

ORDER

Licence No. 1042-1061 of 2006 dated 25.07.2006 was granted for development of Group Housing Colony over an area measuring 55.724 acres in Sector 76, Faridabad to Countrywide Promoters Pvt. Ltd. & its associate companies. The licence was valid upto 24.07.2013 and the colonizer/licencee had submitted an application on 24.06.2013 for renewal of the licence for further period i.e. upto 24.07.2015. The application was examined and it was noticed that the company had transferred development and marketing rights of 26.619 acres licenced land in favour of Era Landmarks Ltd. (now known as Adel Landmarks Ltd.), who had collected booking amount and other charges from the allottees in respect of allotment of flats situated in this portion of licenced land. It was also noticed that the compliance of Rule 24, 26(2), 27 & 28 of Haryana Development and Regulation of Urban Areas Rules, 1976 pertaining to this licenced area has also not been submitted by the licencee. Further, the company has also failed to deposit additional Bank Guarantee amounting Rs. 342.60 lac on account of Internal Development Works, due to which service plan estimates of the entire colony could not be approved till date.

2. In addition to above, a complaint was also received from Smt. Chandri W/o Sh. Mukhtiar Singh and Sh. Rajbir Singh S/o Sh. Mukhtiar Singh alleging that licence No. 1047 of 2006 has been obtained by the licencee company on the basis of fake documents. An opportunity of being heard was granted to the complainant as well as the licencee on 09.05.2014 by the then DGTCP and the disputed area i.e. 23K-7M was freezed vide orders dated 09.05.2014 as conveyed vide memo dated 27.05.2014. In view of the above said deficiencies noticed, the request for renewal of the licence for further period was liable to be rejected. However, before taking final decision in this regard, an opportunity of being heard was granted for 12.12.2014.

3. Meanwhile, CWP No. 23486 of 2014 titled as Ankur Chawla & Ors Vs. State of Haryana & Ors (21 petitioners) and 23487 of 2014 titled as Vishal Rastogi Vs. State of Haryana & Ors (one petitioner) were filed in the Hon'ble Punjab & Haryana High Court with the prayer to initiate prosecution against the licencee company i.e. Countrywide Promoters Pvt. Ltd. and Adel Landmarks Ltd. for committing offence under the provisions of Haryana Development & Regulation of Urban Areas Act, 1975 (Act 8 of 1975) and Rules framed thereunder i.e. for non compliance of Rule 24, 26 (2), 27 & 28 and transfer of licence in an illegal manner. It has also been prayed to direct the respondent No. 2 i.e. DGTCP to pass a written order, supported by reasons on the petitioner's request for prosecution for offences under Section 10 of Act 8 of 1975. The said writ petitions stands disposed of by the Hon'ble Court on 21.11.2014 with the following directions:-

" Therefore, we deem it appropriate to issue direction to the Director General, Town & Country Planning Department, Haryana- respondent No. 2 to take a decision on the legal notice submitted by the petitioners. Respondent No. 2 shall take into consideration

not only the question of grant of permission to prosecute or to initiate prosecution, but also the fact whether the units, the construction of which is said to be complete by respondent no. 4 as well as respondent nos. 7 & 8, should be taken over by the State and the possession thereof be handed over to the allottees either on 'as is where is basis' or on 'payment of construction charges', subject to the final determination of the rights between respondent No. 4 on one side and respondent Nos. 7 & 8 on the other side.

Consequently, we dispose of both the writ petitions with a direction to the Director General, Town & Country Planning Department, Haryana – respondent no. 2 or such other Officer, who is competent to take a decision to decide as to whether there is any contravention of license by either or all of the respondent Nos. 4, 7 or 8 or the reasons for not handing over the possession of the units to the petitioners. If the Director General, Town & Country Planning Department, Haryana found that the action of the licensee is not in terms of the conditions of the license, he shall consider the taking over of the development works in terms of Section 8 of the Act. The necessary exercise be completed within a period of three months from the receipt of certified copy of the order.

Disposed of accordingly."

4. Hearing was conducted on 12.12.2014 in light of above said direction of Hon'ble Court/facts of the case and same was adjourned for 12.01.2015 with the directions to examine the legal notice given by the petitioner. The hearing on 12.01.2015 could not be conducted and was adjourned for 09.02.2015, which was further adjourned for 09.03.2015 due to administration reasons.

5. Mr. Sudhanshu Tripathi, authorized signatory of Countrywide Promoters Pvt. Ltd., Mr. Nasir Abbas, the representative of Adel Landmarks Ltd. and Mr. Rahul Rathore, Advocate on behalf of the petitioners alongwith other 37 allottees appeared for hearing on scheduled date & time. Although there are only twenty two petitioners Mr. Rahul Rathore, Advocate reiterated the contents of CWP Nos. 23486 & 23487 of 2014 and also orders dated 21.11.2014 passed by Hon'ble Punjab & Haryana High Court. The other allottees have also expressed their grievances and problems being faced due to non co-operational attitude of Adel Landmarks Ltd. They have also apprised that most of the flats constructed in licenced area being developed by Adel Landmarks Ltd. stands completed, but the company is not giving possession thereof despite collecting around 95% payment in lieu thereof. Mr. Sudhanshu Tripathi appearing on behalf of Countrywide Promoters Pvt. Ltd has admitted that they had transferred development/marketing rights of 26.619 acres licenced land in favour of Adel Landmarks Ltd. (formerly known as Era Landmarks Ltd.) and are ready to get permission for transfer of development rights / marketing rights in favour of the Adel Landmarks Ltd. Both companies requested to grant them the benefit of the Policy dated 18.02.2015 issued by the Department.

6. Although, the Govt. has recently issued Policy dated 18.02.2015 prescribing certain parameters for allowing transfer of development rights / marketing rights in licenced colonies under Act no 8 of 1975, but there is no mention of such retrospective situations. Keeping in view the larger public interest and plight of the allottees, the contentions of

petitioners for initiation of prosecution proceedings and cancellation of licence for delay in handing over of possession of flats, are not the right solutions and would not serve the purpose in any way, therefore, it is decided to consider the request of licensee company to transfer the beneficial interest pertaining to 26.619 acres licenced land in favour of Adel Landmarks Ltd. Therefore, Countrywide Promoters Pvt. Ltd and Adel Landmarks Ltd are hereby directed to submit the application for transfer of beneficial interest pertaining to said land in accordance with the Policy dated 18.02.2015 within ten days from issuance of these orders, which may be examined on merits and request for transfer of beneficial interest pertaining to 26.619 acres area may be processed further for taking action expeditiously.

7. Further, it is also directed that the licensee company shall deposit the outstanding dues on account of originally conveyed EDC i.e. Rs.206.14 lacs upto 09.03.2015 and also to pay composition fee of Rs.7,38,000/- on account of delay in submission of compliance of Rule 24, 26(2), 27 & 28 of Rules 1976 as per policy bearing No. PF-68/2012/5/38/2012-2TCP dated: 14.06.2012 within a period of ten days. After receipt of application under Policy dated 18.02.2015 and payment of outstanding charges, the request for renewal of the licence dated 24.06.2013 be considered subject to the condition that no development activities will be carried out by the developer on 23K-7M disputed land as directed vide this office orders dated 09.05.2014. After transfer of development rights/marketing rights to ADEL Landmarks Ltd, said company shall also apply & obtain occupation certificate for flats of the petitioners without delay. Application for part occupation certificate duly submitted on 21.02.2011 by the colonizer, comprising in 29.105 acres be also examined.

8. Department has also granted additional licence No. 275 of 2007 dated 06.12.2007 in addition to above said licence, but request for renewal of said licence application dated 06.11.2009, 30.04.2012 & 05.11.2013 stands rejected vide this office memo dated 14.05.2014 on the grounds mentioned in para 1 above. The company had submitted a review application dated 28.05.2014 against the said orders, which is pending for decision. An opportunity of being heard was also granted in this case alongwith parent licence. The case may also be submitted separately for seeking orders of the Govt. for reviewing the order dated 14.05.2014 passed by my predecessor, when the observations conveyed in order dated 14.05.2014 are rectified and the directions mentioned above are complied with by the licensee as well as Adel Landmarks Ltd for getting the matter resolved.

Accordingly, the legal notice (P-7) is hereby decided. The orders may be conveyed to all concerned.

Date: 9-03-2015
Place: Chandigarh

-Sd-
(Arun Kumar Gupta)
Director General Town & Country Planning,
Haryana, Chandigarh