

CELEBRITY HOMES RESIDENT WELFARE ASSOCIATION THROUGH 491  
ITS PRESIDENT AND AUTHORIZED SIGNATORY G. H. 16, CELEBRITY  
HOMES, PALAM VIHAR, GURGAON-122 107 (HARYANA v. STATE  
OF HARYANA AND OTHERS (K. Kannan, J.)

*Before K. Kannan, J.*

**CELEBRITY HOMES RESIDENT WELFARE ASSOCIATION  
THROUGH ITS PRESIDENT AND AUTHORIZED SIGNATORY  
G.H. 16, CELEBRITY HOMES, PALAM VIHAR,  
GURGAON—122 107 (HARYANA),—Petitioner**

*versus*

**STATE OF HARYANA AND OTHERS,—Respondents**

**CWP No. 4970 of 2009**

8th April, 2010

*Constitution of India, 1950—Art. 226—Haryana  
Development and Regulation of Urban Areas Act, 1975-S.8—  
Petitioners seeking demolition of flats constructed in excess of  
sanctioned number of flats within a complex of apartments—  
Violations of provisions of 1975 Act and 1965 regulations—Directions  
to respondents No. 1 & 2 issued inter alia for cancellation of licences  
to take it to its logical end and apply provisions relating to demolition  
and penal action as contemplated under 1975 Act if violations are  
not rectified—No completion certificate ordered to be issued till all  
non-compoundable violations removed & existing constructions  
conform to building regulations.*

*Held, that :*

- (i) the FAR accorded to respondent Nos. 3 and 4 and the constructions made that conform to FAR of 175 shall remain;
- (ii) the violations relating to the additional dwelling units constructed shall be pursued in the light of the show cause notice issued by the respondent Nos. 1 and 2 for cancellation of licence and no completion certificate shall be issued till all the non-compoundable violations are removed and the existing constructions conform to the building regulations ;
- (iii) the additional dwelling units, though bring an additional pressure on the administration for providing water and sewerage facilities fall within the permissible FAR and if the revised building plan is submitted, they could be permitted, such permission shall be given on collection of compounding charges and any other charges permissible under rules;

- (iv) there shall be no electricity, water or sewerage connection issued till the buildings are made to the conformity of the regulations and building plans and such supply could be given only when the building qualify for issuance of completion certificates. If water and electricity connections have already been given to any dwelling units built without sanction, they shall be disconnected forthwith ;
- (v) there shall be no wall built between Towers A and B to segregate them from the rest of the blocks, for that would alter the whole layout and alter the FAR and the common facilities guaranteed under the original building plans ;
- (vi) persons who have occupied the building plans after purchases without sanctioned plans shall enjoy no special equities and their rights will suborn to what are permissible under regulations and to the ultimate actions of the state authorities to direct demolition in respect of constructions which are against regulations and which are not compoundable ;
- (vii) the dimensions of the staircases shall be examined by the Director of Town Planing, particularly with reference to safety norms in emergency situations and demolition and reconstruction shall be made to conform to regulations ;
- (viii) if any occupier/owner has come by possession whose occupation cannot be sustained by direction as to demolition, the builder, contractor and the licensee shall be jointly and severally liable to compensate the loss for the entire amounts received with interest at 18% p.a.;
- (ix) the respondents Nos. 1 and 2 shall monitor the actions of the enforcement agencies to secure the whole constructions to conform to all building regulations ;
- (x) the respondent Nos. 1 and 2 shall constitute a grievance redressal mechanism comprising of 1 representative for each tower blocks, 1 representative each from builder and licensee, 2 representatives (*ex-officio*) from the office of Director of

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Town Planning, Gurgaon within 8 weeks, which shall aid, counsel  
and formulate strategies for effective implementation of activities  
for mutual benefit till completion certificates are issued.

(Para 15)

M. G. Kapoor, Advocate, *for the petitioner.*

R. D. Sharma, DAG, Haryana, *for the respondent No 1 and 2.*

Arun Monga, Advocate, *for the respondent No. 3.*

H. S. Mattewal, Senior Advocate with Akshay Bhan, Advocate,  
Ms. Madhu Dharyal, Advocate and Chetan Dayal, Advocate  
*for respondent No. 4.*

## **K. KANNAN J.**

### **I. Prayer for demolition of residential units, basis of**

(1) This writ petition is in the nature of a class action brought at the instance of a welfare association of flat owners, which trains its guns against respondent Nos. 3 and 4 seeking for a corrective action mandating the State functionaries namely the respondent Nos. 1 and 2 to demolish the flats constructed in excess of the sanctioned number of flats within a complex of apartments. The reliefs in the writ petition sought for are one the basis; one, alleged constructions made by the colonizers and the contractor have been in violation of the building plans as regards the number of flats. Two, the Floor Area Ratio (FAR) adopted in the manner of constructions have exceeded the sanctioned regulatory limits. Three, calling to the writ petition the aid of the applicability of the salutary provisions of the Group Housing Scheme laid down under the Haryana Urban Development Authority Act, 1977 (hereinafter referred to as 1977 Act), The Haryana Apartment Ownership Act, 1983 (hereinafter referred to as Ownership Act, 1983), Haryana Apartment Ownership Rule, 1987 (hereinafter referred to as Haryana Ownership Rules, 1987), The Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (hereinafter referred to as 1963, Act), as applicable to the State of Haryana and the Rules of the year 1965, the actions of the colonizer and the builder have violated all the building norms.

## II. The salient terms of building project, as approved

(2) The petitioner-association comprises of the owners and occupants of the buildings promoted by Ansals Properties and Industries Limited through a project that is called as Celebrity Homes, Palam Vihar, Condominium, Gurgaon. The declaration issued under Section 2 of Apartment Ownership Act, 1983 reveals that M/s Ansals Properties and Industries Limited and the associate companies as the 'Grantor' for an area measuring at 10.55 acres (42694.27 sq. mtrs) falling within the Revenue Estate, Village Chouma, District Gurgaon. The declaration in the Act sets out the following features for the building :—

- “(i) 7 Main Apartment building blocks including health club.
- (ii) 29 Row Houses (Garden Homes) Type-I and II
- (iii) Parking in Basement and open
- (iv) One Community Building
- (v) Shops (2 Nos.)

The declaration contains several specifications relating to the dwelling units, the common facilities etc. but they have not been set out in this judgment. The common areas and facilities described in the declaration consists of common approach roads, landscape and parks, lounges, corridors, staircases, lifts and common services and equipments. It refers to six blocks or towers called as Building No. 'A' to 'F', besides building called Celebrity Suites amongst, the building towers or blocks specified as Types 'A' and 'B'. In Building Nos. A to F, Type B, there are 13 floors each and penthouses, in the original building plans. In the buildings called as Celebrity Suites-Type A, there are 14 floors and Garden Homes also have row houses in two types, Type I and II. The FARs are not calculated for each and every blocks separately but they are uniform, having been reckoned with reference to the entire floor area of all the types of constructions in relation to the whole extent of property of over 10 acres falling within a single boundary. The individual blocks or towers are only for the sale of convenience and equally spread among the entire expanse of property. The maximum permissible coverage on ground as well as on subsequent floors is 33.33% and the maximum FAR (the petitioner's contention), as per the norms for Development and Cooperative Group Housing Scheme, is said to be 150 of the site area.

The colonizer has obtained the occupancy certificates for all the members of the petitioner-association, who claim to be owners and occupiers in towers/blocks A and B.

### **III. The starting point of disputes**

(3) The stand-off between the petitioner-association and the builders, as expressed through the writ petition and the documents, start with a salvo through a notice issued on 10th December, 2008. The notice gives expression to the following grievances :

- “(a) The flats constructed/to be constructed should strictly be according to the specifications and as per the original approved building plan neither burdening/straining the neighbouring resources no threatening the safety and security of residents of the adjoining neighbourhood as also simultaneously maintaining 80% of green space and 20% of built-up area.
- (b) The balcony as referred to in Para 4 be restructured as per the specifications incorporated in the original approved building plan along with the task referred to in sub-clause (a) above or in the alternative, if the same is incapable of execution, such balcony be demolished.
- (c) The existing temporary ramp structure should be demolished and rainwater drain be constructed to ensure free flow of rainwater and prevent its accumulation/flooding of the passage in front of the towers.
- (d) A wall measuring one foot in width and 6 1/2 feet in height should be constructed from the rear of C Tower going towards south all along the existing alignment of the sewage pipe turning eastward along the road in front of the Garden Homes to seclude the manholes essential for healthy environment and neighbourhood. In the alternate, if the same is incapable of execution, the sewage pipe should be restructured and/or relocated in consultation with my client.
- (e) The existing wall leading up to the road along Tower C should be extended towards the North across the road up to the boundary well to separate the Traffic of Celebrity Homes and Towers A & B as increase in traffic on the internal and jeopardizes secure traffic management and safety of residents.

- (f) Any construction and development being processed and/or undertaken should cease until the said tasks referred to hereinabove are accomplished within the period specified.”

(4) The private respondents have responded to this notice by stating that minor deviations whenever they exist are mere internal changes and that there are no other deviations. The petitioner-association appears to have nurtured a doubt whether the builder and the colonizer were putting up the construction within the sanctioned limits and therefore, they had addressed through their President and application under the Right to Information Act and secured information of the fact that the approval had been secured for construction of 143 flats in 17 storeys in Blocks A and B of the Group Housing Scheme but they had instead constructed 249 flats. The petitioner-association had, therefore, issued a notice to the Principal Secretary on 8th January,,2009 complaining that this violation had come about with connivance of the State functionaries particularly in the office of the Director, Town Planning, Gurgaon and seeking the intervention of the Principal Secretary, Urban Estate Development to initiate action in terms of Section B of Haryana Development and Regulation of Urban Areas Act, 1975 (hereinafter referred to as the 1975, Act). The writ petition is, therefore, the result of an information secured through Right to Information Act and what the petitioner-association claims as having been done by the colonizer/licencee in violation of the Acts and Regulations.

#### **IV. The violations by the builder & the professed eagerness to enforce regulations by State**

(5) The contentions raised by the petitioner have been contested by the respondents by filing independent written statements. In the written statement filed on behalf of the State Functionaries-respondent Nos. 1 and 2, it is admitted that in the constructions made by the private respondents, certain discrepancies and deviations had been noticed through a report of the District, Town Planner—Senior Town Planner, Gurgaon. However, it was stated that a detailed scrutiny of the plans were yet to be done and an assurance has come forth through the written statement that if it were to be observed that the 4th respondent had committed violations during construction, which had not been approved, the 4th respondent would be

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directed to remove the violations and that the occupancy certificate would be granted by the Department only after the removal of such violations. Referring to the FAR, it is contended that the area of the licence was originally 10.55 acres, which was subsequently enhanced to 10.773 acres and by a proper reckoning of the total FAR in relation to ground coverage, the permissible limit in the year 1993 was 175 and as per the revised building plan approved by the office of the Director in the year 1997, the sanctioned FAR was 175 of the total area of the project. For the further revised plans of the year 2002, the FAR for the circular tower, EWS block and four number of row houses, the FAR was 175. The total FAR achieved by the colonizer in the completed project as assessed by the District Town Planner was 27.528 sq. mtrs. Considering the completed nature of the project and large expanse of the land, the variation in the achieved FAR was a minor one and that as per the policy of the Department regarding composition in such cases where the construction had been raised without getting plans, it could still be considered for composition if it conforms to the building bye laws/zoning regulations. It was specifically reiterated that the FAR for the project as approved in the years 1997, 2002 and 2006 was 175 and that it was wrong to allege that the benefit of the enhanced FAR was not applicable to the respondents No. 3 and 4. It was the contention of respondents No. 1 and 2 that part completion certificates had been issued only for Blocks A and B but the ground coverage and FAR were always to be calculated in total for a complete Group Housing site and not for any particular block. Since it was an ongoing project, the colonizers were competent to get the benefit of permissible FAR till the grant of occupancy certificate for the completed project. Referring to an interim order passed by this Court on 30th March, 2009, the State would contend that respondent Nos. 3 and 4 had not been issued occupation certificate and that they would undertake a detailed scrutiny of the plans after obtaining permission from the Court. Even apart from the contentions raised in the written statement, in a communication issued from the District Town Planner to the Senior Town Planner, Gurgaon through memo dated 19th May, 2009, it is seen that out of 143 sanctioned flats, 82 numbers of such flats had been approved with the provisions of pantry and kitchen. The pantries had been converted into kitchen and the unutilized portion of the kitchen for the flats made possible an increase in the number of dwelling units from the sanctioned

143 units to 225 units. The communication lists out some violations, which are non-compoundable and non-permissible :—

- “(A) An additional entry gate has been provided to derive excess from 30m sector road within the front set back.
- (B) The applied site has been bifurcated with rest of the group housing scheme, as shown on the site plan.
- (C) A room and D.G. sets has been provided in front set backs.
- (D) 34 Nos. toilets are under size.
- (E) Basement level have been kept 3 feet above the ground level wherein as per zoning clauses it should have been flushed with ground level.”

#### V. The builder-licensee's response

(6) In the written statement filed by the 4th respondent there is an attempt of certain over-simplification by contending that the petitioner is only interested in harassing the respondents and put pressure upon the respondent to fulfill their illegal demands, namely, that the members of the petitioner-association asked the 4th respondent to construct an internal boundary wall segregating Blocks A and B from other blocks. When the respondents refused to heed to such a plea, the petitioners have filed the writ petition. Referring to the fact that two 18 storied buildings, which have come about purportedly in violation of the sanctioned plan, the contention of the 4th respondent is that such a construction could not have come about in a day and the petitioners were silent spectators to the construction of increased number of flats and that they had applied under Right to Information Act only on 30th September, 2008 and followed it up with a notice on 10th December, 2008 when the petitioners made an illegal demand for construction of a segregating wall and that further a representation to the Principal Secretary, Urban Estate Department on 8th January, 2009 had been made only after the illegal demand of the petitioner had been turned down. The further contentions are that the petitioners have no *locus standi* to file the writ petition, since violations complained do not exist within their own blocks namely Blocks A and B but they relate to other blocks and it is not even an expression in public interest but a chagrined response to the refusal



of the petitioners' illegal demand. The respondents have also contended that all the constructions have been within the parameters of the building regulations and that the FAR conforms to the regulations.

#### **VI. State's further actions pending litigation**

(7) At the time of arguments, learned counsel appearing for respondents No. 1 and 2 would also urge that the Director, Town Planning has issued a notice on 23rd November, 2009 to the colonizer pointing out to several violations, which have been made and to show cause against cancellation of licence for such violations. The show cause notice refers to a fundamental violation of a transfer of licence, which respondent Nos. 3 and 4 are purported to have made by entering into an agreement with M/s MDLR Developers and Promoters Pvt. Ltd. on 24th July, 2005 and that the 3rd respondent had executed a deed of assignment on 22nd October, 2005 with the 4th respondent. The notice also sets out that the approved building plans had been violated and particularly with reference to conversion of pantry to kitchen and using up the kitchen space for increasing the number of dwelling units. The increase in the dwelling units would certainly overload the existing public health services and make the existing water supply and sewerage system deficient. The action of the 4th respondent would, therefore, constitute a fraud against the allottees by selling multiple units against the approved single units sanctioned by the Department of Town and Country Planning, Haryana. The notice also sets out the deficiency of not making sufficient provisions for EWS units, service personnel units, nursery school, parking in accordance with the approved units. The inspection purports to reveal that at least 10 flats are seen to have been occupied although no completion certificate/occupancy certificates had been issued under Section 47 of the 1963 Act and the 1965 Rules. This notice is further pointer to the fact that there are indisputably violations which the respondents No. 3 and 4 have committed and the authorities are alive to a serious prejudice to the public interest.

#### **VII. Setting the statutory regulations in perspective**

(8) Having referred to the pleadings and the respective contentions of parties relating to alleged violation, they have to be set in the context of the statutory provisions and rules governing the need for a planned development and the consequences of violations insofar as they are relevant

for the purpose of this case. The 1963 Act and the 1965 Rules contain a scheme for preventing haphazard development along scheduled road and in controlled areas of the State of Haryana. The Scheduled road is defined under Section 2(10) of the 1963 Act as under :—

“scheduled road” means a road specified in the Schedule to this Act which is wholly situated within the State of Haryana, and where any road so specified is not so situated the portion of such road which is situated in the State of Haryana and includes a bye pass or express but does not include any part of such road or portion, not being a bye pass or expressway, which is situated in the limits of a local authority;

*Explanation.*—For the purpose of this clause ‘local authority’ means a cantonment board, municipal committee, notified area committee or an improvement trust;”

Section 3 contains a prohibition to erect or re-erect buildings along scheduled road within 100 mtrs of either side of the road, reservation of a bye-pass or expressway or within thirty metres on either side of the road reservation of any scheduled road, subject to certain exceptions. Section 4 empowers the Government to declare any area adjacent to and within a distant of 8 kms on the outer boundary of the town or 2 kms on the outer boundary of any industrial or housing estate, public institution or an ancient and historical monument to be also controlled area. Section 5 details provisions relating to publications of plans in controlled area and Section 6 interdicts any person from putting up any construction except in accordance with plan and restrictions contained in the publications made under Section 5. The location of the property as falling within the controlled area of Gurgaon-Jaipur Highway and the applicability of the 1963 Act and 1965 Rules are not in dispute. The Haryana Development and Regulation of Urban Area Act, 1975 regulate the use of land in order to prevent ill-planned and haphazard urbanization in or around the areas of the State of Haryana. It contains provision for definition of colony and colonizer under Sections 2(c) and 2(d) and the need to apply for licence for a colonizer for carrying on with developmental activities under Section 3, Section 8 empowers that State to cancel the licence of colonizer in contravention of any provisions of the Act. Section 10 contains penal provisions against the person, who contravenes any of the provisions of this Act. The prosecution contemplated

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under the Act could be initiated only with the previous sanction of the Director or a person authorized by him (Section 11) and Section 11-A extends police powers to the Director to secure enforcement with the help of police officers and to cause arrest in terms of Section 11-B of persons acting in contravention of the Act, Section 11 specifically lays down that the provisions of 1975 Act shall not derogate from any permission already granted under the 1963 Act and the Rules made thereunder. Regulations have been issued under the Act at various times under both the 1963 Act and 1975 Act. The notification issued relating to development plan of controlled area, Gurgaon on 20th September, 1971 provides for a maximum coverage on ground floor in respect of group housing to be 33% and the maximum FAR to be 150. A power of relaxation is also granted insofar as the use and development of land into residential or industrial colony but the relaxation does not extend to relaxing even the FAR.

(9) The notification issued under the 1963 Act on 29th April, 1982 has been set in the context of the pressure on the capital and the scarcity of urbanizable area within Delhi and the need for creating "Ring Towns". Under the 1982 notification, maximum coverage on ground floor for group housing has been reduced to 25% but the maximum FAR has been retained as 150. There have been also simultaneous notifications issued under the 1975 Act and first of its notification has come about on 3rd August, 1977. The intonation in the Regulation, 1977 is written in a language that breaks fresh ground from staid formalism, as is wont to regulatory stiffness by evoking interest in mythological history of Gurgaon: "Gurgaon derives its name from "Guru Gram". The village is said to have been donated to Guru Draunacharya by king Yudhishtra in Maha Bharat times. In the recent years a great interest has been shown in the industrial field at Gurgaon. The advantageous location of the area on the north-west of Gurgaon-Palam Road offers a great temptation for speculative developments. In this context also this potential pocket is being brought under planned development." The site coverage as per the 1977 Regulation is 23 ½% and the maximum FAR provided as 150. The provisions of the Haryana Apartment Ownership Act of 1983 will have relevance only to the mode of user of common facilities and contains provision setting out a statutory forum, the heritability and transferability of property obtained through individual apartment in a building complex, besides delineating common areas and facilities which are provided within an apartment complex.

**VIII. Increase in Far when project is underway is a benefit; retrospective application of such benefit is permissible**

(10) Against the contention of the petitioner that the builder has increased the FAR beyond the permissible limits and the State Authorities have also allowed for a higher FAR, the respondents have struck common ground by urging that the FAR allowable is 175. Subsequent regulations of the year 2002 provide for an increase in FAR. Those regulations will have bearing to us since the construction was still in progress and the completion certificates had not been issued so far. It is seen from the written statement that the licence issued to the 3rd respondent for developing a group housing colony was issued under licence Nos. 1 and 12 of 1994. The declaration given by respondent No. 3 under the Haryana Apartment Ownership Act of 1983 appears to have been made on 12th July, 2002. If the building plan had been sanctioned at a particular time where the regulation provided for a FAR 150, it will continue to be 150 if the construction had been completed and completion certificate had also been obtained. However, if the project was still under way and the construction had not completed, the subsequent regulations provided for increase in FAR would apply if the colonizer/builder had sought for modification of the plans and obtained permission for the revised plans so as to conform to increase in floor areas of constructions as per increase in FAR. In this case, I accept the contention on behalf of the State that the completion certificates had not been issued and since the buildings were in progress, the benefit of increased FAR through revised regulations were available to the builder and accordingly, the constructions made should be examined only in the context of an increased FAR of 175.

(11) Learned counsel appearing for the petitioner contend that since the licence had been issued in the year 1994 that was before the regulations of the year 2002 and 2005 providing for increase in FAR, respondent Nos. 3 and 4 would only be governed by the Regulations issued before, This contention, in my view, would be self-destructive, as pointed out by the counsel for respondent Nos 3 and 4, for if such a contention were to be accepted even the constructions in tower A and B where the petitioners were residing would be seem to have fallen foul of the regulations and the constructions made may have to be demolished. Increase in FAR that are meant to increase the floor space for the benefit of occupants and incidentally to the builder by increased volume of profits, cannot be reduced to operate retrospectively. If the increase is brought retrospectively to apply

a benefit, there cannot be objection at all. The rule against retrospectively is when a benefit is withdrawn; but if a benefit obtains, the retrospective application ought to be seen as a boon.

(12) Learned counsel relies on a decision of the Hon'ble Supreme Court in **Ganga Retreat and Towers Ltd. and another versus State of Rajasthan and others (1)** where the Hon'ble Supreme Court was referring to the applicability of FAR provisions and said in the context of Urban Land Ceiling and Regulation Act, 1976 that when the parties applied for approval of building plans, it is the law that is in force at that time which would be applicable and that doctrine of permissible estoppel would not be available when any action is desired to be taken in the contravention of any provisions of law. A further decision in **State of Rajasthan and another versus H. V. Hotels Pvt. Ltd., and another (2)** again laid down that normally the relevant date of applicability of the building plans would be the date of the sanctioning of plan. In **Howrah Municipal Corpn. and others versus Ganges Rope Co. Ltd., and others (3)**, the Hon'ble Supreme Court while considering a reverse situation, held that if subsequent to the making of the plan for sanction, the building rules had been amended more favourably in favour of the person or party seeking sanction, it could not be stated that the more favourable rules would not be available to the person or party applying. None of these decisions of the Hon'ble Supreme Court govern a situation where at the time when the building plans were sanctioned, a particular FAR was available under the regulation and if a subsequent regulation made possible an increase in FAR for all new projects or projects which are still under way, the benefit of higher FAR through amended regulations cannot be applied. On the other hand, **Howrah Municipal Corpn** case cited its own decision in **Usman Gani J. Khatri of Bombay versus Cantonment Board (4)** and **State of West Bengal versus Terra Firma Investment and Trading Pvt. Ltd. (5)** where a greater benefit came through amended regulations and observed that the benefit of such amended regulations would be available if fresh application is made. The **Howrah Municipal Corpn.** case, however, also examined another situation where a builder had obtained sanction under the rules

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- (1) (2003) 12 S.C.C. 92
  - (2) 2007 (2) SCC 468
  - (3) (2004) 1 SCC 663
  - (4) 1992 (3) S.C.C. 455
  - (5) 1995 (1) S.C.C. 125

prevailing at that time and subsequently rules changed and when the company was required to file a fresh application for sanction, the Corporation refused to sanction by examining the fact that it was not possible to regularize the construction by the changed rules that were meant to benefit the public interest. The Court held that the company did not have vested right to obtain sanction since the building rules had been amended in view of public interest and convenience. In this case, the increase in FAR, which was made to accommodate greater needs of the public with pressure on property becoming acute, gave a right to the public and in turn to the builder to modify the plan for increased floor space. As regards the first contention, therefore, I am of the view that the objection of the petitioner that there had been a violation of the building regulations by providing for an increased FAR cannot be accepted.

**IX. Building violations that are non-compoundable shall be taken to their logical end of corrective actions as provided under law.**

(13) The substantial objections are that conversion of pantry into kitchen and floor area available for kitchen for each of the dwelling units that have given way for increase in number of dwelling units and they constitute violations of the building plan as sanctioned. State Authorities are alive to these violations and they have issued notices for cancellation of licence. They have also not issued completion certificates and the outcome of the notices issued and the nature of action that the State could take pursuant to the notice is not a subject of adjudication before this Court. It shall suffice, in my view, to observe that respondent Nos. 1 and 2 shall take the show cause notice for cancellation of licences to take it to its logical end and apply the provisions relating to demolition and penal action as contemplated under the 1975 Act if the violations are not rectified. The completion certificate shall not be issued till the violations are completely removed. Water and electricity connection themselves shall not be given unless the building qualify for grant of completion certificates by the Authorities, who shall ensure that there is a strict conformity to the building plans which have approved and compounding could be done only insofar as they could be allowed to be compounded under the relevant regulations.

(14) Learned counsel appearing for the petitioner also points out to the fact that the staircases for constructions are in flagrant violation of the provisions relating to the dimensions of the staircases made in the 1965

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regulations. At the time when the written statement has been filed, the respondent themselves have admitted that they have not issued the completion certificates and the writ petition itself was premature. It shall be difficult for this Court to monitor whether each stage of construction has conformed to the relevant regulations. The notice of cancellation of licence had been issued and there are provisions for demolition under the relevant 1965 regulations, if the constructions are made in violation of the regulations. The petitioner complains that several persons have occupied the property even without the completion certificate and in spite of orders of Court. The show cause notice issued subsequent to the writ petition and produced before this Court itself shows that there are more than 10 occupants in certain dwelling units where the completion certificates have still not been issued. The only method by which the enforcement of an interdict against entry without completion certificate would be to direct that the State shall ensure disconnection of electricity and water connection till the existing construction qualify for completion certificates.

- (15) The ultimate dispensation shall, therefore, be :
- (i) the FAR accorded to respondent Nos 3 and 4 and the constructions made that conform to FAR of 175 shall remain.
  - (ii) the violations relating to the additional dwelling units constructed shall be pursued in the light of the show cause notice issued by respondent Nos. 1 and 2 for cancellation of licence and no completion certificate shall be issued till all the non-compoundable violations are removed and the existing constructions conform to the building regulations;
  - (iii) the additional dwelling units, though bring an additional pressure on the administration for providing water and sewerage facilities fall within the permissible FAR and if the revised building plan is submitted, they could be permitted, such permission shall be given on collection of compounding charges and any other charges permissible under rules ;
  - (iv) there shall be no electricity, water or sewerage connection issued till the buildings are made to the conformity of the regulations and building plans and such supply could be given only when the buildings qualify for issuance of completion certificates. If water and electricity connections have already been given to any dwelling units built without sanction, they shall be disconnected forthwith;

- (v) there shall be no wall built between Towers A and B to segregate them from the rest of the blocks, for that would alter the whole layout and alter the FAR and the common facilities guaranteed under the original building plans ;
  - (vi) persons who have occupied the building plans after purchases without sanctioned plans shall enjoy no special equities and their rights will suborn to what are permissible under regulations and to the ultimate actions of the state authorities to direct demolition in respect of constructions which are against regulations and which are not compoundable ;
  - (vii) the dimensions of the staircases shall be examined by the Director of Town Planning, particularly with reference to safety norms in emergency situations and demolition and reconstruction shall be made to conform to regulations ;
  - (viii) if any occupier/owner has come by possession whose occupation cannot be sustained by direction as to demolition, the builder, contractor and the licensee shall be jointly and severally liable to compensate the loss for the entire amounts received with interest at 18% p.a.
  - (ix) the respondents No. 1 and 2 shall monitor the actions of the enforcement agencies to secure the whole constructions to conform to all building regulations;
  - (x) the respondent Nos. 1 and 2 shall constitute a grievance redressal mechanism comprising of 1 representative for each tower blocks, 1 representative each from builder and licensee, 2 representative (*ex-officio*) from the office of Director of Town Planning, Gurgaon within 8 weeks, which shall aid, counsel and formulate strategies for effective implementation of activities for mutual benefit till completion certificate are issued.
- (16) The writ petition is disposed of on the above terms.