



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

## 1. COMPLAINT NO. 1175 OF 2020

Gulshan Kumar & Sangeeta Khattar .....COMPLAINANTS

VERSUS

Ansal Crown Infrabuild Pvt. Ltd. ....RESPONDENT

Hearing: 3<sup>rd</sup>

## 2. COMPLAINT NO. 1464 OF 2020

Gulshan Narang .....COMPLAINANT

VERSUS

Ansal Crown Infrabuild Pvt. Ltd. ....RESPONDENT

Hearing: 3<sup>rd</sup>

**CORAM:** Rajan Gupta  
Dilbag Singh Sihag

**Chairman**  
**Member**

**Date of Hearing: 04.08.2022**

**Present: -**

Sh. Shubhnit Hans, learned counsel for the complainant through VC (in complaint no. 1175/20)

Sh. Vikas Singh, learned counsel for the complainant through VC (in complaint no. 1464/20)

Sh. Adarsh Jain, learned counsel for the respondents (in both complaints)

**ORDER (DILBAG SINGH SIHAG-MEMBER)**

1. Captioned bunch of complaints is being disposed of together by this common order. Complaint No. 1464 of 2020 titled “ Gulshan Narang Versus Ansal crown Infrabuild Pvt. Ltd.” has been taken as lead case.
2. While initiating his pleadings, learned counsel for complainant stated during the hearing that the decision dated 01.06.2022 taken by the Authority in Complaint No. 1326 of 2019 titled as Sanjeev Grover & Komal Grover V/S Ansal Crown Infrabuild Pvt. Ltd. squarely covers the controversy involved in the above mentioned complaints. To support his contention he briefly averred facts of the case that vide application form dated 15.06.2012, a flat bearing no. 201, tower-1 measuring 2606 sq.ft. was allotted to complainant for total sale consideration of Rs. 1,00,40,918/-. Complainant had paid an amount of Rs. 90,21,352/- to the respondent-promoter till February 2015. As evidence of said paid amounts, receipts issued by respondent has been annexed by complainant at page no. 28-36 of complaint book. As per Builder buyer agreement dated 05.01.2015 builder was under an obligation to handover possession of booked plot within a period of 36 months from date of execution of agreement, which comes to 05.01.2018. But till date neither refund of the paid amount nor possession of booked plot has been handed over to complainant. Aggrieved by the action of the

respondent, complainant sought refund of paid amount along with permissible interest as per Rule 15 of HRERA Rules, 2017 framed under RERA Rules, 2016. Hence, these complaints be disposed of in the same manner. Operative part of said order dated 01.06.2022 is reproduced below for ready references:

“ 3. Complainant in the lead case had booked a flat bearing no.401, in Tower 3, admeasuring 2118 sq. ft. in respondent's project “Ansal Crown Heights”, Faridabad on 01.10.2010. Total sale consideration of the flat was Rs. 56,49,765/- against which complainant had already paid an amount of Rs. 61,27,115/-. In support of amount paid, he referred to annexure C-10 of complaint, whereby an email dated 21.07.2018 was received from respondent. As per said email, respondent had admitted the paid amount i.e. ₹ 61,27,115/-. Both parties signed flat buyer agreement dated 05.07.2011. As per Clause 4 of the agreement, possession of booked property was to be delivered within 36 months from signing of agreement. Therefore, deemed date of possession in this case was 06.07.2014. Learned counsel for complainant states that an email dated 18.07.2018 was sent by respondent, stating that possession of their booked unit will be delivered by November 2019. However, on site of the project development is going at very slow/pace and there is no possibility of getting the project completed by November 2019. For the reason of inordinate delay of over eight years and no hope of its completion in near future, complainant has sought relief of refund along with permissible interest as per Rule 15 of HRERA Rules, 2017. He prays that total paid amount of Rs. 61,27,115/- given to the respondent may be refunded along with permissible interest calculated from the date of payment till the payment of the entire amount of principal and accrued delay interest thereon.

5. On the other hand, respondents in their reply have raised mostly technical objections like the complaint is not maintainable; RERA Act cannot be implemented with retrospective effect; Authority does not have jurisdiction to hear the complaint; respondent has not violated any provisions of the RERA Act, 2016. Further, it has been contended that project is

registered with Authority vide id HRERA- PKL-28-2018 dated 24.08.2018. As on date construction work of project is going on, in respect of 8 towers out of 10 towers, while construction of remaining two towers have not yet been started. The construction work of 4 towers out of the 8 towers i.e. 7,8,9,10 is 90 % complete. Whereas construction works of remaining 4 towers are also nearing completion as 75 % of the work is complete. As stated above that project is near completion, it will jeopardize the whole project if relief of refund is granted to the complainants at this stage. Further, the apartment buyer agreement dated 05.07.2011 is subject to force majeure conditions and respondent could not complete construction of project in time due to following reasons:

- I. Respondent applied for renewal of license in the office of DTCP on 21.09.17 and same was granted by the department on 30.04.18, which caused delay of about 221 days.
- II. The building plans sanctioned by DTCP were valid only till 07.12.14 and the same were renewed by the department on 26.06.15.
- III. The construction work was hampered by the lackadaisical attitude of the contractor.
- IV. Number of allottees have defaulted in making timely payments. Till date Rs. 12,01,05,488/- are recoverable from the defaulting allottees.

Under such circumstances, respondent prays for dismissal of present complaints.

6. Sh. Himanshu Raj, learned counsel for complainant reiterated the facts mentioned in para 1 of this order and pressed for relief of refund on the ground that project cannot be completed in near future because as on date only raw structure of project is standing on site. Further an inordinate delay of eight years has already been caused in handing over of possession. However, none appeared for respondents.

7. Since, complainants had sought relief of refund initially, the matter was kept pending by Authority on account of jurisdiction dispute of the Authority to deal with complaints in which relief of refund was sought, before Hon'ble High Court and Hon'ble Supreme Court.

Now, the position of law has changed, in view of Judgment passed by Hon'ble Supreme Court in lead SLP Civil Appeal No.

13005 titled as "M/S. Sana Realtors Pvt. Ltd. vs. Union Of India" plea raised against the maintainability of the complaint is no more tenable, since the issue relating to jurisdiction of Authority stands finally settled. Accordingly, Authority hereby proceeds for dealing with this matter on its merits.

8. Authority observes that this complaint was received on 07.06.2019. & respondent has filed reply on 03.07.2019. However, an amended reply has also been filed on 14.09.2020 in registry of Authority. When the case was called for hearing none appeared for respondent and matter was passed over for a while to enquire about the attendance of respondent counsel. On enquiring, Ms. Aditi Tuteja, who had appeared on the last date of hearing informed that she is no longer counsel for the respondent in the matter. So, Authority decides to proceed with these matters on the basis of admitted facts available in the files.

9. After going through the records available on file, Authority observes that complainant has paid to the respondent total amount of ₹ 61,27,115/- , which is admitted by respondent vide email dated 21.07.2018, annexed as Annexure C-10 at page no. 77-78 of the complainant book. Further, complainant has annexed a copy of fully signed buyer agreement as annexure C-5 of the complaint book which clearly shows that both parties had entered into this agreement. Accordingly, it is concluded that complainant had paid full amount to the respondent and respondent despite having received full price of the flat had failed to deliver the possession of the flat to the complainant till date. Considering the inordinate delay on part of respondent to deliver the possession, complainant has sought relief of refund along with permissible interest.

Further it is observed that although four towers of project are complete 90% and four are 75% and two are not even commenced. But respondent has not specified which towers are yet to commence. On the other hand, complainant has stated that only raw structure is standing on the project site. Meaning thereby the tower in which complainant flat is located is not near completion in foreseeable future. So, complainant wishes to withdraw from the project under Section 18 of RERA Act 2016. The relief which could be granted at present is refund along with interest as per Rule 15 of HRERA Rules as inordinate delay of eight years has already been caused.

For the foregoing reasons relief claimed by complainants i.e. refund of the amount paid by them to the respondents along with interest in terms of Rule 15 of RERA, Rules, 2017

deserves to be granted from respective dates of making payments till passing of this order.”

2. Authority is satisfied that the issues and controversies involved in present complaints are of similar nature as in Complaint No. 1326 of 2019 titled as Sanjeev Grover & Komal Grover V/S Ansal Crown Infrabuild Pvt. Ltd. Therefore, captioned complaints are disposed of in terms of the order passed by Authority in Complaint no. 1326 of 2019.

3. In furtherance of above mentioned observation, Authority would dispose of both these complaints with the order that refund of the amounts paid by them to the respondents along with interest in terms of Rule 15 of RERA, Rules, 2017 deserves to be granted from respective dates of making payments till passing of this order. If delay is caused further by the respondents, additional interest will also be payable.

4. Authority accordingly orders refund of the money paid by both the complainants along with interest as shown in the table below-

Sr. No.	COMPLAINT NO.	Total amount claimed to be paid by the complainant (In Rs.)	Total amount on which interest is calculated (in Rs.)	INTEREST (In Rs.) @ 9.8	TOTAL AMOUNT TO BE REFUNDED BY RESPONDENT (In Rs. )
	1175/2020	59,93,265/-	59,92,066/-	5093674/-	1,10,85,740/-
2.	1464/2020	90,21,352/-	90,21,352/-	75,76,513/-	1,65,97,865/-

5. Respondents shall refund the money along with interest within period prescribed in Rule 16 of the RERA Rules of 2017.

**Disposed of.** Files be consigned to the record room after uploading of this order on website of Authority.



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**RAJAN GUPTA**  
**[CHAIRMAN]**



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**DILBAG SINGH SIHAG**  
**[MEMBER]**

