e., 6 percent of total cost of the unit would be raised at the stage of offer of possession.
- (iii) For Tower C, four construction milestones have been defined i.e., Phase 1, Phase 2, Phase 3 and Offer of Possession. After reaching Phase 1 milestone, the promoter would raise demand for 82 percent of total cost of the unit. After reaching Phase 2 milestone,



the promoter would raise demand for additional 6 percent of total cost of the unit. Likewise, after reaching Phase 3 milestone, the promoter would raise demand for additional 6 percent of total cost of the unit. Demand for remaining amount i.e., 6 percent of total cost of the unit would be raised at stage of offer of possession.

- (iv) For Tower D, five construction milestones have been defined i.e., Phase 1, Phase 2, Phase 3, Phase 4 and Offer of Possession. After reaching Phase 1 milestone, the promoter would raise demand for 76 percent of total cost of the unit. After reaching Phase 2 milestone, the promoter would raise demand for additional 6 percent of total cost of the unit and after reaching Phase 3 milestone demand for another 6 percent of total cost of would be raised. Likewise, after reaching Phase 4 milestone, the promoter would raise demand for additional 6 percent of total cost of the unit. Demand for remaining amount i.e., 6 percent of total cost of the unit would be raised at stage of offer of possession.
- (v) For Tower E, four construction milestones have been defined i.e., Phase 1, Phase 2, Phase 3 and Offer of Possession. After reaching Phase 1 milestone, the promoter would raise demand for 82 percent of total cost of the unit. After reaching Phase 2 milestone, the promoter would raise demand for additional 6 percent of total cost of the unit. Likewise, after reaching Phase 3 milestone, the promoter would raise demand for additional 6 percent of total cost of the unit. Demand for remaining amount i.e., 6 percent of total cost of the unit would be raised at stage of offer of possession.
- (vi) In case an allottee has already paid the requisite percentage cost of the unit linked to the construction milestone, no demand would be raised in respect of that allottee.
- (vii) Payment on account of delay in possession, if any, would be settled at the time of actual possession of concerned unit.

j. The tower-wise completion plan for the project is as follows - Tower C would be completed by May 2022, Tower A and Tower B by June 2022, Tower E by July 2022, Tower D by August 2022 and all internal and external works by September 2022. As per the completion plan submitted by the promoter with the consent of Association, the project will be completed within 12 months i.e., by September 2022.

9. The Project has also been inspected by the Technical Division of the Authority in October 2021, wherein it had been stated that the overall physical progress of the project is about 50 percent, structural work in 4 towers has been completed, whereas in the fifth tower it is about 80 percent.



10. The proposal of the Promoter and the Association was considered by the Authority, along with other relevant facts and documents available at its level, in its meeting held on 12th October 2021. The Authority, after careful and thorough deliberation on the proposal submitted by the Promoter and consented to by the Association and perusal of the recommendations of its Project Advisory & Monitoring Committee based on the report of its officers and the Project Management Division, arrived at the considered view that the proposal of the Promoter consented to by the Association is, prima facie, convincing, and can be accepted in fulfillment of its mandate to facilitate the completion of the Project under the present conditions i.e. where the registration has lapsed and the Authority needs to facilitate the remaining development work in order to protect the interests of the allottees of the Project.

11. Therefore, with a view to facilitate the completion of the project in a time bound manner, to protect the interests of the allottees, the Authority, using the powers conferred upon it under section 8 of the RERA Act read with section 37 of the Act, other enabling provisions of the Act, the Rules and the Regulations made thereunder, and 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 in conformity with the State Government order dated 26th June 2020 stipulating the guidelines to be followed in such matters, ~~resolved to authorize the promoter, with consent of Association, to undertake the~~ completion of the remaining development and the construction work of the Project, subject to the following terms and conditions:

- a. The AoA shall submit, within 15 days of the order, a general body resolution of the AoA consented to by more than 50 percent of the allottees of the project giving their explicit consent to authorize the Promoter to undertake the remaining development and construction work of the Project. It is further emphasized that more than 50 percent of the allottees means all the allottees of the project irrespective of the fact whether any of them is a member of the "Unibera Flat Owner Association" or not.
- b. A notarized affidavit duly sworn by the Promoter for undertaking to complete the balance development work in the Project by September 2022 as given under paragraph 8 of the order. The Promoter shall contribute to the shortfalls in cash flows, if any, during the course of development and construction of the Project within the timelines as contemplated herein.
- c. The Promoter shall complete 5 towers in the Project as per the completion plan submitted by it and agreed to by the Association.
- d. The Authority hereby constitutes a Project Advisory and Monitoring Committee under the chairmanship of Sh. Balvinder Kumar, Hon'ble Member, U.P. RERA with Vice Chairman,



Greater Noida Industrial Development Authority, Finance Controller U.P. RERA, Technical Advisor U.P. RERA, Conciliation Consultant U.P. RERA, Consultant Project Management Division U.P. RERA, concerned Bank / Financial Institution, the Association and the Construction Consultant appointed by the Authority as members for monitoring of the Project on monthly basis.

- e. The Authority will review the progress of the project on quarterly basis.
- f. The Authority, on its website, will shift the project to the special category of projects under Rehabilitation as per the provisions of Section 8 of RERA Act. The promoter shall continue to update the details of the project, including the quarterly progress report of the project, in stipulated time or as directed by the Authority.
- g. The Promoter shall open a separate account for the project in a scheduled bank which shall be updated on the webpage of the project under the relevant category. The promoter shall deposit all its contribution towards the project, as agreed with the AoA as per this Order, and also all the money received from the allottees as per builder buyer agreements, existing and prospective, or any other funds from any other source including the existing accounts of the Project, ~~time to time, in the separate account and the same shall be utilized only for the work~~ relating to the construction and development of the project and/or any other expenditure directly related to the development, construction and completion of the Project.

Provided that the promoter shall deposit an upfront amount of Rs. 7 cr within 30 days from the date of issues of this order, as agreed, in the separate account, before collecting the balance receivables from the allottees. Further Rs. 3 cr will be directly paid to government agencies against dues such as GST and TDS.

Provided further that any withdrawal from the separate account will be as per the provisions of the Act, only after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage completion of the balance work of project. The Promoter shall upload the three certificates on the website of the Authority while filing the quarterly progress report of the project.

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

- h. The Association and the Promoter should suitably settle the issues of payment of interest for delay and charging in lieu of additional area, if any (other than area as mentioned in builder

buyer agreements) to be charged as per the builder buyer agreement at the time of possession after the balance development work of the project is completed and the occupancy certificate has been applied for along with all required/statutory certificates and NOCs. Any dispute between the AoA and the Promoter shall be amicably settled through the good offices of the Project Advisory and Monitoring Committee constituted by the Authority in this behalf.

- i. The Promoter 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.
- j. The promoter may appoint/engage such contractors, vendors or suppliers as may be necessary for the completion of the project, by following transparent method of tendering etc., as the case may be. The same will, however, be audited by the Construction Consultant appointed by the Authority for this project.
- k. The Authority shall appoint a Construction Consultant for the concurrent audit till the completion of the project. The cost thereof shall be met from the receipts of the project.
- l. The promoter shall be bound by the terms and conditions of the existing and future agreements for sale and shall be responsible for completion of the project as per the specifications and within the stipulated time.
- m. The promoter shall be responsible for all relevant statutory compliances in order to complete the balance development work and handover the possession of the units to the allottees.
- n. The AoA, the promoter, the allottees and all others connected with the development and completion of the project shall be bound by these orders and all other orders as may be issued by the Authority in this regard from time to time.
- o. The promoter shall ensure that proposed sale price cannot be lower than the floor price quoted by the promoter in their cash inflow. The promoter, however, shall not have any discretion to offer new rebates / discounts to any of the buyers, existing or prospective. All the matters relating to the sale price of the unsold units will be audited by the Construction Consultant who shall submit its report to the Authority at the end of every quarter.
- p. Since the project is being rehabilitated under Section 8 of the RERA Act by the Promoter with the consent of the majority of the allottees and the Association, it is understood that no allottee



of the project shall withdraw from it during the course of the development of the remaining work of the project. However, if under extraordinary circumstances, some allottee of the Project withdraws from it, the amount due to be returned to such allottee shall not be returned from the separate account of this project, rather the same may be returned from the other sources of the Promoter, or alternately the amount due to such allottees would continue to be a charge on the Project and will be returned after the completion of the Project along with interest admissible as per the orders of the Authority.

- q. The promoter, after completion of the project, shall apply to the competent authority for occupancy certificate as provided under local laws and offer possession to the allottees.

This order issued with the approval of the Authority.


(Rajesh Kumar Tyagi)
Secretary

Number and date as above.

Copy: To the following for information and necessary action at their end:

- 1- Hon'ble Chairman, Uttar Pradesh Real Estate Regulatory Authority.
- 2- Sh. Balvinder Kumar, Hon'ble Member, Uttar Pradesh Real Estate Regulatory Authority.
- 3- Hon'ble Members, Uttar Pradesh Real Estate Regulatory Authority.
- 4- Additional Chief Secretary, Department of Infrastructure and Industrial Development, Govt. of Uttar Pradesh
- 5- Principal Secretary, Department of Housing & Urban Planning, Govt. of Uttar Pradesh.
- 6- Chief Executive Officer, Greater Noida Industrial Development Authority.
- 7- Sh. R. D. Paliwal, Conciliation Consultant, Uttar Pradesh Real Estate Regulatory Authority.
- 8- Principal Advisor, Uttar Pradesh Real Estate Regulatory Authority.
- 9- Finance Controller, Uttar Pradesh Real Estate Regulatory Authority.
- 10- Technical Advisor, Uttar Pradesh Real Estate Regulatory Authority.
- 11- Consultant, Project Management Division, Uttar Pradesh Real Estate Regulatory Authority.
- 12- Manager, Concerned Bank/Financial Institution.
- 13- M/s Unibera Developers Pvt. Ltd.
- 14- Unibera Flat Owner Association


(Rajesh Kumar Tyagi)
Secretary