



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. Complaint no. 183 OF 2021 (8th hearing)

Srishti Wadhwa and Jolly WadhwaCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)

2. Complaint no. 2887 OF 19 (6th hearing)

Deepak SinghCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)

3. Complaint no. 547 OF 2020 (3rd hearing)

Sunny SopenCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)

4. Complaint no. 1460 OF 2020 (2nd hearing)

Amit Kumar SinghCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)

5. Complaint no. 1461 OF 2020 (2nd hearing)

Deepak BhardwajCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)

6. Complaint no. 1500 OF 2020 (3rd hearing)

Ruby AroraCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)

7. Complaint no. 75 OF 2021 (3rd hearing)

Asha JainCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)

8. Complaint no. 82 OF 2021 (3rd hearing)

Neelam KhannaCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)



9. Complaint no. 94 OF 2021 (2nd hearing)

Siddharth Jain

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)

10. Complaint no. 383 OF 2021 (6th hearing)

Ekam Kohli

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)

11. Complaint no. 385 OF 2021 (6th hearing)

Mathew N Manuel

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)

12. Complaint no. 391 OF 2021 (8th hearing)

Sushil Chandra Gupta

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)

13. Complaint no. 499 OF 2021 (7th hearing)

Ankush Kumar

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)

14. Complaint no. 500 OF 2021 (7th hearing)

Gaurav

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)

15. Complaint no. 657 OF 2021 (6th hearing)

Sunil Dutt Sharma

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)

16. Complaint no. 1036 OF 2021 (2nd hearing)

Chhavi Bansal

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)



17. Complaint no. 83 OF 2022 (2nd hearing)

Bhupesh HansCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)

18. Complaint no. 1071 OF 2021 (7th hearing)

Brig Rajiv GautamCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)

19. Complaint no. 1492 OF 2020 (6th hearing)

Nivesh JainCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)

20. Complaint no. 1286 OF 2021 (3rd hearing)

Mr Laxmi Chand GargCOMPLAINANT(S)

VERSUS

Raheja Developers Ltd.RESPONDENT(S)

21. Complaint no. 567 OF 2022 (1st hearing)

Harish Chander

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)

CORAM:

**Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**

Date of Hearing: 06.05.2022

Present: -

Mr. Govind Chauhan, Ld. Counsel for the complainant in complaint no. 2887/2019.

Mr. Deepak Bhardwaj, Ld. Counsel for the complainant in complaint no. 1461/2021.

Mr. Arun Sharma, Ld. Counsel for the complainant in complaint no. 183/2021.

Mr. Akshat Mittal, Ld. Counsel for the complainants in complaint no. 499/2021 and 500/2021.


Mr. Chaitanya Singhal, Ld. Counsel for the complainant in complaint no. 657/2021.

Mr. Bakul Jain, Ld. Counsel for the complainant in complaint no. 1036/2021.

Mr. Denson Joseph, Ld. Counsel for the complainant in complaint no. 83/2022.

Mr. Rishabh Jain, Ld. Counsel for the complainant in complaint no. 1492/2020.

Ms. Priyanka Agarwal, Ld. Counsel for the complainant in complaint no. 1286/2021.



Mr. Gaurav Rawat, Ld. Counsel for the complainant in complaint no. 567/2022.

Complainant in person in complaint no. 547/2020.

None for complainant in complaint no. 1460/2020, 1500/2020, 75/2021, 82/2021, 94/2021, 383/2021, 385/2021, 391/2021, 1071/2021.

Mr. Kamaljit Dahiya, Ld. Counsel for the respondent in all complaints

ORDER (RAJAN GUPTA-CHAIRMAN)

1. Out of captioned bunch of 21 complaints, one complaint is of the year 2019, 5 complaints of the year 2020, 13 complaints of year 2021 and 2 complaints are of the year 2022. Notice had been delivered in all the complaints on different dates. The respondents, however, have filed reply in 10 complaints numbered 183/2021, 383/2021, 385/2021, 391/2021, 434/2021, 499/2021, 500/2021, 657/2021, 1036/2021 and 1492/2020. All the complaints pertain to same project of the respondents. The facts averred are similar.

In all the complaints relief of refund has been sought except in complaint No. 1492 of 2020 titled as Nivesh Jain V. Raheja Developers Limited in which relief of possession along with delay interest has been sought.



Authority has taken up the entire bunch for disposal and has taken complaint No. 183 of 2021 Srishti Wadhwa And Jolly Wadhwa Vs. Raheja Developers as lead case.

2. The facts averred by complainant are as follows:-

i) That the complainants in the year 2016 booked a 1 BHK apartment in an affordable housing project named 'Krishna Housing Scheme' at Sector- 11 and 14, Sohna. The complainants deposited an amount of Rs. 82,863/- as booking amount. Respondent provisionally allotted unit bearing no. 8007 Tower E3 on eighth floor to the complainant.

ii) An allotment letter dated 16.06.2016 was issued for the apartment measuring 452.33 sq. ft. carpet area and 57.74 sq. ft. as balcony area. The flat was allotted under 'Time Link Payment Plan'. Total agreed sale consideration was Rs.16,57,258/-.

iii) Flat buyer agreement was executed on 17.10.2016 in which it was stipulated that possession will be offered within 4 years from sanction of building plans or from the date of receipt of environment clearances. The complainants aver that environment clearance was granted on 09.03.2015 and the building plan was sanctioned on 12.11.2014. Accordingly, possession of the apartment became due on



or before 27.04.2019. The complainant has already paid an amount of Rs. 13,17,091/- as is evident from the accounts statement dated 01.12.2020 issued by respondents, which is annexed by the complainant as Annexure C-9. The complainants alleges that the agreement was for 'Time Link Payment Plan' and even after receiving over 80% of the total sale consideration, no construction at all had taken place upto the year 2018.

iv) Complainants had purchased the apartment for his personal use. The apartment was to be handed over by April, 2019, but still nothing substantial has happened on the ground. Respondents themselves have communicated to the complainants that the possession will be offered by 3rd quarter of 2021. The complainant alleges that it may not be completed even after 3 years from now.

v) Complainant further states that the licence No. 115 of 2014 issued to the respondents expired in August, 2019. RERA Registration No. 21 of 2017 issued to the builder has also lapsed in March 2020. Complainant on account of severe breach of terms of the agreement requests for refund of money paid by him to the respondents along with delay interest as admissible under Section 18 of the RERA Act and Rule 15 of the RERA Rules.



3. Respondents has submitted their reply dated 15.03.2022 in the lead complaint No. 183 of 2021. Respondents have submitted as follows:-

- i) This Authority does not have jurisdiction to deal with this matter because the complainants have sought relief of "possession of the flats with interest and compensation".
- ii) Authority further lacks jurisdiction because the project has not been registered with the Authority. Authority has jurisdiction to regulate the affairs only of the projects which are registered with Authority.
- iii) Respondents have stated that agreement with the complainant-allottee had not been executed in accordance with the format of the agreement provided in the Rules. Further, agreement with complainant had been executed much prior to coming into force of the RERA Act. For this reason also, the Authority has no jurisdiction and the complaint is not maintainable.
- iv) The project is in full swing and the delay of the project was on account of non-sanction of necessary approvals by the competent authorities of the State Government and for the reasons of not providing external services like sewer, water etc.



v) Respondent-company has averred that they had sought funds from M/s DMI Finance Pvt. Ltd. for financing its affordable housing project pursuant to licence No. 115 of 2014. Rs.55 crores were sanctioned out of which Rs. 33 crores have been disbursed and Rs.22 crores remains un-disbursed by the financier. Respondent-company claim in para 11 of their reply that out of the RERA Escrow account Rs.18 crores have been invested in the project and remaining amount has been withdrawn/ self-serviced by the vendor illegally. Respondents states that M/s DMI Finance Pvt. Ltd. is not releasing the money from RERA account and they are refusing to remove their lien.

4. Learned counsels of complainant Sh. Arun Sharma and Sh. Kamaljit Dahiya learned counsel of respondents have put forward their oral arguments. Learned counsel for some of the complainants presented photographs of the project which shows that it is in completely abandoned state. That work at the project is completely at stand still and the due date of possession was in the year 2019, but even in the year 2022, there is no hope of its completion in foreseeable future. They pressed upon the point that the licence of the project as well as registration granted by the Authority have expired and respondent-company has not cared to get them renewed. The respondents have taken payments of more than 70% of total consideration



from different complainants but even basic work in the project has not been carried out. There being no hope of completion of the project in foreseeable future, complainants are entitled to refund as provided for in Section 18 of the RERA Act.

5. On the other hand, learned counsel for respondents argued that project has been stalled because of wrongful actions on the part of M/s DMI Finance Pvt. Ltd. which is financier of the project. He stated that by misusing the lien created in favour of M/s DMI Finance Pvt. Ltd. on RERA account, the financier have wrongfully withdrawn from the account money which was to be invested on the project.
6. Sh. Dahiya further argued that this project is not registered with the Authority. He cited judgment of Hon'ble Supreme Court in 'Newtech Promoters vs. State of Uttar Pradesh' that RERA has jurisdiction only on the registered project and unregistered projects are outside its purview. Sh. Dahiya stated that respondents are trying their best and will be able to complete the project soon after the disputes with M/s DMI Finance Pvt. Ltd. are settled.
7. Authority has gone through the submissions of complainants as well as of respondents. It observes and orders as follows:-



i) Respondents have submitted a standard photocopied reply in all the cases, in which they have submitted similar arguments. In many cases, respondents have failed to even submit reply. It appears that respondent-company is not even clear about the facts of the matter. In writing i.e. in para 3 of reply as well as orally, learned counsel for the respondents vehemently argued that the project is not registered therefore jurisdiction of the Authority does not extend to the unregistered project.

The fact of the matter, however is that this project had been got registered by the respondents vide registration No.21 of 2017 dated 06.07.2017. Authority is in possession of said registration certificate which was communicated to the respondent-company vide memo No. HRERA (Reg.) 39/2017/122 dated 06.07.2017.

Authority observes that respondents are making submissions contrary to the facts. Respondents ought to check the facts of the matter before submitting their reply.

ii) This Authority has passed detailed orders in regard to jurisdiction of this Authority over unregistered project in complaint No. 191 of 2020 titled Mrs Rajni And Mr Ranbir Singh V/S Parsvnath Developers Limited, relevant part of which are reproduced below:



14. The Authority cannot accept such interpretation of law as has been sought to be put forward by learned counsel of respondent. RERA is a regulatory and protective legislation. It is meant to regulate the sector in overall interest of the sector, and economy of the country, and is also meant to protect rights of individual allottee vis-a-vis all powerful promoters. The promoters and allottees are usually placed at a highly uneven bargaining position. If the argument of learned counsel for respondent is to be accepted, defaulter promoters will simply get away from discharging their obligations towards allottee by not getting their incomplete project registered. Protection of defaulter promoters is not the intent of RERA Act. It is meant to hold them accountable. The interpretation sought to be given by learned counsel for respondent will lead to perverse outcome.

15. For the foregoing reasons, Authority rejects the arguments of respondent company. The application filed by respondent promoter is accordingly rejected.

Therefore, even if the project was unregistered, the Authority would have unfettered jurisdiction to deal with the complaints of the allottees as per Rule laid down by the Authority in the aforesaid complaint. Accordingly, either ways objections to jurisdiction of Authority raised by respondents holds no ground, and are rejected.



iii) Next argument of respondents is that the project could not be completed on account of diversion of funds from RERA account by the financier M/s DMI Finance Pvt. Ltd. Here again respondents are severely contradicting themselves. On one hand they are stating that project is not registered, but in the same breath they are saying that M/s DMI Finance Pvt. Ltd. is taking away money from RERA Account of the project. Again respondents have failed to even check facts of the matter.

iv) Regardless of above position, respondent-company has got loan of Rs.55 crores sanctioned, out of which admittedly Rs.33 crores have been disbursed. Nothing at all has been stated where this amount of Rs. 33 crores has been invested, and whether it has been invested in the project or invested somewhere else. They have not even stated what properties have been hypothecated against the loan.

Respondents have failed to submit quarterly progress and have not even submitted any certificate of Chartered Accountant that said loan which has been got sanctioned for the project has been invested on the project itself.

On the other hand admittedly however, money collected from complainants has not been invested on the project. Nothing at all has



been stated as to how much money was collected from complainants and how much money has been invested. RERA Act mandates that at least 70% money collected from allottees is to be invested on development of the project.

v) As per provisions of RERA Act and Rules no lien could have been created on the RERA account. 70% of the money received from the allottees has to be invested on the project. The respondent promoters appears to have severely defaulted in respect of legal obligations cast upon them under RERA Act. They have got the project registered and have operated RERA account as per law, but respondents have created lien in favour of of M/s DMI Finance Pvt. Ltd. without even informing the Authority about it. It is a blatant illegality committed by the respondents which in fact amounts to breach of law and trust. The allottees had entrusted their money with the promoter with an expectation that the same will be invested in the project and their booked apartment will be delivered in time. The promoter on the other hand, dealt with the money so deposited by the allottee-complainants like its private money and allowed a lien to be created in favour of 3rd party.

vi) There appears to be a clear mismanagement of funds by the respondent. The project ought to have been completed with the help



of Rs.33 crores raised by way of loan and the money contributed by complainant-allottees. Only a detailed forensic audit would reveal whether the money collected by way of loan and instalments paid by the complainants have been invested in the project or the said money has been diverted towards other purposes.

Authority decides to send a copy of this order to the Project Section to initiate inquiry in the matter.

8) Respondents-promoters have not submitted any time-line as to when project is likely to be completed. They are only hiding behind bald technicalities like jurisdiction of the Authority to justify their utter failure in completing the project. Photographs of the projects presented by complainants clearly show that the project is at very preliminary stages. It is not possible to be completed in foreseeable future. Since nothing substantial is happening on the ground, the promoters are going to find it difficult to arrange more money either from the allottees or from financiers. In any case, respondent is in serious disputes with both of them.

9) In such circumstances, when there is no hope of completion of project in foreseeable future, Authority is duty bound to allow relief of refund as



prayed by complainants. Accordingly, Authority orders refund of entire amount paid by complainants along with interest as calculated in the table below:-

S.No	Complaint No.	Date of Agreement	Amount Paid	Interest	Total
1.	2887/2019	11.11.2016	Rs. 9,52,514/-	Rs. 5,09,082/-	Rs. 14,61,596/-
2.	547/2020	24.12.2016	Rs. 15,21,365/-	Rs. 8,18,250/-	Rs. 23,39,615/-
3.	1460/2020	17.12.2015	Rs. 15,22,777/-	Rs. 8,08,342/-	Rs. 23,31,119/-
4.	1461/2020	06.08.2015	Rs.10,72,297/-	Rs. 6,15,752/-	Rs. 16,88,049/-
5.	1500/2020	09.08.2016	Rs. 12,67,801/-	Rs. 6,34,133/-	Rs. 19,01,934/-
6.	75/2021	21.09.2016	Rs. 11,65,877/-	Rs. 5,82,811/-	Rs. 17,48,688/-
7.	82/2021	23.09.2016	Rs. 10,60,644/-	Rs. 5,25,986/-	Rs. 15,86,630/-
8.	94/2021	21.09.2016	Rs. 11,65,877/-	Rs. 5,82,811/-	Rs. 17,48,688/-
9.	183/2021	17.10.2016	Rs. 13,17,091/-	Rs. 6,47,628/-	Rs. 19,64,719/-
10.	383/2021	19.05.2016	Rs. 10,35,786/-	Rs. 5,58,234/-	Rs. 15,94,020/-
11.	385/2021	28.08.2015	Rs. 14,83,819/-	Rs. 8,57,658/-	Rs. 23,41,477/-
12.	391/2021	Not Executed	Rs. 12,95,514/-	Rs. 7,04,250/-	Rs. 19,99,764/-
13.	499/2021	09.08.2017	Rs.12,71,033/-	Rs. 5,40,699/-	Rs. 18,11,732/-
14.	500/2021	11.08.2017	Rs.6,57,614/-	Rs. 2,73,208/-	Rs. 9,30,822/-
15.	657/2021	10.01.2018	Rs. 6,90,305/-	Rs. 2,38,829/-	Rs. 9,29,134/-
16.	1036/2021	07.09.2016	Rs. 9,52,514/-	Rs. 4,52,930/-	Rs. 14,05,444/-
17.	83/2022	Not Executed	Rs. 7,79,585/-	Rs. 4,70,910/-	Rs. 12,50,495/-
18.	1071/2021	09.09.2015	Rs. 5,91,437/-	Rs. 3,65,298/-	Rs. 9,56,735/-


19.	1492/2021	24.12.2015	Rs. 14,00,134/-	Rs. 7,44,536/-	Rs. 21,44,670/-
20.	1286/2021	22.01.2016	Rs. 15,22,322/-	Rs. 7,97,406/-	Rs. 23,19,728/-
21.	567/2022	03.09.2015	Rs. 11,85,796/-	Rs. 6,81,133/-	Rs. 18,66,929/-

In complaint no. 82/2021, complainant claims that he has paid Rs. 12,67,801/- to respondent but receipts annexed with the complaint shows that Rs. 10,60,644/- has been paid. Therefore, Rs. 10,60,644/- is taken into consideration for calculating interest thereof.

10. Above ordered amount shall be paid within a period prescribed in Rule 16 of HRERA Rules 2017. In complaint No. 1492 of 2020 the complainant has sought possession of the unit but the Authority is not in a position to get such a relief granted in view of facts and circumstances of the case enumerated above. Accordingly, alternate relief of refund becomes admissible and the same is ordered in this complaint also.

11. **Disposed off** in above terms. File be consigned to record room after compliance of the orders.


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RAJAN GUPTA
[CHAIRMAN]


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DILBAG SINGH SIHAG
[MEMBER]