

**REAL ESTATE REGULATORY AUTHORITY
HIMACHAL PRADESH**

Complaint No.HPRERA2022031/C

Ahlawat Developers and Promoters, (Partnership Firm) Khasra Nos.602-608,610-611, Malku Majra, Tehsil Baddi, Solan , Himachal Pradesh 173205 through its partner(s)

..... Complainant

VERSUS

Yash Pal Plot No. 11 in Himachal One Apartments, Malku Majra, PO Bhud, Tehsil Baddi, Solan, Himachal Pradesh,173205

.....Respondent

**Present :- Smt. Neha Gupta, Ld. Counsel for respondent promoter alongwith Jagjit Singh Ahlawat Complainant through Webex
Sh. Shanti Swaroop, Ld. Advocate for respondents alongwith Sh. Yash Pal, Sh. Abdul Guffar Kasane and Sh. Nikhil Sharma**

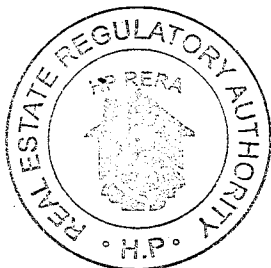
**Final date of hearing:- 29.04.2023
Date of Pronouncement of order:-26.05.2023**

Order

Coram: - Chairperson and Member

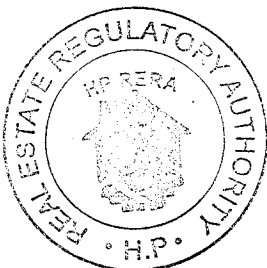
1. Brief facts of the complaint:-

This is a complaint filed by Mr. Jagjit Singh Ahlawat, Promoter of the Housing Project "Himachal One" at Baddi, registered with the Authority at Registration No.-RERAHPSOP06180035. It was pleaded that the respondent had booked a residential Plot no.11 in the housing project vide Agreement for Sale dated 03.08.2018. It was further pleaded that the sale deed of the said plot was executed in the office of Sub Registrar Baddi, on 09.05.2019. It was further pleaded that the respondent after execution of the sale deed constructed a 4 storied building on the plot, for the usage by the respondent/tenants, since September, 2020. It was



further pleaded that the complainant has further mentioned that the respondent has never paid any maintenance charges, electricity charges etc. till date except some part payment of Rs. 27000/- in September, 2021. It was further pleaded that the complainant has further stated, that the respondent is required to make payment in common with other allottees as per Clause 26 of the agreement for sale. It was further pleaded that as per Section 11 (4) (d) of the RERD Act, 2016, the promoter is to maintain essential services on reasonable charges and as per Section 19 (6) of the RERD Act, 2016 , every allottee is required to pay electricity as well as the maintenance charges as per agreement for sale. He has also highlighted Clause 15 (3) of the agreement for sale which states, that the allottee shall plan and distribute its electrical load in conformity with the electrical system planned by the promoter.

2. Hence, the complainant has requested the Authority to direct the respondent to pay the maintenance charges from the execution of sale deed and electricity charges as per actual consumption and also direct the respondent to plan and distribute its electrical load in conformity with the electrical system planned by the promoter. It was further pleaded that the complainant has asked for a payment of Rs. 1, 81,152/- from the respondent, as per list enclosed with the complaint, against the maintenance charge/electricity charges.
3. The complainant has also filed an MA number 32/2023 in January, 2023. In the MA, the complainant has mentioned that the promoter had a meeting with the plot allottees on 20th September, 2022 to resolve the maintenance charges. The minutes of the meeting are attached at Annexure A-1 of the MA. According to that, the plot allottees were to pay Rs. 1,500/- per month during the period of construction and after that the allottees are to pay Rs. 700/- per month. He has claimed that Maintenance Charges of Rs. 64,348/-, Electricity Charges of Rs. 18,850/- and excess load payment of Rs. 28,500/- are due from the respondent, as per the annexures attached with the MA.

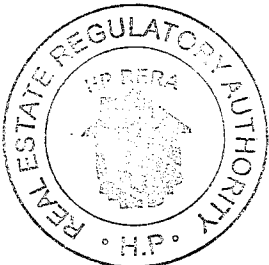


4. Reply by the Respondent:

The respondent in his reply has taken the preliminary objection, that the complaint is not maintainable, because the complainant has failed to discharge the functions and duties of promoters especially under Section 11 (4) (d) (e) of the RERD Act, 2016. He has further stated that the statement of maintenance charges is fake, false and without any supporting record. It was further pleaded that the factual condition of the spot shows that the complainant has spent nothing to maintain roads, paths, sewerage and other essential services. He has further pointed out there is nothing worth on the spot of the complainant to seek maintenance charges from the respondent. On merit he has contested that the complainant has already given him No Objection Certificate for electricity connection on 10th October, 2022 in which, it has been clearly mentioned that Sh. Yashpal has cleared the dues towards maintenance charges up-to October, 2022. Therefore, the complaint which was filed on 29.10.2022, just after 9 days stating that the maintenance charges are due, is false and liable for criminal action. Therefore, he prayed that complaint may be dismissed.

5. Rejoinder by the Complainant:

The complainant in his rejoinder has stated that allottee has consumed 12,500 units of electricity from June, 2020 till August, 2022. He has further stated that HPSEBL disconnected the electricity of the project on 28th August, 2022 for not clearing the electricity dues. Then the plot allottees deposited Rs. 1,62,475/- and the complainant deposited Rs. 57,500/- to the HPSEB for the restoration of the electricity. He has also claimed that maintenance charges of Rs. 98,129/-, electricity charges of Rs. 62,500/- and payment of excess load over 5 KVA, amounting to Rs. 28500/- are payable by the respondent out of which he has paid only Rs. 85,000/- therefore, respondent as on date (till February, 2023) is liable to pay Rs. 1,04,129/-.



6. Additional Documents

The respondent on the direction of Authority had submitted agreement for sale dt. 03rd Aug. 2018 and also some other documents.

7. Site Inspection Report:-

The Authority, vide its order dated 28.03.2023 had instructed Ld. ADA of the Authority to visit the site in the presence of the parties and submit a factual report in the case. The ADA has submitted the site inspection report on 6th April, 2023, which is placed at page 155-178 the file. The relevant contents of the site inspection report in verbatim are re iterated as under-

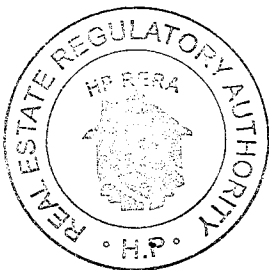
"The undersigned was directed to visit the spot on 6th April, 2023 at 12 PM and hold a meeting with parties to mediate and facilitate the parties to the case to amicably settle the issue. In pursuance thereof the undersigned visited the site of the project on the date and time already fixed by this Authority.

Before mediating with the parties the undersigned in the presence of all the parties to the four case inspected the site of the project and observed as under-

1. **Electrical substation-** *In terms of the site plan approved by BBNDAs uploaded on the promoter profile in HP RERA by the promoter, the undersigned inspected the area where electrical sub station was to be installed by the promoter as per the approved site plan.*

The promoter had installed a transformer of 500 KW and there was also a panel installed inside an outhouse just adjacent to the transformer which was operational as it appeared from the naked eye and this fact was also confirmed by the officials on the spot from HPSEBL. Another transformer of 125 KW was also installed nearby.

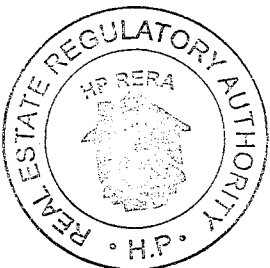
2. **Shopping Center and community hall-** *The shopping center and community hall as proposed in the approved site plan has not yet been constructed and there is barren land at the place of shopping center on the site of the project.*
3. **Parks-** *Apart from one park all the other parks shown in the spot map have not been developed properly and there is barren land on the spot of the parks.*
4. **Parking-** *The parkings shown in the spot map have not been developed. .*



5. **Roads-** Only one internal road that is abutting the flats is pakka cemented road and has been constructed properly. Rest of the internal roads that are abutting the plots are katcha roads.
6. **Rain Water Harvesting Tank-** The rain water harvesting tank is not properly constructed and is in semi constructed and also is not proper as per the specifications. It is also not operational. The tank installed at the site is open and there is risk of children or tender age from falling inside.
7. **Sewerage Treatment Plan-** The sewerage treatment plant is situated on the spot as shown in the site plan but as admitted by both the parties the same on the date of inspection is not functional. The respondents have tried to show that the sewerage dirty water is flowing out from the boundary wall installed next to the STP and there is a pool of dirty water close to the boundary wall. The undersigned saw the dirty water flowing out from boundary wall installed near the STP and there is pond of dirty water at a little distance from the wall.
8. **Over Head Tank-** There was an over head tank proposed in the approved site plan but on the spot there is no such over head tank constructed and installed.
9. **Load issue-** Sh. Trilok Chand Sharma SDO HPSEBL and Sh. Manjeet Singh JE from HPSEBL are present on the spot. It was submitted by officials from HPSEBL at the very outset that the more load the allottees will draw the more bill they are liable to pay.

Sh. Ahlawat submitted that as per clause no. 15.3 of the model agreement for sale which has been signed with all the allottees it is given that every allottee shall plan and distribute its electrical load in conformity with the electrical system installed by the promoter and the allottee shall be responsible for any loss or damage arising out of breach of aforesaid conditions. It was further submitted by Sh. Ahlawat that the sub station planned by him is of 500KW plus 125 KW. If all the allottees consume electricity more than the load allotted to them individually then he has to install a heavy transformer for which price has to be borne by the allottees collectively.

Sh. Trilok Chand Sharma SDO HPSEBL and Sh. Manjeet Singh JE HPSEBL stated that load of electricity to project is allocated or allotted on the basis of rough estimate that each unit(flat) will require a load of 3-4KW. It was further stated by the officials that if the load requirement increases in that case the promoter or the Resident Welfare Association will approach



HPSEBL for additional allocation of load and the same will be allocated to them subject to payment of extra charges. They stated that for additional load infrastructure of sub-station has to be further enhanced/increased. It was further stated by them that as of now there is no problem with the transformer as it can cater to the additional load but in case all the allottees consume more load than the load allocated in that case a bigger transformer or sub station has to be installed. However they stated that even now the allottees who are drawing extra load shall pay to the promoter for the additional load. It was further stated that from the point of view of HPSEBL there is no restriction for the allocating extra load and the same can be given as and when demanded by the promoter. It was further stated that it is between the promoter and the allottee to settle on terms and conditions for allocation of extra load and HPSEBL has no role to play between the parties.

On this issue Sh Abdul one of the respondents submitted that a pre estimated load of 4- 5 KW cannot meet the requirement of a four storied building, plans whereof have already been got approved from BBND A by Sh. Ahlawat.

Sh. Yash Pal respondent further submitted that it was the duty of the promoter to make a genuine assessment of the load requirement of plots where four storied building(s) have to be constructed. It was further submitted by him that for a four storied building a minimum requirement of 12 KW load is necessary.

After hearing this the officials of HPSEBL stated that for a four storied building somewhere around 20 KW is required.

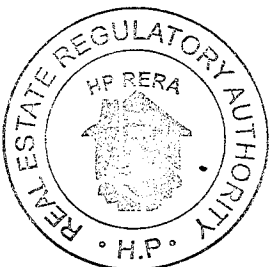
The total capacity of transformer(s) installed by the promoter as stated above is 500KW plus 125 KW i.e. 625 KW which has to cater to 80 flats and 70 plots. Per unit load of the flats assessed by HPSEBL is 4-5 KWS per flat. Where as for the plots where four storied building are constructed they say a load requirement per building of 20 KW is necessarily required.

Therefore the total load requirement of the project roughly is 1800 KW [80 Flats x 5KWs + 70 Plots x 20 KWs = 1800KW] if all the flats and plots are in occupation and people are residing. Therefore prima facie the load got sanctioned from HPSEBL by the promoter appears to be less than the actual requirement.

In view of the aforementioned facts the matter on this issue is placed before the Hon'ble Authority for kind perusal and further necessary action in the matter.

Maintenance Issue-

On the question as to what expenditure is being incurred monthly by Sh. Ahlawat on the maintenance of the project it was



submitted by him orally that he has engaged three sweepers, two security guards, two gardeners and one foreman and one carpenter have been employed. It was further submitted by Sh. Ahlawat that monthly expenditure on maintenance works roughly is between Rs 70,000 to Rs 1,00,000. No cogent and tangible evidence to this effect has been appended by the promoter in the case file. However even if this fictitious amount is taken as true then also there are total 80 flats and 70 plots making it total 150 units. If Rs 1,00,000 is divided by 150 units than also per unit cost of maintenance comes out to **Rs 667 per month**. But there is no cogent and substantial proof of expenditure incurred by the promoter appended in the court files therefore it is difficult to asses the actual expenditure of the spot.

Individual Complaints-

1. Yash Pal- The plot of Sh. Yash Pal is plot no. 11. A four storied building is constructed on the spot. In the present matter 'No Objection Certificate' has been issued by promoter to the respondent, a copy of which has also been appended with the reply. The perusal of NOC goes to show that the promoter has mentioned in the document that maintenance charges have been paid by respondent up to October, 2022.

Sh. Yash Pal has stated that there is a separate society of the plot owner(s) who is doing the work of maintenance services themselves and they have also maintained separate record of the income and expenditure of the society. It was further stated by him that the society has yet to be registered. It was further submitted by Sh. Yash Pal that no maintenance is being done by the promoter on the spot and the society especially the plot area is in very bad condition. It was further submitted by Sh. Yash Pal that the electricity meters has been got installed by him in the month of October, 2022. It was further submitted by him that the amount due towards electricity of Rs 27,500 was paid to Sh. Ahlawat in his account and from October 2022 when the individual electricity meter was installed the allottee is paying bills directly to the HPSEBL. It was further submitted by Sh. Yash Pal that the project after completion shall be handed over to the RWA and the RWA shall maintain the society thereafter itself. It was further stated by Sh. Yash Pal that he is ready to pay future maintenance only if the promoter does completion of pending basic amenities & performance of maintenance works. It was further submitted by him that nothing is due and payable from his side to the promoter and all the charges due towards the promoter have already been paid by him.

Sh. Ahlawat stated that Sh. Yash Pal got the plot registered in his name by way of sale deed in the year 2019 and immediately



thereafter they started raising construction and consumed electricity for which he is liable to pay charges. Further he submitted that the amount paid by Sh. Yash Pal is for maintenance and nothing has been paid for electricity....

2....

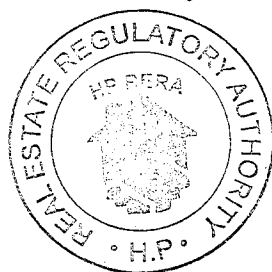
3...

4...

The facts as presented by the parties and gathered on the spot by the undersigned are placed before the Hon'ble Authority for kind perusal and it was further submitted that mediation proceedings in all the four cases was not successful. Report along with photographs taken on the spot are appended and the same is submitted to the Hon'ble Authority for kind perusal please".

The ADA in his site inspection report has stated that the shopping centre and community hall have not been constructed, the roads and parking areas have not been developed in the project. The internal roads abutting the plots are kutcha, the rain water harvesting tank is not properly constructed and the sewerage treatment plant is not functional.

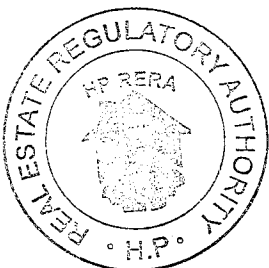
8. He has also highlighted that the load requirement to cater all the flats and plots would be around 1800 KW whereas transformer installed for the project is of 500+125 KVA capacity. Therefore, the load sanctioned from HPSEBL is less than the actual requirement for the project. Regarding maintenance issue, he has stated there is no cogent and substantial proof of expenditure by the promoter, however, the per unit cost of maintenance comes out to be Rs. 667/- per month. Regarding the present complaint, he has stated that Mr Yashpal, the respondent has constructed a 4 storied building on the spot. He has also stated that Yashpal has got the electricity meter installed in his name in the month of Oct. 2022. It was submitted by Yashpal that he paid Rs. 27,500/- to Mr. Ahlawat due towards electricity in October, 2022. After that, Mr. Yashpal himself is paying his electricity bills to the HPSEBL. However, Mr. Ahlawat responded that the amount paid by Yashpal is for the maintenance and nothing has been paid for electricity.
9. The parties were asked to send their comments on the Site inspection report submitted, by the ADA. The complainant in his written



submissions mentioned that the promoter has spent Rs. 18.89 lakh on the electric sub station and any additional load requirements have to be borne by the allottees, in proportion to the additional load taken by them. For this purpose, he cited clause 15 (3) of the Agreement for Sale. He also stated that the shopping centre will be constructed after the gift deed executed in favour of Smt. Asha Sahore is revoked. Regarding paths and parking, he has pointed out that they are not being maintained due to construction waste and debris thrown by plot owners. He has also stated that the rain water harvesting tank got damaged and the sewerage treatment plant is not working as the motor pump was either stolen or deliberately removed. Regarding the maintenance charges he has pointed out that the estimate of Rs. 667 per month, as indicated in the site inspection report is not sufficient and Rs. 1 per square feet is required to be charged for it. He has further stated that the respondent Yashpal, as per his own statement before the Xen HPSEB has consumed 9600 units as on 26 Aug, 2022. For which it was submitted that Rs 27000/- was paid to the complainant and balance amount of Rs. 21000/- was deposited directly to the HPSEB on 28th Aug, 2022. From Aug, till Nov, 2022, the respondent has further consumed 2,900 units for which Rs. 14,500 are payable by the respondent. After that the respondent has got the electricity meter installed in his own name from the HPSEB.

10. Arguments by complainant-

The arguments in this case were heard on 29.04.2023. The Learned Counsel for the complainant argued that as per the electric system installed by the promoter the electrical load per plot comes out to 3 KW and rest of the load is required to be borne by the plot owners / allottee, as mandated in Clause 15.3 of the Agreement for Sale. He also stated that at present only 36 flats and 20 plots have been occupied. Hence, the load requirement in future, needs to be borne by the allottees. She also argued that the allottees are required to pay the maintenance charges @ Rs. 1 per sq ft for the total carpet area, to maintain the



project facilities. She also told that the shopping Complex will be developed, once the gift deed is revoked. The paths and green areas will be maintained, once the construction is completed. She also told that the roads would be re-done, after the development of the colony. She also argued that in place of over-head tank, underground water tank would be constructed. She also told that rain water harvesting structure has been damaged and will be made functional. She also argued that Yashpal has taken a electricity load of 10.7 KW load from HPSEBL, therefore, he has to pay for the extra load. He is also required to pay the electricity charges above the consumption of 9600 units.

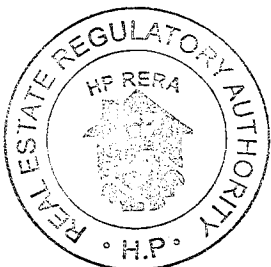
11. Arguments by respondent-

The learned Counsel for the respondent argued that from the site inspection report of the ADA, it is crystal clear that shopping centre and community hall have not been constructed. The paths, parking and roads are in pathetic conditions. Rain water harvesting tank and sewerage treatment plant are not functional. As the promoter has not provided these basic amenities, therefore he cannot claim maintenance charges. Further, he emphasized that the complainant has given him NOC that all the maintenance charges have been paid till October, 2022. He also argued that he has already paid the electricity charges for the electricity consumed by him and nothing is due on his behalf.

12. Points for Consideration and Finding of the Authority:-

We have gone through the pleadings of the parties and the site inspection report of the Learned ADA of the Authority. The following issues need to be decided in this case-

- a. **Whether the respondent is to pay the maintenance charges to the complainant ?**
- b. **Whether the respondent is to pay the electricity charges as per the consumption made by him, to the complainant?**
- c. **Whether the respondent is to pay for the extra electrical load installed by him?**



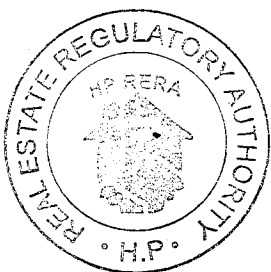
Our findings on these issues are as follows:-

13. **Whether the respondent is to pay the maintenance charges to the complainant?**

The complainant in his complaint has claimed that the respondent is to pay maintenance charges @ Rs 0.50 per square feet of the plot area from the date of the execution of the sale deed till the start of construction and to pay the maintenance charges @ Rs 0.75 per square feet of the build-up area from the start of construction till date. Later on during arguments, he has claimed maintenance charges @ Rs. One per square feet of the build-up area.

14. The respondent in his reply has stated that he has already cleared all the maintenance charged up to October, 2022 as per the NOC given by the complainant on 10th October, 2022. He has further highlighted that no maintenance charges are payable as the complainant has not provided basic amenities in the project and no maintenance is being done towards the plots of the project.

15. The issue of maintenance charges is linked with the amenities provided and maintenance being done by the promoter in the Project. The Learned ADA in his report dated 6th April, 2023 has clearly stated that the shopping centre and community hall has not been constructed. The parks, parking and roads have not been properly maintained. The rain water harvesting tank and sewerage plant are non functional. Therefore, from the report of the ADA it is crystal clear that the basic amenities in the project, either have not been developed or are not being maintained. The ADA in his report has roughly calculated the maintenance cost of Rs. 667 per month per allottee. From the pleadings of the parties, it is evident that the in the meeting of allottees with the promoter on 20th Sep 2022, it was decided that the allottees will pay Rs. 1,500/- per month during the construction and Rs. 700/- per month from the date of completion of construction up-to Sep, 2022. The charges shall remain same till takeover of the maintenance by the Resident



Welfare Association. The complainant has not provided any evidence or copy of agreement citing maintenance @ Rs. 1 per square feet or even 0.50 per square feet executed with the allottees. The Section 11 (4) (d) of the RERD Act 2016, provides that the promoter shall provide and maintain essential services on reasonable charges till the taking over of the maintenance of the project by the association of the allottees. Therefore, reasonable maintenance charges are necessary for the upkeep of the common amenities in the real estate project. At the same time, para 11 of the agreement for sale, signed between the parties on 03rd Aug, 2018 provides that the promoter shall be responsible to provide and maintain essential services till the issuance of the completion certificate of the project. Therefore, completing the common amenities and keeping them functional is necessary for a promoter to charge the maintenance fees from the allottees. The complainant promoter present during the course of the arguments has himself admitted that he will complete the essential services as well as project within next three months. In this case, most of the basic amenities, have not been completed or are non-functional. Further, from the NOC given by the promoter himself the respondent has already paid the maintenance charges till Oct. 2022.

16. Therefore, it is held that the respondent is liable to pay the maintenance charges, once the basic amenities are developed or made functional in this project as highlighted in the report of the ADA. As the respondent has already paid the maintenance charges till October, 2022 therefore, he will be liable to pay the maintenance charges @ Rs. 700 per month as agreed in the meeting between the promoter and the allottees dated 20.09.2022 on completion of the basic amenities in the project which will be due from November, 2022.

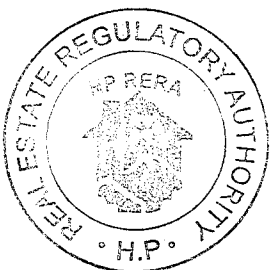
17. **Whether the respondent is to pay the electricity charges as per the consumption made by him, to the complainant?**

The complainant in his complaint has claimed that the respondent has not paid the electricity charges of the consumption made by him from the



temporary connection given by him. In his complaint he has mentioned an amount Rs. 1,39,030/- as electricity dues however, no details how this amount has been calculated has been given in the complaint. Later in the miscellaneous application filed by the complainant he stated that the total electricity payment due from Yashpal was for 12,500 units, out of which Yashpal has paid the electricity charges of 9,600 units and still 2,900 units are to be paid by him amounting to Rs. 18,850/-. Later on the complainant in his written submissions on the spot inspection report has stated that the respondent in his statement to the XEN HPSEB had mentioned a consumption of 9600 units as on 26 Aug, 2022 and the bill amount of Rs. 48000/-. Out of which Rs. 27,000/- have been paid to the complainant and the balance amount of Rs. 21,000/- was deposited directly to HPSEB on 28th August, 2022. He has further stated that from August till November, 2022 the respondent has further consumed 2,900 units for which Rs. 14,500/- are payable by the respondent. The respondent in his reply has stated that the complainant had supplied electricity from temporary electric connection for construction of flats/plot and illegally charged higher rate of Rs. 5 per unit from the allottees. The complainant in his response on the site inspection report has stated that he has paid balance electricity charges of Rs. 27,500/- through Google Pay on 10th October, 2022 and then individual electricity meter has been installed in his plot.

18. From the above facts, what can be made out is that the complainant had provided temporary electric connection to the respondent for construction of house on his plot no-11. In Oct/November, 2022, the respondent got the electricity connection directly from the HPSEBL. Therefore, the dispute is of electricity consumption made by the respondent prior to November, 2022. It is an admitted fact that a temporary electricity connection was provided to the respondent and the respondent has to pay the electricity charges as per the consumption made by him. However in this case the complainant

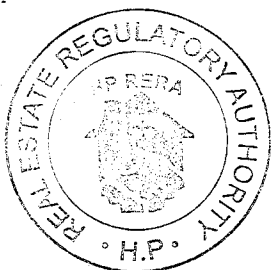


has not given details of individual electricity supplied to Yashpal and has annexed general electricity bills of the whole colony. Therefore, it is very difficult to assess how much electricity consumption has actually been done by the respondent. The complainant has admitted that Sh. Yashpal has already paid the electricity charges for 9,600 units and he has to pay for the remaining 2,900 units. The complainant has not given any evidence how these remaining units of electricity have been calculated. On the other side, the respondent has stated that he has paid all the electricity dues. What can be gathered from these mixed evidence is that till August, 2022 respondent has paid the electricity bills and then got direct meter installed in his name in the month of November, 2022. Therefore, the dispute is limited for the month of September & October, 2022 only. The complainant has not been able to provide any cogent and convincing evidence how much electricity was consumed for these two months and on the other side respondent has stated that he has already paid Rs. 27,500/- to the respondent in the month of October, 2022. Therefore, for the lack of specific evidence from the complainant, the Authority is unable to decide whether any amount of electricity is due to the complainant for the month of September/October, 2022 or not and therefore rejects the claim of the complainant on this count.

19. **Whether the respondent is to pay for the extra electrical load installed by him?**

The complainant in his complaint has stated that the respondent has constructed a 4-storied house on plot no-11. As per Clause 15.3 of the agreement for sale dated 03rd August, 2018 -

“The Allottee shall plan and distribute its electrical load in conformity with the electrical system installed by the Promoter and thereafter the association of allottees and or maintenance agency appointed by association of allottees. The

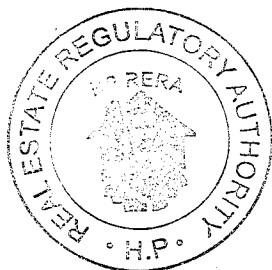


Allottee shall be responsible for any lose or damages arising out of breach of any of the aforesaid conditions.”

The complainant in the miscellaneous application has further stated that he had planned the electricity system providing a load of 5 KW to each allottee. Whereas, the respondent has taken a load of 10.7 KW on his building, which is in excess by 5.7 KW. He has further stated that the excess load charges are to be paid @ Rs. 5000 per KW, therefore the respondent is liable to pay Rs. 28,500/- for the excess load charges. The respondent in his reply has neither denied nor accepted anything about the extra load and in its payment.

20. From the perusal of the site inspection report, it is clear that the total capacity of the transformer installed by the promoter is 500 KW+ 125KW i.e. 625 KW. The sanctioned plots in this colony are 70 nos. and there are 80 nos. flats in the colony. The present electrical load will not be able to cater once all the plot owners have constructed their buildings and flat holders have occupied their flats. The counsel for the complainant during arguments stated that at present only 36 flats and 20 plots i.e. total 56 units have been occupied by the allottees. Therefore, at present the load availability is not an issue. However, as and when all the plot owners will construct their houses, there will be requirement of upgrading the electrical system of the colony to cater to the extra load requirement. Therefore, in the future the electrical system will be required to be upgraded to cater to the requirement to all the allottees.

21. Now, the key question arises is as and when the allottees construct their houses, who will pay for the upgradation of the electrical system. The complainant has pointed out that he had installed the electric system providing 5 KW to each allottee. The Clause 15.3 of the agreement for sale executed with the respondent, clearly provides that allottee shall plan and distribute its electric load in conformity with the electrical system installed by the promoter. In the present case, it is clear

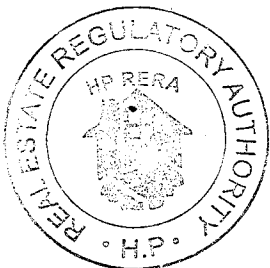


that the respondent has taken a load of 10.70 KW in place of 5 KW planned by the promoter. Therefore, the respondent is required to pay for the excess load of 5.70 KW to cater to the future needs of the colony. Therefore, it is held that the respondent will pay the development charges of 5.7 KW extra load to the Resident Welfare Association/ Association of Allottees, as and when the same is registered, so that, the Resident Welfare Association/AoA could use the money received from the various allottees, for future developmental requirement of the additional electrical load infrastructure. It is also held that if the promoter has already received the amount of extra load from any allottee, then he should transfer the same to the Resident Welfare Association/AoA as and when the same is registered.

22. **Reliefs:-**

Keeping in view the above mentioned facts, this Authority in exercise of powers vested in it under various provisions of the Act, rules and regulations made there under, issues the following orders/directions:

- a. The complaint is party allowed.
- b. The complainant is directed to complete the pending common facilities/ basic amenities as per the sanctioned plan as also pointed out in the site inspection report dated 06.04.2023 within four months from the date of passing of this order failing which he shall be liable to pay penalty under section 61 and 63 of the Act.
- c. The respondent is held liable to pay the maintenance charges @ Rs. 700 per month as agreed in the meeting between the promoter and the allottees dated 20.09.2022 on completion of the basic common amenities/facilities in the project. It is clarified that once the basic common amenities/ facilities are made functional, the maintenance charges will be due from November, 2022 and will be paid regularly thereafter @ Rs. 700 per month.
- d. The complainant promoter is directed to enable the formation and registration of association of allottee(s), within next 3 months. Once



- the association of allottees is registered, the registered association may be asked whether they would like to take over the maintenance of the project or would like to continue the maintenance through the promoter.
- e. The claim of the complainant qua arrears of electricity charges is declined for want of substantive and conclusive evidence.
 - f. Since the promoter has installed the electrical system/ sub-station with approximate load of 5 KW(s) per unit (flat or plot) therefore, the additional charges for the load required by each individual allottee over and above 5KW will be borne by the allottee(s) himself and shall be deposited with the association of allottee(s)/RWA at the rate prescribed by HPSEBL as soon as it is registered for the purpose of utilizing the same by RWA for future electrical load requirement from HPSEBL. The complainant promoter shall also deposit the charges collected/ amount received for extra electrical load from the allottee(s) with the association of allottee(s), after its registration with immediate effect.
 - g. All the pending applications are disposed of in aforesaid terms.


B. C. Badalia
MEMBER


Dr. Shrikant Baldi
CHAIRPERSON

