

Uttar Pradesh Real Estate Regulatory Authority

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

No. 2137 /U.P. RERA/Rehabilitation/NCR/2023-24

Date: 04 /07/2023

Office Order

Whereas the Uttar Pradesh Real Estate Regulatory Authority, hereinafter called 'The Authority' vide its judgement and order dated 11-06-2022 had revoked the registration of the projects 'Antriksh Sanskriti Phase 2' (Reg no. UPRERAPRJ10928) and 'Antriksh Sanskriti Phase 3' (Reg no. UPRERAPRJ11055) promoted by M/s Antriksh Realtech Pvt. Ltd. on the following grounds –

1. The promoter was not honouring the terms of the agreement executed with the allottees of the project who had filed complaints with the Authority.
2. The progress of the work under the project was dismal.
3. The promoter and the land owner were not getting the revised map of the project released by Ghaziabad Development Authority and had been defaulting in payment of requisite authority dues.
4. Promoter has violated the provisions of section 4(2)(d), section 4(c), section 4(2)(l)(c) and section 11(1)(b)(d) of the RERA Act.
5. The promoter had defaulted in uploading the quarterly progress report of the projects.
6. The promoter had not uploaded the required documents under the provisions of Section 4 and 11 of the RERA Act and Rule 3 and 14 of the U.P. RERA Rules on the website of the Authority.

The registration of the project 'Antriksh Sanskriti Phase 1' (Reg no. UPRERAPRJ10818) lapsed on 23-04-2019 and the Promoter had not taken extension on registration from the Authority.

The Authority, after the passage of statutory period for filing appeal under the RERA Act, issued a public notice in three daily newspapers, namely The Times of India and Hindustan, published from Delhi and widely read in NCR, on 04-09-2022 and Amar Ujala published from Lucknow calling upon the Association of Allottees of the Project to submit a viable proposal for completion of the remaining construction and development work of the project.

The Authority, vide its order dated 12-01-2023 has constituted a Project Advisory & Monitoring Committee under the chairmanship of Sh. T. Venkatesh, Hon'ble Member, U.P.



RERA to suggest the ways and means for completion of remaining development work in projects where the registration had been revoked or lapsed, as per the provisions of Section 8 of the Act.

Subsequent to the public notice issued by the Authority, the Antriksh Sanskriti Welfare Association, hereinafter called 'The Association', a society registered on the registration number S/1582/2016 under the Societies Registration Act on 21-12-2016 and currently having a membership of 350 members, submitted a proposal to the Authority for undertaking the balance development and construction work for the revival of the Project 'Antriksh Sanskriti' vide its letter dated 12-05-2023.

The proposal submitted by the Association was evaluated by the Project Advisory & Monitoring Committee constituted under the chairmanship of Sh. T. Venkatesh, Hon'ble Member of U.P. RERA. The committee, after scrutinizing the proposal and holding discussion with the office bearers of the Association, the Developer, the Landowner, and the Ghaziabad Development Authority, submitted its recommendations vide minutes of meeting dated 26-05-2023 to the Authority. The recommendations of the committee are as follows: -

- a. The committee considered the submission of the Association that it discussed its approach to project revival with various builders and financial institutions; however, considering the complexities and sub-judicious litigations on the project, no builder/financial institution has shown interest to support the AoA on its plan to revive the project. Consequently, it decided to associate with the Promoter 'M/s Antriksh Realtech Pvt. Ltd.' for completing the project.
- b. The committee concluded that there are multiple challenges in the project and the continuity of the Promoter with the project and providing support to the Association will be crucial for completing the project.
- c. The committee, thus, recommended the joint proposal of the Association along with the Promoter to be presented before the Authority for approval authorizing the 'Antriksh Sanskriti Welfare Association' for completing the remaining construction and development work of the project.

The proposal submitted by the Association along with the Developer has also been examined by Project Management Division of the Authority. The salient points in the report of the Project Management Division are as follows: -

- a. It is a residential group-housing project located at Khasra No. 519, 522, 523, 524, 525/5 at Village Chajjarsi & Pargana-Loni, Tehsil Dadri, District Gautambudh Nagar.



- b. The Promoter entered into a collaboration agreement dated 09-02-2010 with the landowner i.e., Raksha Vigyan Karamchari Sahakari Awas Samiti Ltd., hereinafter called 'The Samiti' for the development of the Project, wherein the entire constructible area was divided in the ratio of 37.5% to the Samiti and 62.5% to the Promoter. The responsibility of construction of Samiti's share of constructible area was also of the Promoter.
- c. The Ghaziabad Development Authority, hereinafter called as 'GDA', vide order dated 23-09-2015, sanctioned the original map of the project, for developing total of 7 residential towers i.e., towers A, B, C, D, E, F and G and the commercial area. The Samiti and the Promoter requested for 10 percent compounding, for which GDA raised a demand of Rs. 26.37 cr. Due to a dispute between the Samiti and GDA with respect to calculation of dues against compounding fee, the compounded map has not yet been released by GDA.
- d. The Samiti and the Promoter envisaged to purchase additional FAR and submitted its request to GDA along with Fire NOC. They intended to include three additional towers, namely towers J, K and L using the additional purchasable FAR.
- e. The Samiti vide letter dated 16-06-2023 submitted that it would be bearing the charges towards GDA dues and also the additional purchasable FAR for towers J, K and L.
- f. The Promoter registered its share of the constructible area, i.e., towers A, C, D, 40 units of E, G, J, K and 17 units of L as three phases with the Authority, which will now be completed by the Association in collaboration with the Promoter.
- g. The construction work of the Tower B, 120 units in tower E, Tower F and 79 units of Tower L will be started as per the conditions decided in the Memorandum of Understanding dated 03-04-2023 entered between the Promoter and the Samiti and shall be outside the purview of the proposal submitted by the Association.
- h. Towers C, D and 40 units of E will be completed within 6 months, tower G within 12 months and tower A within 24 months. The construction work on the Towers J, K & 17 units of Tower L, however, will commence after the release of compounded sanctioned map and purchase of additional FAR and will be completed within 24 months.
- i. Estimated cost of construction and development of the entire project, including the units of the Samiti is Rs. 227 cr.
- j. Balance receivables from existing allottees is Rs. 67.10 cr and the estimated value of unsold units is Rs. 241.17 cr at the rate of Rs. 4000 per sq.ft. Hence, the total estimated cash inflow in the project is Rs. 308.27 cr.



- k. The Promoter proposed to infuse an amount of Rs. 20 cr, as a loan from M/s Akasa Finance Limited, for reviving the project, of which Rs. 9.21 cr will be paid to GDA, on behalf of the Samiti for the release of the compounded sanctioned map and the remaining Rs. 10.79 cr for commencing construction work.
- l. The Promoter submitted that it will be able to raise additional funds from M/s Akasa Finance Limited to bridge shortfalls in the proposed cash inflows, as and when required, to ensure that the construction work is not stalled in the project.

The proposal of the Association was considered by the Authority in its meeting dated 12-06-2023. The Authority, after careful and thorough deliberation of the proposal submitted by the Association along with the Developer (the original promoter) and report of the Project Management Division, agreed with the recommendations of its Project Advisory & Monitoring Committee that the proposal of the Association along with the Developer is, prima facie, worth accepting in the interest of the allottees of the Project. However, the Authority expressed its reservations to the condition put up by the Association in its consent dated 12-06-2023 which provided for reconsidering of the consent by the Association to the developer under certain circumstances. The Authority prima-facie felt that the authorization order under section 8 of the Act was untenable on the basis of such conditional and qualified consent by the Association. The Authority further directed to submit the draft authorization order for facilitating the remaining development work under the projects as per section 8 of the Act in case the association submitted revised consent to meet the requirements of section 8 read with other relevant provisions of the Act and the Rules.

The Association submitted its revised consent on 19-06-2023. The consent of the association dated 19-06-2023, inter alia, provides:

- a. The association did lot of exercise for revival of the project and discussed with various builders/promoters for take over of this project along with settling liabilities of the current promoter (Antriksh Realtech Pvt. Ltd.) before going to sign a new contract for the purposes of section 8. However, no builder or promoter turned up to take over this project due to complexities and sub-judicious litigation. The association discussed with several banks and financial institutions, but no bank or financial institution was able to support the association directly. The Antriksh has shown interest and support with consent for project revival. The allottees of the Antriksh Realtech Pvt. Ltd. have given their consent to the Association after having read and fully understood the proposal.



- b. Under such conditions, the Association proposed to re-appoint M/s Antriksh Realtech Pvt. Ltd. for completion of balanced construction work for rehabilitation of home buyers suffering since 2014 and to protect home buyers who have invested money in this project. M/s Antriksh Realtech Pvt. Ltd. submitted its proposal and construction plan to the Association.
- c. The Association would apply to the Authority for registration number to join and lead on project revival under section 8 of RERA.
- d. M/s Antriksh Realtech Pvt. Ltd. will arrange Rs. 9 crore 21 lacs from private financial institution M/s Akasha to pay GDA dues towards FAR charges in compliance of the Hon'ble Allahabad High Court's order stipulating initial deposit of Rs. 15 crore to fulfill the compliance of GDA dues to release the map. M/s Antriksh will arrange further fund of Rs. 10.79 crore for construction work and same shall be deposited in escrow account. If any additional fund required for construction completion, same shall be arranged by M/s Antriksh and construction work shall not be disrupted due to cash inflow from sold/unsold inventory.
- e. M/s Antriksh Realtech Pvt. Ltd. will have rights for advertising/marketing of unsold inventory selling. The Association authorized representatives shall counter sign every new sale at the time of selling of unsold inventory. All cash inflows and outflows shall be monitored by the Association and promoter who will have the rights and obligations as per this consent.
- f. M/s Antriksh Realtech Pvt. Ltd. shall not directly raise any demand notice to the buyers for sold out units, balanced payment demand notice to buyers shall be raised with intimation to Association for review and approval.
- g. M/s Antriksh Realtech Pvt. Ltd. will settle liabilities of home buyers, if any, like RERA Recovery Certificates and NCDRC refund case. M/s Antriksh have assured that after six months from the start of construction work, they shall repay and settle the claims of those home buyers whose refund, RC orders have already been passed by U.P. RERA/NCDRC and those who will ask for refund, they will surrender their flat and will be refunded their amount in four monthly installments.
- h. M/s Antriksh Realtech Pvt. Ltd. will adhere to the construction plan attached at Annexure-1 of this consent.

M/s Antriksh Realtech Pvt. Ltd had consented to the proposal of the Association vide its letter dated 04-05-2023. The consent of the Association is an updated one although it does not have any effect of altering the consent of M/s Antriksh Realtech Pvt. Ltd dated 04-05-2023.



Additionally, a memorandum of understanding was executed between the land owner M/s Raksha Vigyan Karamchari Sahakari Awas Samiti Limited and M/s Antriksh Realtech Pvt. Ltd. on 03-04-2023 wherein the parties had, inter alia, agreed on the following terms and conditions:

- a. That the Second Party will provide a financial assistance to the First Party for an amount of Rs. 9,21,98,650/- (Rupees Nine Crore Twenty-One Lakh Ninety-Eight Thousand Six Hundred and Fifty only) for a period of 9 months from the date of issuance of the Demand draft for and on behalf of first party directly with the Ghaziabad Development Authority.
- b. That the first party shall return the aforesaid financial assistance/amount to the second party within a period of 9 months from the date of payment made to GDA by the second party for and on behalf of first party. It has been agreed by the first party that till the repayment of the aforesaid financial assistance/amount by the first party to the second party, the second party shall not start the construction and development of the Towers/Flats (37.5% share as mentioned in the Indenture of Collaboration dated 09-02-20210) of the first party.
- c. That on request of the first party it has been agreed by the second party that the second party will get a demand draft made for an amount of Rs. 9,21,98,650/- in the name of Ghaziabad Development Authority. The second party will deposit the said demand draft for and on behalf of first party directly with the GDA.
- d. That the tenure of the said financial assistance/amount of Rs. 9,21,98,650/- shall be for a period of 9 months from the date of issuance of the demand draft. The first party hereby undertakes to return the said amount to the second party within a period of 9 months.
- e. That it has been agreed between the parties that no interest shall be charged by the second party from the first party for the said 9 months. However, in case of default and non-payment of the said financial assistance/amount by the first party, the first party shall be liable to pay an interest the rate of 12% per annum on the said financial assistance/amount to the second party. The interest shall be payable on monthly basis by the first party to the second party.
- f. That it has been further agreed by the first party that it will issue an extension letter (at the time of the disbursement of the said financial assistance) for a period of two and half years to the second party starting from the dated of release of the sanction map/plan by GDA. The said extension will be treated as a valid extension to be given by the first party to the second party under the terms of the Indenture of Collaboration dated 09-02-2010.



- g. The second party shall immediately commence the construction and development of towers/flats (37.5% share) of the first party after receiving the repayment of the said financial assistance from the first party.
- h. After the payment of the said amount to the GDA by the second party for and on behalf of the first party, the first party shall not interfere in any manner whatsoever with the construction, development and sale of its share (62.5%) of towers/flats in the project Antriksh Sanskriti.
- i. The first party hereby undertakes that it will fully cooperate at the time of applying and issuance of occupation/completion certificate by the competent authority to the second party. Further the first party undertakes that it will fully cooperate with the second party at the time of registration of sale deed/registry of the flats of the home buyers in towers of the second party with the registrar office.

M/s Raksha Vigyan Karamchari Sahakari Awas Samiti Limited has submitted to the Authority on 16-06-2023 in writing that it undertakes to pay the GDA dues against phase-1 and purchase of additional FAR up to 50% of the project Antriksh Sanskriti.

The Authority discussed the proposal of the Association and its arrangement with the erstwhile promoter M/s Antriksh Realtech Pvt. Ltd. in the light of the written arrangement with the land owning Samiti. The Association has proposed to take on board the earlier promoter for completion of the project under the terms and conditions of the consent dated 19-06-2023 and other documents executed by and with the parties. The Authority is of the view that the case of rehabilitation of these three projects, now as a composite project, is a sui generis case. The project involves three projects registered with RERA out of which registration of two projects has been revoked by the Authority and registration of one project has lapsed. Literally, the provisions of the Act incorporate under section 7 do not appear to visualize authorization of the same promoter under section 8 of the Act. However, this proposal also consists of a project which is a case of lapsed registration. It has been held by Hon'ble Bombay High Court that in such cases the Authority may consider to permit the same promoter to continue with the completion of the project but not without hearing the allottees of the project. The allottees of the project in this case have given their consent for completion of the project through the same promoter with terms and conditions agreed between them. The resolution of the Association having the consent of more than 50% of the allottees has been necessitated by the facts that no developer or builder was coming forward to undertake this project in view of the pending litigation and other complexities and no bank or financial institution is ready to extend financial support to the association and the only hope for the home buyers of this project to get their long awaited houses is through a written



arrangement with the same promoter. It is also relevant to note that the arrangement of the erstwhile promoter with the land owning Samiti before registering the project with RERA was on similar lines as in the present arrangement which is further supported by the written consent of the Samiti quoted under foregoing paragraphs.

The provisions of section 8 of the RERA Act provide not only for undertaking the balance development work of the project through association or through the competent authority but also in any manner as may be determined by the Authority. In the present case, although it involves authorization of the same promoter, but the same involves the association of allottees as the lead entity for undertaking the balance development work of the project and hence such an authorization under section 8 read with section 11 and 37 does not suffer from any legal infirmity.

Therefore, with a view to facilitate the completion of the project 'Antriksh Sanskriti' in a time bound manner and to protect the interests of the allottees, the Authority, using all the powers conferred under Section 7 and 8 of the RERA Act read with Section 37 of the Act, other enabling provisions of the Act, the Rules, and Regulations made there under, 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 as per the policy directives issued by the Government vide its letter dated 26-06-2020 for action at the end of the Authority in such matters, decided to authorize the 'Antriksh Sanskriti Welfare Association' jointly with the M/s Antriksh Realtech Pvt. Ltd. for undertaking the completion of remaining development and construction work of the project which will lead to delivery of houses to 985 allottees once the project is completed, subject to the following terms and conditions:-

1. The consent of the Association dated 19-06-2023 along with all annexures, the MOU dated 03-04-2023 between M/s Raksha Vigyan Karamchari Sahakari Awas Samiti Limited and M/s Antriksh Realtech Pvt. Ltd., the consent letter of the M/s Raksha Vigyan Karamchari Sahakari Awas Samiti Limited dated 12-06-2023 would be part of this order and binding on the parties.
2. The Association shall submit, within 15 days of this order, a resolution of the Association signed by more than 50 percent of the allottees of the project giving their explicit consent to the Association to undertake the remaining development and construction work of the project.
3. The Association shall submit a copy of its byelaws along with the list of its office bearers with their names and addresses within 15 days of this order.



4. The Association shall enter into a statutory agreement for collaboration with the Promoter for completion of the remaining construction and development work in the project and submit a copy within 15 days of this order. The terms and conditions of the said agreement to be reviewed and approved by the Project Advisory & Monitoring Committee.
5. A notarized affidavit duly sworn by the President and the Secretary of the Association and M/s Antriksh Realtech Pvt. Ltd. for undertaking to complete the balance development work by the date so declared by them to RERA, in conformity with the provisions of the RERA Act, U.P. RERA Rules and the Regulations and the terms and conditions of this order.
6. The Project will be migrated to the separate category of 'Projects Under Rehabilitation' as per the provisions of Section 8 of RERA Act on the website of the Authority.
7. The original RERA registration of the three phases of the project will be retained for all future reference and the Association along with the Developer (promoter) will be required to update the periodical progress and upload all the relevant documents as provided under Section 4 and Rule 3 and 14 of the U.P. RERA rules. The Authority will import the project data of the three phases of the project under the Rehabilitation category and provide login ID and password to the Association.
8. The Association will open a separate account of the project in a scheduled bank which will be updated on the webpage of the project under the relevant category. All the money collected from the existing allottees, the sale of unsold inventory, any amount raised as debt against the project and the money returned by the Samiti will be deposited only in the separate account to be utilized for the work relating to construction and development of the project and any expenditure pertinent thereto.

Provided that the separate account of the project will be jointly operated by the Association and the Developer (promoter).

Provide further that the amount from the separate account of the project shall be withdrawn only after it is certified by the Architect, the Engineer, and the Chartered Accountant that the withdrawal is in proportion to the percentage completion of the project and the same has also been duly certified by the Construction Consultant appointed by the Authority for this project. The Association, jointly with the Promoter, shall upload the three certificates and the authentication by the Construction Consultant with the quarterly progress report on the website of the Authority.



Provided further that the Association, jointly with the Promoter, shall get the separate account of the Project audited at the end of the financial year and annual audit report shall be uploaded on the website of the Authority.

9. The Association along with the Promoter and the Samiti shall approach the concerned competent authorities for seeking / renewing such permissions / approvals and payment of dues / fees, if any, for completion of balance development work and for handing over possession of units to allottees, as may be required.
10. The Association (Antriksh Sanskriti Welfare Association), the Developer (promoter) (M/s Antriksh Realtech Pvt. Ltd.), and the landowner (Raksha Vigyan Karamchari Sahakari Awas Samiti Ltd.), the allottees (existing and prospective) and all other connected with the development and completion of the project shall be bound to comply with these orders.
11. The Association, jointly with the Promoter, will have the freedom to determine the sale price of the unsold units, if any. However, the proposed sale price cannot be lower than the sale price considered in the proposal and as determined by the Construction Consultant appointed by the Authority. The Association or the Promoter will not have any discretion to offer rebates / discounts to any of the allottees, existing or prospective.
12. The Developer (Promoter) shall revise or execute new agreements for sale only on behalf and upon review by the Association.
13. The Authority hereby constitutes a Project Advisory and Monitoring Committee under the chairmanship of Sh. T. Venkatesh, Hon'ble Member, U.P. RERA with Vice Chairman, Ghaziabad 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 Projects on monthly basis.
14. The Project Advisory & Monitoring Committee will carry out quarterly verification of the project and submit report to the Authority.
15. The Association along with the Promoter and the Samiti, after completion of the project, shall apply to the competent authority for completion certificate as provided under local laws.




16. After the completion certificate has been issued, the Promoter and the Samiti shall be ordered by the Authority to execute a sale deed in favour of the allottees and handover possession to the concerned allottees.
17. The Association and its office bearers and the Developer (Promoter) will be individually and jointly responsible for compliance of the provisions of this order and all the relevant provisions of RERA Act, U.P. RERA Rules, and the provisions of other relevant Acts and Rules including the maintenance of financial discipline and proprietary.
18. Since the Projects are being rehabilitated under Section 8 of the RERA Act by the Association and Developer (Promoter) jointly with the consent of the majority of the allottees, it is understood that no allottee of the Projects shall withdraw from it during the course of the development of the remaining work of the Projects. However, if under extraordinary circumstances, some allottee of the Projects withdraw from it, the amount due to be returned to such allottee shall not be returned from the separate account of this Projects, rather the same may be returned from the other sources of the Promoter, or alternately the amount due to such allottees would continue to be a charge on the Projects and will be returned after the completion of the Projects 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 Projects. However, the same will be addressed as per the arrangement between the Association and the promoter.
19. The Association and the Promoter 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 Projects is completed and the occupancy /completion certificate has been applied for along with all required/statutory certificates and NOCs. Any dispute between the Association and the Developer (Promoter) shall be amicably settled through the good offices of the Project Advisory and Monitoring Committee constituted by the Authority in this behalf.
20. After the completion certificate for the project has been issued and project account duly settled, including the payment of delay interest, the Developer (promoter) shall be allowed to withdraw the surplus after due authorization by the Authority.



These orders are being issued with the approval of the Authority.


The orders are being issued in conformity with the directive guidelines issued by the Government on 26-06-2020 for proceeding in such matters.


4/7/2023
(Sameer Ranjan Singh)
Secretary In charge

Letter and Date as above.

Copy: For information and necessary action: -

- 1- Hon'ble Chairman, Uttar Pradesh Real Estate Regulatory Authority.
- 2- Hon'ble Members, Uttar Pradesh Real Estate Regulatory Authority.
- 3- Hon'ble Chairman & Members, Project Advisory & Monitoring Committee.
- 4- Additional Chief Secretary, Housing & Urban Planning Department, Govt. of Uttar Pradesh.
- 5- Vice Chairman, Ghaziabad Development Authority.
- 6- Principal Advisor, Uttar Pradesh Real Estate Regulatory Authority.
- 7- Finance Controller, Uttar Pradesh Real Estate Regulatory Authority.
- 8- Technical Advisor, Uttar Pradesh Real Estate Regulatory Authority.
- 9- Consultant, Project Management Division, Uttar Pradesh Real Estate Regulatory Authority.
- 10- AD (Systems), Uttar Pradesh Real Estate Regulatory Authority.
- 11- System Analyst, Uttar Pradesh Real Estate Regulatory Authority to kindly upload the order on the website of U.P. RERA.
- 12- Manager – Concerned Banks / Financial Institutions.
- 13- M/s Antriksh Realtech Pvt. Ltd. for compliance.
- 14- M/s Raksha Vigyan Karamchari Sahakari Awas Samiti Ltd. for compliance.
- 15- Antriksh Sanskriti Welfare Association for compliance.


4/7/2023
(Sameer Ranjan Singh)
Secretary In charge