

Uttar Pradesh Real Estate Regulatory Authority

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

No. 14543/UPRERAPRJ10243 & UPRERAPRJ10279/PMD-T/Cell/P.R./NCR/2022-23

Date: 22/12/2022

Order under section 8 read with section 6 and 37 of the RERA Act

1. M/s Elegant Infracon Pvt. Ltd. (herein referred to as the Promoter) had registered two of its projects namely 'Elegant Splendour Phase I' (Reg no. UPRERAPRJ10243) and 'Elegant Splendour Phase III' (Reg no. UPRERAPRJ10279) which are really two phases of the same group-housing project being developed by the promoter at CP-GH-05C, Tech Zone 4, Greater Noida, Gautambuddh Nagar, with the Authority on 23rd August 2017.
2. The completion date of the Projects 'Elegant Splendour Phase I' and 'Elegant Splendour Phase III', as declared by the Promoter at the time of registration of the Projects with U.P. RERA, hereafter called as "Authority", lapsed on 3rd September 2019 and 29th August 2022 respectively.
3. The Promoter failed to adhere to the timeline declared by it for the completion of the Project 'Elegant Splendour Phase I' and as per the inspection report dated 22nd October 2022 the physical progress of the Project is about 65-70 percent whereas the declared date of completion i.e., 3rd September 2019 lapsed long time back. Likewise, the Promoter failed to adhere to the timeline declared by it for the completion of the Project 'Elegant Splendour Phase III' and as per the inspection report dated 22nd October 2022 the physical progress of the Project is about 10 percent whereas the declared date of completion i.e., 29th August 2022 has already lapsed.
4. The Promoter neither submitted any plans to complete the project nor sought any extension of registration as per Section 6 of the RERA Act during this period. However, the Promoter approached the Authority vide its application dated 5th September 2022 with the request to allow it to carry out balance development of the Projects 'Elegant Splendour Phase I' and 'Elegant Splendour Phase III' under the provisions of Section 8 of the RERA Act based on the consent of the association of the allottees of the project, also stating therein that it could complete the project (comprising Phase I and Phase III) because of the dislocations created by the economic slowdown and the pandemic. It was also submitted by the Promoter that it has entered into a joint development agreement with M/s Floral Realtech Pvt. Ltd. for facilitating completion of these projects and expressed its intent to complete Phase I of the project by 30th September 2023 i.e., within 12 months from authorization and Phase III of the project by 31st March 2026 i.e., within 45 months from the date of authorization by the Authority. Subsequently, the Promoter vide letter dated 19th October 2022 revised the timeline for completion of

Phase 2 of the project to 36 months. The Promoter had added M/s Floral Realtech Pvt. Ltd, as a promoter of the project (comprising Phase I and Phase III) on the website of the Authority.

5. Since it is not permissible for the Promoter to get corresponding extension of registration of the Projects 'Elegant Splendour Phase I' and 'Elegant Splendour Phase III' under Section 6 of the RERA Act, the only course available to facilitate the completion of this project (comprising Phase I and Phase III) under the given circumstances is under the provisions of 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 through the competent authority or the association of the allottees or in any other manner as may be determined by the Authority and as per the principles laid down by Hon'ble Bombay High Court in the Neelkamal Realtors and others vs the Union of India and the Others.
6. The allottees of the project (comprising Phase I and Phase III) have formed an association under the name "Elegant Splendour Flat Buyers Welfare Association" (herein after called as Association) and got the same registered under the Societies Registration Act, 1860 on 19th March 2021 at Reg. No. S/2809/Distt South/2021 and it is made out in the application of the Promoter dated 5th September 2022 submitted jointly by the Promoter, M/s Floral Realtech Pvt. Ltd. and the association and that the association has provided its consent for permitting the Promoter to carry out the remaining development work of the project under the orders of the Authority so that the allottees of the project can get the possession of the houses.
7. A series of meetings were held with the Promoter and the Association at the end of the Authority to understand the issues and to arrive at a completion plan for the balance development work in the project (comprising Phase I and Phase III). During the meeting of committee constituted as per G.O. dated 26th June 2020 on 20th October 2022 under the chairmanship of Hon'ble Member Smt. Kalpana Mishra with the Promoter and the Association in attendance, a consensus was reached between the parties on the proposal submitted by the Promoter to complete the remaining development work in the project (comprising Phase I and Phase III) under 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 125 allottees out of 211 total allottees of the project which constitutes more than 50 percent of the allottees of the Project to its proposal for completing the remaining development work.
8. In the abovesaid meeting, the committee discussed the merits of the proposal submitted by the Promoter with the consent of the Association and took note of the consensus reached between the Promoter and the Association for carrying out the remaining development work in the Project. The committee also considered the fact that more than 50 percent of the allottees had given their consent to

the joint proposal. Keeping in view the interests of the allottees of the Project, the committee decided to recommend the proposal, submitted by the Promoter and consented by the Association, to the Authority for authorizing the Promoter under Section 8 read with Section 6 and 37 of the RERA Act to carry out the remaining development work of the Project within the timeframe provided by it. .

9. The proposal of the Promoter was examined in the Project Management Division of the Authority. The Project Management Division has highlighted the following salient facts / points as contained in the proposal submitted by the Promoter:
- a. The projects 'Elegant Splendour Phase I' and 'Elegant Splendour Phase III' (UPRERAPRJ10279) are group housing project located at Plot no. CP-GH-05C, Tech Zone IV, Greater Noida.
 - b. The sanctioned map approved by GNIDA lapsed on 1st March 2021. The Promoter informed that it had already submitted its application to GNIDA for revalidation of sanctioned map and in response received a letter dated 14th August 2022 from GNIDA directing it to pay 10 percent of their outstanding dues amounting to Rs. 4.32 cr to proceed further in this matter.
 - c. The Promoter entered into a Joint Development Agreement with M/s Floral Realtech Pvt. Ltd., an Apex Group company, for completing the remaining construction and development work in the project.
 - d. The project (comprising Phase I and Phase III) comprise of 8 towers namely towers A, B, C, D, E, F and G having 640 units. 'Elegant Splendour Phase I' comprises of towers E, F and G and 'Elegant Splendour Phase III' comprises of towers A, B, C, D and H.
 - e. The Promoter commenced construction work only in towers E, F, G and H. About 70 percent of construction work has been completed in towers E and F, 80 percent in tower G and 55 percent in tower H. No construction work commenced in towers A, B, C and D, all towers of Phase III of the project.
 - f. Out of 640 units in the project (comprising Phase I and Phase III), 211 units have been sold and 429 units are yet to be sold. No units in towers A, B, C and D (Phase III) have been sold by the Promoter.
 - g. The estimated cost of construction and development of the project (comprising Phase I and Phase III) is Rs. 100.74 cr. Additionally, the promoter has accounted for Rs. 45 cr as payment against land dues to GNIDA, Rs. 10.2 cr as marketing expenses, Rs. 10 cr as administrative expenses, Rs. 14.75 cr as processing fees / interest expenses against the proposed financing from a NBFC and Rs. 39 cr as principal repayment. Overall, the promoter has accounted for cash outflow of Rs. 219.69 cr.
 - h. The estimated value of the unsold units under the project (comprising Phase I and Phase III) is Rs. 239.10 cr and balance receivables from existing allottees is Rs. 20.96 cr. Overall the Promoter has estimated cash inflows of Rs. 260.06 cr.

- i. Prima facie, the Project has positive cash inflows and is also financially viable considering the balance receivables and value of unsold inventory.
 - j. Additionally, the Promoter has proposed to infuse Rs. 12.5 cr as upfront capital in the first quarter, of which Rs. 4.5 will be paid to GNIDA for revalidation of sanctioned map and Rs. 8 cr will be spent on construction. Out of Rs. 8 cr to be spent on construction, the Promoter will deposit in the separate project account an amount of Rs. 2.5 cr within first 30 days, another Rs. 2.5 cr within 60 days and Rs. 3 cr within 90 days from the date of the order. The Promoter is also in discussion to raise project finance to the tune of Rs. 39 cr.
 - i. There is an existing loan amounting to Rs. 11 cr with M/s IIFL Home Finance Limited. The promoter M/s Elegant Infracon Pvt. Ltd and M/s Floral Realtech Pvt. Ltd have entered into a settlement agreement with the lender for paying the amount in four installments – Rs. 1 cr on signing of the agreement, Rs. 3 cr on or before 20th December 2022, Rs. 4 cr on or before 20th January 2023, and Rs. 3 cr on or before 20th February 2023. The upfront Rs. 1 cr has already been paid and post-dated cheques have been submitted for the remaining payments. The M/s Elegant Infracon Pvt. Ltd and M/s Floral Realtech Pvt. Ltd shall pay the installments from its own sources.
 - k. Towers E, F, G and H are proposed to be completed within 12 months and towers A, B, C and D proposed to be completed within 36 months from the date of the order. Overall, both phases of the Project along with amenities and other support infrastructure shall be completed with 36 months from the date of the order.
 - l. Demand from existing allottees, who have already paid more than 80 percent of their dues, shall be raised at the time of offer of possession. For existing allottees who have paid less than 80 percent of their dues, the difference amount till 80 percent shall be raised from second quarter onwards and the remaining at the time of offer of possession.
10. The Authority has issued 19 RCs amounting to Rs. 9.86 cr against the Promoter. The Promoter informed that it has entered into an agreement with the Association wherein the allottees for whom the RCs had been issued, have agreed to make a settlement of RCs upon satisfactory progress in construction work during the first six-months from the date of the order under Section 8 of the RERA Act. The Promoter has submitted an affidavit dated 18th October 2022 to the effect confirming that the allottees will not be pursuing recovery of their RCs for six-months from the date of the order and will settle the same on satisfactory progress in construction work within over these six months. Further that the promoter shall not be utilizing the funds deposited in the separate project account for payment against RCs. The Association orally corroborated the statement of the Promoter during the meeting of Project Advisory & Monitoring Committee held on 20th October 2022 and informed that majority of such allottees for whom RCs were issued by the Authority have also submitted their consent to the proposal of the

Promoter for rehabilitating the project (comprising Phase I and Phase III) under Section 8 of the RERA Act.

11. The Project was inspected by the Technical Division of the Authority in October 2022, wherein it has been observed that the overall physical progress of the Project 'Elegant Splendour Phase I' is about 65-70 percent whereas the overall physical progress of the Project 'Elegant Splendour Phase III' is about 10 percent.
12. 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 19th December 2022. 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, 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 (comprising Phase I and Phase III) under the present conditions i.e. where the registration of the project (comprising Phase I and Phase III) has lapsed and the Authority needs to facilitate the remaining development work in order to protect the interests of the allottees of the project (comprising Phase I and Phase III).
13. Therefore, with a view to facilitate the completion of the project (comprising Phase I and Phase III) in a time bound manner and 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 6 and 37 and 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 (comprising Phase I and Phase III) subject to following terms and conditions:
 - a. The Association shall submit, within 30 days of the order, a general body resolution of the Association giving their explicit consent to authorize the Promoter(s) to undertake the remaining development and construction work of the Project.
 - b. The Promoter(s) shall have to adhere to the construction milestones submitted by it and complete the balance development work in towers E, F, G and H within 12 months and in towers A, B, C and D within 36 months from the date of this order. The Promoter(s) shall submit an affidavit undertaking to contribute to the shortfalls in cash flows, if any, during the course of development and construction of the project (comprising Phase I and Phase III) within the timelines as contemplated herein.

- c. The Promoter(s) shall complete 8 towers in the project (comprising Phase I and Phase III) as per the completion plan submitted by it and agreed to by the Association subject to paragraph 13(b) given above.
- d. The Promoter(s) shall submit duly revalidated sanctioned plan of the project within 3 months from the date of the order.
- e. The Promoter(s) shall apprise the Authority through the Project Advisory & Monitoring Committee about the progress and status of the pending appeal of M/s IIFL Home Finance Limited before Hon'ble Allahabad High Court during the first quarter meeting of the committee.
- f. The Promoter(s) shall open a separate account for the Project in a scheduled bank which shall be updated on the webpage of the Projects under the relevant category. The Promoter(s) shall deposit all its contribution towards the Project, as agreed with the Association 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 (comprising Phase I and Phase III), into this 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. 8 cr within 90 days from the date of this order, of which Rs. 2.5 cr should be deposited within first 30 days, another Rs. 2.5 cr within 60 days and Rs. 3 cr within 90 days, as agreed, in the separate account, before collecting the balance receivables from the allottees.

Provided further that any withdrawal from the separate account shall be as per the provisions of the Act, i.e., 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 (comprising Phase I and Phase III).

Provided further that the Promoter shall get the separate account of the project (comprising Phase I and Phase III) audited at the end of the financial year and annual audit report shall be uploaded on the website of the Authority.

- g. **The Authority shall review the compliance of proposed capital infusion by the Promoters(s) i.e., deposit of Rs. 8 cr within 90 days from the date of the order as directed under paragraph 13(d) above and in case of failure of the Promoter(s) to comply with the same, the Authority may decide to withdraw this order of authorization under Section 8 and initiate further necessary proceedings for completion of the project (comprising Phase I and Phase III) as provided under the relevant provisions of the Act.**

- h. The Authority shall review adherence to the proposed payment schedule to M/s IIFL Home Finance Limited and in case of failure of the Promoter(s) to comply with the same, the Authority may decide to withdraw this order of authorization under Section 8 read with section 6 and 37 of the RERA Act and initiate further necessary proceedings for completion of project (comprising Phase I and Phase III) as provided under the relevant provisions of the Act.**
- i. The Authority shall appoint a Construction Consultant for the concurrent audit till the completion of the project (comprising Phase I and Phase III). The cost thereof shall be met from the receipts of the project (comprising Phase I and Phase III).**
- j. The Promoter(s) shall ensure that proposed sale price cannot be lower than the floor price considered by the Promoter(s) in their cash inflow. The Promoter(s), 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.**
- k. The Authority hereby constitutes a Project Advisory and Monitoring Committee under the chairmanship of Smt. Kalpana Mishra, Hon'ble Member, U.P. RERA with Chief Executive Office, Greater Noida Industrial Development Authority, Financial 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 (comprising Phase I and Phase III) on monthly basis.**
- l. The Authority will review the progress of the project (comprising Phase I and Phase III) every three months and if the progress of the project (comprising Phase I and Phase III) is found unsatisfactory at the time of such review, the Authority may permit the Promoter(s) to continue with the development of the work under the project (comprising Phase I and Phase III) with the condition that it will make for the shortfall within the next three months. Further, if the progress of the project (comprising Phase I and Phase III) remains unsatisfactory at the end of next three months, the Authority may decide to withdraw this order of authorization under Section 8 read with Section 6 and 37 and initiate further necessary action under the relevant provisions of the Act. The conditions under paragraph 13(e) and 13(f) are in addition to the condition incorporated herein.**

During second such quarterly monitoring of the project at the end of six months, the question of settlement of the already issued Recovery Certificates will be reviewed by the Authority and further decision as to recovery proceedings with respect to such Recovery

Certificates will be taken on the basis of the recommendations of the Project Advisory & Monitoring Committee.


- m. The Authority, on its website, will shift the Projects to the special category of Projects under Rehabilitation as per the provisions of Section 8 of RERA Act. The Promoter(s) shall continue to update the details of the Projects, including the quarterly progress report of the Projects, in stipulated time or as directed by the Authority.
- n. The Association and the Promoter(s) 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 (comprising Phase I and Phase III) is completed and the occupancy certificate has been applied for along with all required/statutory certificates and NOCs. Any dispute between the Association and the Promoter(s) shall be amicably settled through the good offices of the Project Advisory and Monitoring Committee constituted by the Authority in this behalf.
- o. The Promoter(s) 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.
- p. The Promoter(s) may appoint/engage such contractors, vendors or suppliers as may be necessary for the completion of the project (comprising Phase I and Phase III), 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 (comprising Phase I and Phase III).
- q. The Promoter(s) 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 (comprising Phase I and Phase III) as per the specifications and within the stipulated time.
- r. The Promoter(s) 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.
- s. The Association, the Promoter(s), the allottees and all others connected with the development and completion of the project (comprising Phase I and Phase III) shall be bound by these orders and all other orders as may be issued by the Authority in this regard from time to time.
- t. Since the project (comprising Phase I and Phase III) are being rehabilitated under Section 8 of the RERA Act by the Promoter(s) with the consent of the majority of the allottees and the Association, it is understood that no allottee of the project (comprising Phase I and Phase III) shall withdraw from it during the course of the development of the remaining work of the project (comprising Phase I

and Phase III). However, if under extraordinary circumstances, some allottee of the project (comprising Phase I and Phase III) withdraw from it, the amount due to be returned to such allottee shall not be returned from the separate account of this project (comprising Phase I and Phase III), rather the same may be returned from the other sources of the Promoter(s), or alternately the amount due to such allottees would continue to be a charge on the project (comprising Phase I and Phase III) and will be returned after the completion of the project (comprising Phase I and Phase III) along with interest admissible as per the orders of the Authority.

Similarly, the enforcement of orders, passed by the Authority on the complaints of the allottees, shall be kept on hold and the complainant-allottees shall be advised to approach the Authority for the same after completion of the development work under the project (comprising Phase I and Phase III).

- u. The Promoter(s), after completion of the project (comprising Phase I and Phase III), shall apply to the competent authority for occupancy certificate as provided under local laws and offer possession to the allottees.


This order is 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- Smt. Kalpana Mishra, Hon'ble Member, Uttar Pradesh Real Estate Regulatory Authority.
- 3- Additional Chief Secretary, Department of Infrastructure & Industrial Development, Govt. of Uttar Pradesh
- 4- Principal Secretary, Department of Housing & Urban Planning, Govt. of Uttar Pradesh.
- 5- Chief Executive Officer, Greater Noida Industrial Development Authority.
- 6- Sh. R. D. Paliwal, Conciliation Consultant, Uttar Pradesh Real Estate Regulatory Authority.
- 7- Principal Advisor, Uttar Pradesh Real Estate Regulatory Authority.
- 8- Finance Controller, Uttar Pradesh Real Estate Regulatory Authority.
- 9- Technical Advisor, Uttar Pradesh Real Estate Regulatory Authority.
- 10- Consultant, Project Management Division, Uttar Pradesh Real Estate Regulatory Authority.
- 11- Manager, Concerned Bank/Financial Institution.
- 12- Promoter M/s Elegant Infracon Pvt. Ltd.
- 13- M/s Floral Realtech Pvt. Ltd.
- 14- Elegant Splendour Flat Buyers Welfare Association.


(Rajesh Kumar Tyagi)
Secretary