

OFFICE OF THE REGISTRAR COOPERATIVE SOCIETIES
GOVERNMENT OF NCT OF DELHI
OLD COURT BUILDING, PARLIAMENT STREET, NEW DELHI - 110 001

No. F.Addl.RCS/Ratnakar CGHS/Sec.67/2020/ 2285-2295

Dated : 05/03/2021

Praveen Chawla & others
Ratnakar CGHS Ltd.
Sector-4, Dwarka, Delhi-85

.....Complainants

Versus

President/Secretary
Ratnakar CGHS Ltd.
Sector-4, Dwarka, Delhi-85

.....Respondent

ORDER U/S 67 OF DCS Act 2003

Whereas Sh. Sunil Gahalot, Executive Engineer, South Delhi Municipal Corporation was appointed Inspecting Officer U/s 61 of DCS Act, 2003 to conduct inspection vide office order dated 10.12.2019 and submitted his report dated 07.07.2020 to RCS. Inspecting officer concluded his report with the following observations and conclusions:-

1. The work of extension of FAR in Ratnakar housing society has not been carrying out as per sanctioned layout plan of DDA vide file no: DW4/0045/17-18 dated 14th July 2018, Which was duly approved in SGBM dated 16th April 2017. As per sanctioned layout plan vide point number 2, it is clearly mentioned that " the construction will be undertaken as per sanctioned plan only and no deviation form bye-laws will be permitted without prior sanction. Any deviation done against the bye-laws will be permitted without prior sanction. Any deviation done against the bye-laws is liable to be demolished and the supervising Architect, engaged on the job will run the risk of having his license cancelled."(Annexure-XII)
2. The additional sanctioned FAR from DDA for type A flat including balcony was 40.39 SQMT (435 SQFT) and for type B flat including balcony was 43.9 SQMT (472 SQFT). The same was approved in the SGBM dated 16th April 2017. The erstwhile MC was increased this FAR by adding kitchen are and approved that the FAR can be extended up to 550 SQFT. However, in the MOM of SGBM dated 7th April 2019 the FAR of HIG flat increased up to 725 SQFT and MIG up

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to 687 SQFT was considered. And finally, the MC started the construction on this extended FAR without considering the approval from the various authorities. Even, no documents related to the approval from SGBM has been submitted to the undersigned.

- 3. The layout plan on which the construction of extension work of FAR are going not has not been submitted to undersigned.
- 4. As report by the complainants, that complainants that this layout plan for additional FAR was not signed by MC and being submitted to DDA for the approval and also not approved in SGBM of Ratnagar society, which is not as per law. The executed work is not as per the sanctioned structural drawing of DDA. The location of location of the pillars is also changed.on the query of member of society,Sh. SP Garg, Architect informed that the change in pillars were brought in due to structural design of the building to provide strength. He also informed that the FAR construction as on date is within the setback area of DDA. He also informed members not to cover the open/ balconies till the completion certificate received from DDA, fire department and DUAC authorities. Further he informed that to regularize the extension of additional FAR there is a requirement of paying Rs.1680 per SQMT as fees of the covered area to DDA to regularize/ obtain completion certificate. But till date, MC neither approved the additional layout plan from the society SGBM and neither applied to DDA.
- 5. The MC has failed to produce NOC from Fire Department on the additional FAR i.e. 725 SQFT for HIG 685 SQFT for NIG and put up in SGBM dated 7th April 2019,on which the extension work is in progress. No document in this regard is submitted to the undersigned.
- 6. The members also raised the objections for creation long alley in tower A/B. closure of the master bedroom/ washroom and violating DDA's norm of the ventilation of room. The MC has covered the shaft portion is open shaft and not shown in the plan submitted to DDA for approval. This considered as the clear case of hiding of facts.
- 7. Further, it could not be ascertained that, whether the ongoing contraction is as per building bye laws or not, as the sanctioned plan is not got approved by the competent authority i.e. DDA.

It is requested to kindly direct the MC, Ratnagar society to get the layout plan approved/sanctioned from the competent authorities (DDA Fire department etc.) on which the extension of FAR is going on if, the ongoing construction is not as per building by-laws, then the necessary action has to be taken on the unauthorized part as per the DDA guidelines.

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Further Inspection Report was forwarded to the society U/s 61(4) of DCS Act, 2003 vide this office letter dated 03.08.2020. Further society summoned to explain all the defects or irregularities pointed out by Inspecting Officer.

During hearing the respondent society was represented by Sh. Virender Singh, Advocate and Claimant was represented by Sh. Rajesh Shrivastav, Advocate. The respondent society filed their point wise reply are as under:-

1. Approval of DDA has been taken for FAR work vide F/no. DW4/0045/17-18 dated 14th July 2018. The Deviation is approved unanimously and same is recorded in the Minutes Meeting.
2. The status report submitted by the DDA in the Hon'ble Court Dwarka against the civil suit No. SCJ/992/2019 that, "*As per inspection report, it is stated that the Ratnakar CGHS Society has achieved the FAR to the extent of 181.50% (11796.37 SqMtr) against sanctioned FAR 11076.37 SqMtr. The permissible FAR to the extent of (200%) i.e. 12999 SqMtr. The constructed area is within the permissible limit of the DDA norms and can be compounded at the time of completion.*".
3. The same was provided and all members are aware of the FAR construction being undertaken and all layout plans are placed on the notice boards.
4. The additional FAR work is in progress and it is an incorrect statement on part of the Inspecting officer that the MC has not signed the layout plan and is being submitted to DDA and such statement has been made by the enquiry officer on the hearsay of the complainants which again shows the prejudice mind & malafied intentions of Inspecting officer and the flats are constructed on the pro-rata area and the construction cost of the flat is also based on the area constructed. DDA issued completion certificate on the basis of two types of flats i.e. 3 BHK (91.774 sqmt) and 2 BHK (72.965 sqmtr). The maintenance is paid for the common area irrespective of the size of the flats. In SGBM dated 16th April held by the then MC where all the rules of the game were framed by them and present MC is executing the construction work in totality inherited. The FAR being constructed as on date is in preview of the DDA and officials of DDA have inspected the site and submitted the status report in the Hon'ble Court Dwarka.
5. The complainants had complained and with prejudice mind the Inspecting officer was working and the Inspecting officer has purposefully mentioned about

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non-functional of Fire fighting equipments' and the said work has been completed and Fire department has been approached to give NOC.

6. The DDA has submitted in the written statement in the instant case and also filed the written reply in the Hon'ble Court Dwarka. It is submitted that minimum 1 Meter height of wall is required for ventilation.

7. The status report submitted by the DDA in the Hon'ble Court Dwarka against the civil suit No. SCJ/992/2019 that, "*As per inspection report, it is stated that the Ratnakar CGHS Society has achieved the FAR to the extent of 181.50% (11796.37 SqMtr) against sanctioned FAR 11076.37 SqMtr. The permissible FAR to the extent of (200%) i.e. 12999 SqMtr. The constructed area is within the permissible limit of the DDA norms and can be compounded at the time of completion.*"

After the examination of document available in the case file it is seen that the Ex-Management were in charge of the society for the period from 2015 to 2018 & 2018 to July 2019. During this period all major decisions like appointment of Architect for additional FAR and appointment of Contractor for construction of area/buildings for addl FAR were taken in the General Body meeting of the society by the Ex-management in the AGBM/SGBM held on 23.10.2016, 16.04.2017, 15.10.2017, 12.08.2018, 23.12.2018 and 07.04.2019 and the present Management which consist of 11 members came into power only after the election held on 21st July 2019 and are responsible only for the purpose of completion of work of additional FAR. The complaints are only to divert the main issue in the society and are defaulter not paying the construction amount for addl FAR dues. Further as regard the quality of construction works for additional FAR in the society the same may be seen in the status report of the DDA issued vide letter No. CS SCJ/992/2019 and moreover architect of the society vide his letter dated 19th June 2019 has opined that no deviation/alteration can be possible at this stage of construction of flats for the reasons that it will be affect the structural durability.

In this furtherance both the parties were directed to produce details of progress of FAR work under the different Management Committees. It is seen that complainants were also the part of the Management Committee at different tenure and has given their consent at different time interval regarding additional FAR and other points raised by them in their complaint.

From the above facts and documents available in case file I am of the opinion that as the status report submitted by the DDA in the Hon'ble Court Dwarka against the

civil suit No. SCJ/992/2019 that, " As per inspection report, it is stated that the Ratnakar CGHS Society has achieved the FAR to the extent of 181.50% (11796.37 SqMtr) against sanctioned FAR 11076.37 SqMtr. The permissible FAR to the extent of (200%) i.e. 12999 SqMtr. The constructed area is within the permissible limit of the DDA norms and can be compounded at the time of completion." And the work related to each and every construction and increment of FAR ratio is done by the different Management committee through SGBM/GBM with the consent of the member and present Managing Committee came in the rule on 21 July 2019.

Whereas, as per the Section 30 of DCS Act, 2003 it is the GBM of a Cooperative society which is vested with the final authority in respect of taking decisions for the managing the affairs of the cooperative society. Further, the section 30 of DCS Act, 2003 is quoted herein as below:-

Section 30(1) The final authority in a Co-operative Society shall vest in the general body of members:

Provided that where the bye-laws of a Co-operative society provide for the constitution of a smaller body consisting of delegates of members of the Co-operative society elected or selected in accordance with such bye-laws, the smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the co-operative society.

Section 30(2) Notwithstanding anything contained in Sub-Section (2) of section 26 each delegate shall have one vote in the affairs of the federal Co-operative society.

In view of the above facts and circumstances, it is evident to notice here that the decision made by the said Cooperative Housing Society i.e Ratnakar CGHS Ltd. has provided requisite information/documents in support that all the decisions made in respect of the issues raised by the complainants were thoroughly discussed and passed in the AGBM dated 23.10.2016, 16.04.2017, 15.10.2017, 12.08.2018, 23.12.2018 and 07.04.2019 of the said society. It is also seen that the complainant were also in the Managing Committee members at different tenure.

Therefore, the proceeding U/s 67 of DCS Act 2003, is not tenable as at this stage disturbing the society structure is not possible as report submitted by Design N Design (Architects Engineers Planners) dated 15 January, 2021(at page 185/C) "It is certified that, the FAR construction work of RATNAKAR C.G.H.S Ltd. has been completed (i.e Foundation/Column/Footing/Slabs/Bricks work) of the flats in both category (HIG & MIG) up to June 2019 was 55 % of total FAR work of the society. The FAR Construction is still in progress and as per the drawings, as on

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date 90 % FAR construction work of total FAR work of the society has been ^{228/C} completed". Hence society is directed to carry out the project as per the DDA norms and guidelines and submit the certificate to be given by DDA after the completion of project to the O/o RCS and both parties are directed to follow DCS Act 2003, & Rule 2007 in all the stages for maintaining the democratic set-up of the society.

The case is disposed off, accordingly.

The case file be sent to the concerned Assistant Registrar Cooperative Society / Section to keep the same on record.



(Ranjeet Singh)

Additional Registrar Cooperative Societies

To

1. The President/Secretary, Ratnakar CGHS Ltd., Plot No. 21, Sector-4, Dwarka, Delhi-85.
2. Sh. Praveen Chawla, Flat No. A-1, Ratnakar CGHS Ltd., Plot No. 21, Sector-4, Dwarka, Delhi-85.
3. Sh. Vikas Rastogi, A-4, Ratnakar CGHS Ltd., Plot No. 21, Sector-4, Dwarka, Delhi-85.
4. Sh. Brajesh Bankoti, A-10, Ratnakar CGHS Ltd., Plot No. 21, Sector-4, Dwarka, Delhi-85.
5. Sh. Tarun K Sharma, A-19, Ratnakar CGHS Ltd., Plot No. 21, Sector-4, Dwarka, Delhi-85.
6. Sh. Inder Raheja, B-30, Ratnakar CGHS Ltd., Plot No. 21, Sector-4, Dwarka, Delhi-85.
7. Ms. Shelly Tyagi, B-42, Ratnakar CGHS Ltd., Plot No. 21, Sector-4, Dwarka, Delhi-85.
8. Sh. Mohan C. Upreti, C-47, Ratnakar CGHS Ltd., Plot No. 21, Sector-4, Dwarka, Delhi-85.
9. Sh. Pravesh Goyal, C-65, Ratnakar CGHS Ltd., Plot No. 21, Sector-4, Dwarka, Delhi-85.
10. Sh. Omkar Bhartiya, C-62, Ratnakar CGHS Ltd., Plot No. 21, Sector-4, Dwarka, Delhi-85.
11. Ms. Debobani & Sh. Alok Singh, B-39, Ratnakar CGHS Ltd., Plot No. 21, Sector-4, Dwarka, Delhi-85.



(Ranjeet Singh)

Additional Registrar Cooperative Societies