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AFNHB/ADM/1047

30 May 22

All Allottees of Meerut Scheme

UPDATE ON AFNHB MEERUT SCHEME

Background

1. AFNHB Meerut Housing Scheme consisting of 545 DUs for Officers & Airmen was launched in 2010 and was to be completed in 2013. However, due to poor performance of the contractors the project was delayed. The BG of Rs. 2.10 Cr were encashed on 23 Jun 16 and original contract with M/s OICL was terminated on 24 Oct 17. Contract for balance work was awarded to M/s UPPL on 30 Nov 17 with PDC of 12 months. However, this contractor also failed to adhere the time schedule and this contract was also terminated on 22 Jun 19 and BG of Rs. 3.41 Cr was encashed. Subsequently, left over work was undertaken by AFNHB through its Project Director. On completion of 05 towers consisting 245 Flats, application was moved to MDA for issuance of partial Completion Certificate.

2. With the intervention of RERA Chairman, partial Completion Certificate was issued by MDA on 21 Nov 19. Application for Completion Certificate (CC) for entire project was applied on 13 Aug 20. However, there was no progress on the subject by MDA due to COVID 19. During last 06 months, the case was taken up with VC, MDA as well as Chairman, RERA. Subsequently, all the requisite documents were uploaded afresh in MDA website for issuance of CC. Now the CC is likely to be issued within a month's time. As on date, **465** possession letters have been issued wherein **432** allottees have taken over physical possession at site.

Developments Since RERA Registration

3. Post introduction of RERA in 2016, the project was also registered under U.P. RERA, some of the allottees of Meerut project filed complaints against AFNHB before U.P. RERA, praying for compensation / interest on their deposited amount for the delay in completion of the project. RERA Authority vide various orders awarded interest to the allottees on their deposited amount from various period.

4. Since, the project is self financed and AFNHB has no separate funds to meet such unforeseen expenditure, AFNHB was not in position to pay the interest amount to the complainants as directed by RERA Authority. Accordingly, AFNHB filed 34 separate appeals before RERA Tribunal, Lucknow by depositing Rs 86 Lakh in compliance of Sec 43 (5) of RERA being 30% of interest amount.

5. RERA Appellate Tribunal (REAT) directed to deposit 100% of the interest awarded to the complainants before hearing the appeals on merits. Since, AFNHB was not in a position to deposit the entire amount, the Tribunal dismissed all the appeals for non-compliance of orders.

6. Aggrieved by RERA Tribunal orders, AFNHB filed appeals before High Court of Allahabad. After considering status of AFNHB as a welfare society, working on 'No Profit No Loss' basis, the Hon'ble High Court of Allahabad, vide its orders dated 16 Mar 21 and 18 Mar 21 allowed all appeals and directed U.P. RERA Tribunal to hear the appeals on merits on deposition of 30% of awarded interest by AFNHB.

7. However, RERA Tribunal raised technical objection stating that 30% deposit was accepted only where penalty was awarded, whereas in case of interest/ compensation, 100% of the amount needs to be deposited as per Sec 43(5) of RERA Act. Accordingly, AFNHB filed clarification applications before Allahabad High Court seeking clarification on mandatory deposit for hearing of appeals by RERA Tribunal.

8. Meanwhile in the absence of any stay orders, Execution Authority (RERA) passed recovery certificates (RC) against AFNHB. Subsequently, SDM Meerut vide order dated 27 Jan 21, has frozen all the known bank accounts of AFNHB and vide order dated 27 Sep 21 also passed orders for attachment of entire Meerut project.

9. SDM Meerut further vide its order dated 03 Dec 21 issued notice for auction of entire Meerut project of AFNHB. The order itself was disproportionate as SDM had ordered for auctioning of the project of the approx value of Rs 190 Cr against recovery of Rs 4.78 Cr towards the amount of interest awarded to 26 complainants by RERA Gr Noida.

10. Consequence to issuance of order dated 03 Dec 21, all progress work at site had come to a halt. This order was challenged before Hon'ble high Court Allahabad and stay was obtained on 22 Dec 21 and a question of law was framed whether considering the bye-laws and Memorandum of Association of AFNHB whether provisions of RERA would be applicable to it. The case was finally argued on 08 to 10 Mar 22 and was reserved for order.

11. In the meantime, DG had a meeting with the Chairman, RERA and after deliberating the issue, the Chairman RERA also directed the District Administration Meerut not to initiate any coercive action against innocent allottees. Subsequent to these orders, the auction proceedings scheduled by District Administration for 24 Dec 21 were suspended.

12. In order to proceed further meetings were held with the district administration, Meerut and Chairman RERA so that registration of flats could be restarted which was kept in abeyance since issuance of notice dated 03 Dec 22 by SDM Meerut. During these meetings it was submitted that in order to benefit a few RERA litigants, interests of remaining 500 innocent allottees cannot be compromised. Unfortunately, the issue could not be resolved as the SDM had expressed his inability to restore registration of flats till a written communication is issued by Chairman RERA.

13. Now the judgment in appeals filed before the Hon'ble High Court at Allahabad has been passed on 12 Apr 22. The High Court has held that there is no clause of waiver in the RERA Act and AFNHB falls within the definition of promoter. Hence, as per Hon'ble Supreme Court judgment, an appeal can be entertained by RERA Tribunal only after 100% interest / compensation is deposited before the Tribunal. AFNHB has filed an SLP in Hon'ble Supreme Court to safeguard interests of allottees.

14. It may be appreciated that AFNHB is a Welfare Organisation and working on No Profit No Loss basis and does not earn any profit from welfare its activities. All AFNHB projects are self financed, therefore any unforeseen expenditure in the project has to be booked against project cost. If, finally it is decided that this amount needs to be paid to a few RERA litigants in this project, AFNHB will have no option but to book this expenditure against project cost and with Final Costing, the deficit amount is recovered proportionately from all the allottees in accordance with clause 0624 of the AFNHB Masster Brochure 2012.

PRESENT STATUS

15. **Handing Over Status** Possession letters have been issued to **465** allottees by AFNHB, **432** allottees have taken over physical possession at site and more than 180 houses are in occupation.

16. **Electricity** The prepaid electricity meters for all DUs have been energised i.e Power Supply is available in the flats.

17. **Gas** The installation of IGL pipeline gas has been completed in all blocks, however some pipeline work in D&E block is in progress. The firm has agreed to carry out fresh leakage checks in all blocks prior to switching on the supply to desirous allottees.

18. **STP** All work has been completed and awaiting taking over by the society.

19. **Swimming Pool** All work has been completed. Final repairs/ finishing work would be completed just prior taking over by society.

20. **Community Centre** All work completed, awaiting taking over by the society.

21. **Power Backup** Three DG sets have been installed.

MAINTENANCE OF COMMON FACILITIES

22. It may be appreciated that despite **432** allottees having taken over physical possession, the elected RWA for the reasons best known to it, was not coming forward to take over either the common assets and the day-to-day management of the society which includes security, conservancy, horticulture, common area electricity charges etc as mandate by the U.P Apartment Act. Subsequently RWA has finally agreed to take over the possession of common assets and day to day management of the society with effect from 01 Jun 22.

23. In order to provide the necessary facilities to the residents at site, AFNHB continues to incur Monthly Maintenance expenditure till date which was inescapable to run the basic facilities at JVT Meerut. This issue had amply been clarified to all allottees vide AFNHB letter dated 21 Feb 22. Therefore, the RWA was again requested to shoulder its responsibilities and manage day to day affairs of the society as required under U.P Apartment Act.

24. The AFNHB team is doing its best and leaving no stone unturned towards resolution of all pending issues. However, in the past, contractors had defaulted wherein an arbitral award of Rs. 40.50 crs has been passed in favour of AFNHB against M/s OICL. Another arbitration with M/s Umaxe projects is under process. The amount so realised from these arbitrations would be ploughed back in to the project for the benefit of the allottees.

25. AFNHB management is of the view that all vacant flats in the project are developed through the contributions of the allottees and hence, should not be pledged to the District Administration of Meerut to compensate RERA litigants. However, after discussion with the Chairman RERA 14 vacant DUs costing Rs. 6.5 Crs have been pledged. AFNHB has been pursuant with the State Administration for registration of DUs. AFNHB has highlighted to the State Administration that the allottees cannot be penalised for no fault of theirs. The District Administration on the directions of Chairman RERA has now, removed the restriction on registration of flats wef 12 May 22. Now, the allottees who have taken over possession can register their DUs before the Sub-Registrar, Meerut.

26. This is for information of all concerned.


(Jatinder Singh Deo)
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JGM(L & S)
For Director General
30 May 22

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