



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 3025 OF 2019

Mr. Jatin KapoorCOMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.RESPONDENT(S)

2. COMPLAINT NO. 3028 OF 2019

Mr. Sanjeev BhardwajCOMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.RESPONDENT(S)

3. COMPLAINT NO. 3032 OF 2019

Mr. Rohit KatochCOMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.RESPONDENT(S)

4. COMPLAINT NO. 3037 OF 2019

Yoshita BahlCOMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.RESPONDENT(S)

5. COMPLAINT NO. 3039 OF 2019

Mrs. Chanchal KapoorCOMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.RESPONDENT(S)

Date of Hearing: 20.07.2022

Hearing: 23rd (in all complaints)

Present: - Ms. Priyanka Aggarwal, counsel for the complainants through video conference (in all complaints)
Ms. Rupali S. Verma, counsel for the respondent through video conference (in all complaints)

ORDER (RAJAN GUPTA – CHAIRMAN)

1. Captioned complaints have been filed by complainants seeking refund of the amounts deposited by them in the projects named 'Parsvnath Elite Floors, Parsvnath City, Dharuhera, Rewari' and 'Parsvnath Pleasant, Dharuhera, Rewari' of the respondent. Cases were heard at length on 29.03.2022 and a detailed order was passed stating therein tentative view of the Authority that relief of refund as sought by complainants deserves to be granted and cases were adjourned giving opportunity to respondent to put forward their arguments.



2. Cases were then heard on 22.04.2022 when learned counsel for the respondent apprised the Authority that complainants in captioned bunch of complaints have already obtained a decree in their favour for the same cause of action from Hon'ble National Consumer Disputes Redressal Commission (NCDRC) and hence present complaints are barred by resjudicata. Order dated 22.04.2022 passed by Authority is reproduced below:

- “1. Learned counsel for the respondent apprised the Authority that complainants in the bunch of captioned complaints had filed complaints for the same cause of action before Hon'ble National Consumer Disputes Redressal Commission (NCDRC) bearing no. 847 of 2017 titled as Amarjit Singh Sidhu & Anr. Versus M/s Parsvnath Developers Ltd. Hon'ble NCDRC vide its order dated 11.02.2022 has decided the case whereby respondent has been directed to complete the project within one year and offer possession to the complainants along with delay compensation. She argued that complainants have intentionally concealed this fact from the Authority and had filed captioned complaints during the pendency of complaint before Hon'ble NCDRC. Since, Hon'ble NCDRC has already decided the matters; present complaints are not maintainable and are barred by resjudicata. Complainants can't be allowed to prosecute their cases before two forums on same cause of action. So, present complaints are liable to be dismissed.
2. Learned counsel for the complainants sought adjournment to verify the facts as she is not aware of the order passed by Hon'ble NCDRC.
3. Accepting the request of learned counsel for the complainants, cases are adjourned to 18.05.2022.”

3. Learned counsel for the complainant today submitted that she has not received copy of order on which learned counsel for respondent has



relied upon. She stated that the cases before Hon'ble NCDRC were filed seeking possession of the flats booked by complainants and Hon'ble NCDRC has been pleased to grant the relief sought by complainants. But since the project is not complete and there is no hope that it will be completed in near future, complainants are now interested to withdraw from the project and seek refund of the amounts deposited by them. She further stated that Authority in many other similar cases relating to same project, looking at the status of the project, has ordered refund of the amount along with interest and in the present cases as well has given its tentative view in its order dated 29.03.2022 that refund is admissible. She argued that resjudicata will not be applicable in present cases as complainants are now seeking relief of refund and not possession of flats booked by them. She requested that tentative view already expressed by Authority may be confirmed and refund may be allowed along with interest. She further stated that complainants are willing to give an undertaking in writing that they will not get the orders of Hon'ble NCDRC executed.

4. Learned counsel for respondent argued that the fact that complainants had filed complaints before Hon'ble NCDRC and same were pending at the time of filing of present complaints, was intentionally not disclosed by them in their complaints. Moreover, complainants did not mention about the same even after obtaining a decree in their favour on 11.02.2022. It cannot be said that complainants were ignorant of the said



order. She further argued that since, Hon'ble NCDRC has already decided the matters; present complaints are not maintainable and are barred by resjudicata and should be dismissed as complainants can't be allowed to seek two different reliefs from two forums for the same cause of action.

5. Authority has gone through contentions of both the parties and observes that the project in question is not complete and considering the status of the project, Authority in all other similarly placed cases has allowed relief of refund. But, in present complaints since, complainants have already obtained a decree in their favour from Hon'ble NCDRC for the same cause of action, Authority is bound by that decision following the principle of resjudicata, and accordingly decides to dismiss present complaints as barred by res-judicata.

6. Complaints are accordingly, **disposed of**. Files be consigned to record room and order be uploaded on the website of the Authority.


.....
RAJAN GUPTA
[CHAIRMAN]


.....
DILBAG SINGH SIHAG
[MEMBER]