

2. This is the sixth hearing of this matter. On hearing dated 05.12.2018 as well as in other matters against the same respondent, the Authority has been apprised of the fact that the Directors of the respondent company are behind bars facing criminal charges. Despite successful delivery of notice none appeared on behalf of respondent in the first three hearings of this matter. Though, learned counsel Sh. Kunal Muthreja appeared on behalf of the respondent on the fourth hearing dated 10.01.2019 seeking adjournment on account of being recently engaged by the respondent but till date the he has neither filed any written statement nor assisted the Authority in any substantive way. Keeping in view the fact that the Directors of the respondent company are behind bars and keeping in view previous conduct of the respondent in the present as well as other matters decided against the respondent, the Authority has decided to proceed further in the matter, as enough opportunities have been afforded to the respondent.

3. All previous orders in this matter shall be read as part of this final order. However, the complainant has made an application for certain amendments to the complaint, with respect to the total consideration payable being Rs. 44,00,000/, to be calculated at the rate of Rs. 5,500 per sq. ft. of the unit, instead of Rs. 12,50,000/- and the total sum paid by the complainant to the respondent being Rs. 41,80,000/- instead of Rs. 10,30,000.

4. Reading from the application form attached as page nos. 15 to 17 of the complaint, it is observed that the total sum payable by the complainant was agreed to be at the rate of Rs. 5500/- per sq. ft., where the total area of the shop purchased



by the complainant was 800 Sq. ft. Hence, the total consideration works out to be Rs. 44,00,000. Further, the Authority on perusal of the receipts attached as page nos. 50 and 51 of the complaint accepts the current position with respect to the total sum paid by the complainant being Rs. 41,80,000/-. The initial prayer of the complainant was for possession, however vide the aforesaid application for amendment, the complainant seeks refund with interest before this Authority.

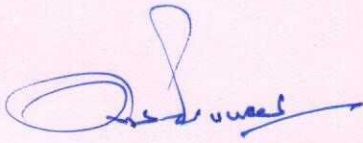
5. In brief the case of the complainant is that he had booked a shop in the year 2007 of which even after taking into the account the extended period the possession was due to be offered by 15.04.2010. In addition it was agreed that the respondents shall pay a monthly assured income of Rs. 38,312/- to the complainants. The respondents paid the assured income upto March,2016 but discontinued thereafter. Admittedly the project has been abandoned, no construction work is going on, the respondents are in jail and are facing multiple legal proceedings. There is very little hope of the respondents taking charge of the matter and completing the project in near future. As such circumstances dictate the complainants are entitled to the relief sought by them by way of refund of the money paid.

6. Since the respondents have failed to pay the monthly assured income to the complainants after March, 2016 therefore, the interest at the rate prescribed in Rule 15 on the amount to be refunded shall be calculated from this date upto the date of actual refund. The amount shall be refunded within a period of 90 days from the date of uploading of this order.

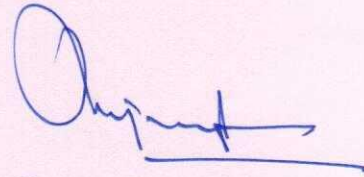


7. The Authority realises that in the circumstances in which the project has been placed, it may be a difficult task to execute the same against the respondents. This Authority has laid down a law making the allottees entitled to certain preferential treatment as in complaint **case No.510 of 2018 titled Hoshiar Singh Mandiwal Versus M/S Piyush Colonisers**. The complainants of this case also shall be entitled to a similar relief against the assets of the project of the respondents or any other assets of the respondents. These orders may be presented before any court of law or authority for satisfying the claim in respect of this order.

Disposed of. Files be consigned to the record room.



Anil Kumar Panwar
Member



Rajan Gupta
Chairman