



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no. 125 OF 2022

Jagdamba Parsad Tiwari

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)

CORAM:

Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Date of Hearing: 31.05.2022

Hearing-

2nd

Present: -

Mr. Dixit Garg, Learned Counsel for the complainant.

None for the respondent

ORDER (RAJAN GUPTA- CHAIRMAN)

1. The present matter related to Project 'DDJAY-II, Affordable Plotted Colony' of respondent situated in Sector 14, Sohana, District Mewat. It is requested by ld. Counsel for complainant that this complaint is similar and covered by decision of the Authority passed in complaint no. 255 of 2020 titled 'Saransh Mahajan v Raheja Developers Ltd.' on 06.05.2022 wherein relief of refund was allowed to complainants. Relevant part of the order is reproduced as below:

6. Authority vide order dated 27.10.2020 has given its tentative view that Respondent has unjustifiably holding the money of the complainant

therefore it was a fit case for allowing refund. Relevant order is reproduced below:

After consideration of the matter, the Authority observes that after completion of two draws of lot, no plot has been allotted to the complainant. Since the complainant was unsuccessful in draw of lot, the amount paid by him should be refunded by the respondent immediately. However, no efforts have been made by the respondent to do the same even after requests made by the complainant. The respondent is unjustifiably holding the money of the complainant. The complainant cannot be made to wait endlessly, therefore, the Authority is prima facie of the view that the present complaints are fit for ordering that the money paid by the complainants deserves to be returned to them along with interest.

7. Sh. Kamaljit Dahiya, Id. Counsel for the respondents during hearing submitted that they were ready to settle the matter and refund the amount. In this regard they claimed to have send mails to the complainants calling them in their office but none came to their office for settlement. Further, he submitted that in present case, complainants were not allottees as no allotment has been made to them. Hence present compliant is not maintainable under RERA as no builder allottee relationship has been established.

8. Authority observes that complainants should agree for settlement and in this case, offer of settlement has not been acceptable to them. When a unit has not been allotted to the complainants,

then respondent is duty bound to refund entire earnest money to the complainants. Their money could not be held on the ground that complainants has not approached respondent to collect money. This is a simple case of refund of earnest money on unsuccessful allotment. Therefore Authority allows relief of refund to all the complainants along with interest calculated in accordance with Rule 15 of the HRERA Rules i.e. @ SBI MCLR+2%. The principal amount and interest thereon payable to each of the complainants is tabulated below by the accounts wing of the Authority:-

S.No	Complaint No.	Amount Paid	Interest	Total
1.	2365/2019	Rs. 1,25,000/-	Rs. 52,313/-	Rs. 1,77,313/-
2.	2775/2019	Rs. 1,25,000/-	Rs. 53,116/-	Rs. 1,78,116/-
3.	10/2020	Rs. 1,75,000/-	Rs. 74,048/-	Rs. 2,49,048/-
4.	255/2020	Rs. 2,25,000/-	Rs. 94,161/-	Rs. 3,19,161/-
5.	778/2020	Rs. 2,25,000/-	Rs. 94,460/-	Rs. 3,19,460/-

In complaint no. 2775/2019, complainant has annexed demand letter dated 27.06.2019 issued by respondent wherein respondent has acknowledged receipt of Rs. 1,25,000/-. No other receipt in support of this payment has been supplied by complainant. In order to prove the date of above payment, bank acknowledgement via e-mail dated 30.11.2017 stating successful transaction in favor of respondent has been annexed.

9. Respondents are directed to refund entire amount as mentioned in above table to all the complainants within a period of 90 days as prescribed in Rule 16 of the RERA Rules.

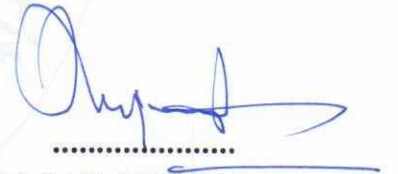
2. Since it is based on similar facts, relating to same project of the respondent, this complaint is also disposed off in terms of complaint no.

255/2020 titled 'Saransh Mahajan v Raheja Developers Ltd.'. Authority accordingly hereby orders refund of the amount paid by the complainants along with interest in accordance with Rule 15 of the RERA Rules, 2017. The principal amount and interest thereon payable to complainant is tabulated below:-

S. No	Principal Amount	Date of Payment	Interest Accrued till 31.05.2022	Total
1.	Rs. 5,000/-	31.10.2017	Rs. 2,178/-	Rs. 7,178/-
2.	Rs. 2,20,000/-	13.11.2017	Rs. 95,109/-	Rs. 3,15,109/-
Total	RS. 2,25,000/-		Rs. 97,287	Rs. 3,22,287/-

3. Respondents are directed to refund above stated amounts along with interest shown in the table above within time period prescribed in Rule 16 of RERA Rules, 2017.

4. Complaint is **disposed off**. File be consigned to the record room after uploading of order.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]