

छत्तीसगढ़ भू-संपदा विनियामक प्राधिकरण रायपुर

आदेश पत्रिका

क्रमांक-129

प्रकरण क्रमांक-M-PRO-2022-01750

आवेदक :- सालासार वेलफेयर रेसीडेन्सियल एसोसिएशन द्वारा-सचिव श्री रंजीत कुमार, पता-सालासार सोसायटी कार्यालय, सालासार ग्रीन्स, सरोना, रायपुर (छ.ग.) विरुद्ध (1) मेसर्स सचदेव बिल्डकॉन, द्वारा-श्री विवेक सचदेव, (2) मेसर्स वॉलफोर्ट प्रापर्टीज प्रा.लि.,द्वारा-पार्टनर/डायरेक्टर -श्री पंकज लोहाटी, पता-204- 205, वालफोर्ट ओजोन, फाफाडीह चौक, रायपुर (छ.ग.) (3) वालफोर्ट गार्डन रेसीडेन्सियल सोसायटी, पता-सालासार ग्रीन्स के समीप, सरोना, रायपुर (छ.ग.) प्रोजेक्ट - "सालासार ग्रीन्स", सरोना, रायपुर (छ.ग.)

आदेश कार्यवाही की तारीख व स्थान	आदेश अथवा कार्यवाही	पक्षकार अथवा प्रतिनिधि के हस्ताक्षर
09 / 12 / 2022	<ul style="list-style-type: none">- Case taken today.- Complainant through LA Shri Shashwat Surana.- Respondent No. 1 through LA Shri Jatin Joshi, Respondent No. 2 through Shri and Respondent No. 3 through Shri Shrijan Shukla.- The complainant has filed complaint against the respondents under section-31 of the Act in the prescribed form-M, seeking for directions to the Respondents to stop movement of all vehicles for transport of material & labours/employees of Respondent No. 2 through the project Salasar Green to Wallfort Garden, to use other two available roads to access Wallfort Gardens, to direct Respondent No. 1 to execute registered conveyance deed for transfer of common areas. The complaint has also sought some other reliefs in his complaint.- The Complaint, during the course of hearing has filed two applications. Complainant, in his first application dated 19.10.2022 has requested for the appointment of commissioner under section-35 of the RERA Act for inspection & submission of report on the following issues :-<ul style="list-style-type: none">(i) Whether project Wallfort Garden can be accessed	

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	<p>from the routes as specifically mentioned by the complainant in Google maps which is annexed with the complaint as annexure 9, page 31.</p> <p>(ii) To file its report in respect of the fact that whether the Respondent No. 2 has connected the drains and sewerage lines of its project "Wallfort Gardens" from that of the project of the complainant i.e. Salasar Greens.</p> <p>(iii) To file its report as to the present position of the internal road of the project Salasar Greens which is presently being used by the respondent no. 2 and 3, further which has developed several cracks and is damaged due to movement of heavy traffic therein.</p> <p>(iv) To file status of project Walfort Gardens and ongoing constructions of several units therein.</p> <p>Respondent No 1, in his reply to the above mentioned application of complainant has stated that he has made every effort to ensure safety and security of the residents of Salasar Greens. The respondent number one has further stated that the complainant society was formed in the year 2018 and the society is in physical possession of the project Salasar Greens from 2018 onwards. Respondent No. 1 has also mentioned in his reply that he has no objection to complainant's request of</p>	

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	<p>appointment of Commissioner. However respondent No. 1 has requested that the Commissioner inspection report be sought on two more facets/aspects described as under :-</p> <p>(i) Whether approach road to project Wallfort Garden is available or is to be made available through project Wallfort Alancia.</p> <p>(ii) Whether approach road to project Wallfort Garden is available or is to be made available through Western boundary of the project Salasar Green.</p> <p>Respondent No. 1 in his reply has also mentioned that he is willing to construct a 40 feet wide road on the Western boundary of the project Salasar Green for easy access to Wallfort Garden.</p> <p>Respondent No. 2, in his reply to the above mentioned application filed by the complainant has stated that the Hon'ble Authority, under the provisions of RERA Act has the jurisdiction to decide the dispute between builder/promoter and allottees/allottees Association. However, complainant, who is not an allottee of the project Wallfort Garden, cannot seek appointment of Commissioner for the project Wallfort Garden. Respondent No. 2 has further stated that the alternate access route provided by the complainant from</p>	

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	<p>Google Maps is not admissible as evidence as the same is owned and maintained by a private company and is not a public document. Respondent No. 2 has also stated that the current used road has been used as main access route to the project for obtaining layout approval from the department of Town and Country planning, Raipur; therefore, Hon'ble Authority does not have any jurisdiction to interfere with such usage or modify the layout sanctioned by competent Authority. In view of above submissions, Respondent No. 2 has prayed to dismiss the application of complainant.</p> <p>Respondent No. 3, in his reply to above application has stated that the residents of the project Wallfort Garden have bought plots in the project based on the common road of access to the project shared by the complainant. Respondent No. 3 has mentioned that Respondent No.2, in his brochure for the sale of plots, has advertised the disputed Road as entrance road for the project Wallfort Garden. Respondent No. 3 has also mentioned that various permissions for the project Wallfort Garden have been obtained on the basis of common consent letter executed between Respondent No. 1 and Respondent No. 2 on 28.12.2009 for the use of the disputed 40 feet Wide Road as entrance road of the project</p>	

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	<p>Wallfort Garden. Respondent No. 3 has further stated that in the meeting dated 28.07.2019, Complainant and Respondent No. 3 had mutually decided to permit entry of heavy vehicle from 11 pm to 5 am and Respondent No. 3 is ready to negotiate the matter further at any moment. Hence, on the basis of above enumerated facts, Respondent No. 3 has prayed to dismiss the application filed by the complainant.</p> <p>After hearing all the parties on the issue and examining the written submissions made by them, it is clear that Respondent No. 1 has no objections to appointment of Commissioner. However, Respondent No. 1 has pleaded that the report should include details of other access roads mentions in his reply. Complainant, who is resident society of the project Salasar Green has requested for appointment of Commissioner for inspection of - access routes to Wallfort Garden, connections of sewerage and drainage time of Wallfort garden to Salasar Greens, present condition of the shared internal road of Salasar Green and status of Wallfort Garden along with ongoing construction Respondent No. 2 has raised objections stating that the common road is the main route of access to the project Wallfort Garden as per approved layout and</p>	

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	<p>Complainant has no right to seek inspection of the project Wallfort Garden under RERA Act as he is not an allottee in Wallfort Garden. Respondent No. 3 has also objected to appointment of commissioner stating that the road in question is main access road to Wallfort Garden as per layout & brochure. Respondent No. 3 has also mentioned the consent letter executed between Respondent No. 1 and 2 regarding the above and the mutual decision taken by complainant and Respondent No. 3 in a meeting in 2019. Though, Respondent No. 2 and 3 have objected against the inspection, but in light of above facts, in order to obtain clarity on the dispute between parties regarding use of common shared roads; it seems necessary to appoint commissioner to ascertain the possibilities and accessibility other approach roads to the project Wallfort Green. Similarly, the condition of currently used road and claim of complainant regarding discharge of sewerage and drainage of Wallfort Garden in the drains of Salasar Green project needs to be verified too. However, Respondent No. 2 is objection that complainant cannot request for inspections of other project status, seems correct and therefore, inspection of status of Wallfort Garden and status of construction of units in the project cannot be</p>	

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	<p>allowed.</p> <p>Therefore, on the basis of above mentioned facts, the Authority partly allows the application for appointment of commissioner for report on - approach roads to Wallfort Green (including roads mentioned by Respondent No. 1), drainage/sewerage connection of Wallfort Garden to that of Salasar Green and the present condition of shared internal road of Salasar Green used currently as approach road for Wallfort Garden on payment of prescribed fees by the complainant.</p> <p>- Complainant has also filed application under section - 35 of RERA Act, 2016 read along with Rule 24 of CG Real Statae (Regulation and Development) Rules, 2017 for production of documents/furnishing information requesting the Authority to direct respondents to provide following information/ documents :-</p> <p>(i) Original copy of te alleged agreement "आपसी सहमति पत्र dated 28.12.2009".</p> <p>(ii) Details of road construction i.e specifically bills, payment details and contractor details specifically for the road inside project Salasar Greens which is being used as approach road for the project Wallfort Garden.</p>	

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	<p>(iii) Copy and details of registry - sale deed done by Respondent No. 2 in favour of Respondent No. 1 in the project Wallfort Gardens Specifically for land admeasuring 17,589 sq. ft as per clause 4 of the alleged agreement "आपसी सहमति पत्र dated 28.12.2009".</p> <p>(iv) Copy of Handover letter for common area and facilities of project Wallfort Gardens by Respondent No. 2 to Respondent No. 3.</p> <p>(v) List of unit owners/Allottees in the project Wallfort Gardens along with list of allottees actually residing there so that the information can be shared in the security check post/entry gate of the project in absence of which there is complete failure of safety and security services.</p> <p>(vi) List of unit of the project Wallfort Gardens in which construction is ongoing.</p> <p>Respondent No. 1 in his reply to above application has submitted that original copy of alleged consent letter dated 28.12.2009 is in custody of Respondent No. 2. Respondent No. 1 has also stated that approach road and internal CC roads of Salasar Green has been constructed by M/s Sachdev Buildcon and incurred expense towards its construction is, Rs. 11,01,913/-. He has also</p>	

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	<p>annexed supporting documents regarding the expenses. Respondent No. 1 has further stated that no sale deed has been executed between him and Respondent No. 2 because the arrangement mentioned in the alleged consent letter was not for indefinite period of time and Respondent No. 1 cancelled the plan to develop project behind Wallfort Sapphire. So, Respondent No. 1 has never used the internal road of Wallfort Sapphire to access its own land. Respondent No. 1 has also mentioned that the remaining documents sought by complainant are not related to the respondent.</p> <p>Respondent No. 2 in his reply to the above application has denied the contentions of application and stated that the Hon'ble Authority, under the provisions of RERA Act has the jurisdiction to decide the dispute between builder/promoter and allottees/allottees Association. However, complainant, who is not an allottee of the project Wallfort Garden cannot seek documents related to the project Wallfort Garden. Respondent No. 2 has also stated that the current used road has been used as main access route to the project for obtaining layout approval from the department of Town and Country planning, Raipur; therefore, Hon'ble Authority does not have any</p>	

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आदेश कार्यवाही की तारीख व स्थान	आदेश अथवा कार्यवाही	पक्षकार अथवा प्रतिनिधि के हस्ताक्षर
	<p>jurisdiction to interfere with such usage or modify the layout sanctioned by competent Authority. In view of above submissions, Respondent No. 2 has prayed to dismiss the application of complainant.</p> <p>Respondent No. 3, in his reply to above application has stated that the residents of the project Wallfort Garden have bought plots in the project based on the common road of access to the project shared by the complainant. Respondent No. 3 has mentioned that Respondent No.2, in his brochure for the sale of plots, has advertised the disputed Road as entrance road for the project Wallfort Garden. Respondent No. 3 has also mentioned that various permissions for the project Wallfort Garden have been obtained on the basis of common consent letter executed between Respondent No. 1 and Respondent No. 2 on 28.12.2009 for the use of the disputed 40 feet Wide Road as entrance road of the project Wallfort Garden. Respondent No. 3 has further stated that in the meeting dated 28.07.2019, Complainant and Respondent No. 3 had mutually decided to permit entry of heavy vehicle from 11 pm to 5 am and Respondent No. 3 is ready to negotiate the matter further at any moment. Hence, on the basis of above enumerated facts, Respondent No. 3 has</p>	

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	<p>prayed to dismiss the application filed by the complainant.</p> <p>After hearing all the parties on the issue and examining the written submissions made by them it is clear that Respondent No. 1 does not have the original copy of mutual consent letter dated 28.12.2009. Since, both Respondent No. 2 and 3 have relied on the aforementioned letter to claim their right to use the main internal road of Salasar Greens and Respondent No. 1 has alleged that the consent was not for an indefinite period; whereas complainant has alleged that the letter is forged, therefore, in the interest of justice it seems necessary to direct Respondent No. 2 to produce the original letter before the Authority. Registrar, CG RERA should return the original letter to Respondent No. 2 once it has been viewed by all other parties. Similarly, in order to ascertain the construction activities related to various unit holders of Wallfort Garden, for determining the the extent of heavy vehicle traffic/ labour movement through disputed internal road, Respondent No. 2 is instructed to provide the number of units in the project in which construction is on-going. In addition to above the complainant has also sought production of other information related to Wallfort</p>	

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आदेश कार्यवाही की तारीख व स्थान	आदेश अथवा कार्यवाही	पक्षकार अथवा प्रतिनिधि के हस्ताक्षर
	<p>Gardens; however, the information sought by complainant seems unrelated to the proceedings. It has also been made clear by Respondent No. 1 that no sale deed has been executed regarding the land mentioned in common consent letter dated 28.12.2009 and Respondent No. 1 has already provided the amount spent in construction of disputed approach road along with an affidavit. In light of the above mentioned facts, the application filed by complainant is partly allowed and Respondent No. 2 is directed to furnish documents as instructed above.</p> <p>- In addition to above mentioned applications, Respondent No. 3 has also filed an application dated 31.10.2022 for amendment of the interim order dated 28.08.2022. Complainant in his reply has objected and denied the allegation made by Respondent No. 3. After examining the submission made by both the parties, any amendment to the interim order seems unnecessary; therefore the application filed by Respondent No. 3 is disallowed. However, complainant is directed to not restrict the movement of residents and light vehicles to Wallfort Garden.</p> <p>- Case fixed for further proceedings. R-2 must produce</p>	

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आदेश कार्यवाही की तारीख व स्थान	आदेश अथवा कार्यवाही	पक्षकार अथवा प्रतिनिधि के हस्ताक्षर
	<p>the two documents asked for.</p> <p>- All parties have responded to the application of the complainant requesting for appointment of commissioner on four/three limited points. This must be decided on the next date.</p> <p style="text-align: center;">Sd/- (Vivek Dhand) Chairman</p> <p><u>Again:-</u></p> <p>The authority has again gone through the interim order typed on page seven of the typed interim order this issue of inspection by the commissioner of the authority has been decided. Hence the point 'A' above has been mentioned and written by the authority by over sight. 'A' above is therefore sent needed and rendered superfluous. Reg. Rera to communicate the same to all concerned. Change of date be also conveyed. Complainant be directed to submit the fees.</p> <p style="text-align: center;">Sd/- (Vivek Dhand) Chairman</p>	

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