



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

## 1. COMPLAINT NO. 944 OF 2020

RAJIV ARORA

....COMPLAINANT

VERSUS

Ansal Properties and Infrastructure Ltd.

....RESPONDENT

## 2. COMPLAINT NO. 813 OF 2021

AMIT KUMAR

....COMPLAINANT

VERSUS

Ansal Properties and Infrastructure Ltd.

....RESPONDENT

## 3. COMPLAINT NO. 1116 OF 2021

POOJA RANI

....COMPLAINANT

VERSUS

Ansal Properties and Infrastructure Ltd.

....RESPONDENT

2



**CORAM:**                 **Rajan Gupta**  
                                  **Dilbag Singh Sihag**

**Chairman**  
**Member**

**Date of Hearing: 01.06.2022**

**Hearing: 9<sup>th</sup>** (in complaint nos. 813 of 2021)

6<sup>th</sup> (in complaint nos. 1116 of 2021)

19<sup>th</sup> (in complaint no. 944 of 2020)

**Present through video calling: -**     Adv. Amit Kumar, complainant (in  
complaint nos. 813 of 2021)

Adv. Tarun Talwar, learned counsel  
for the complainant (in Complaint  
no.1116 of 2021)

Adv. Vivek Sethi, learned counsel for  
the complainant (in Complaint no. 944  
of 2020)

Adv. Ajay Ghangas, learned counsel  
for the respondents (in all complaints)

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

1.         Captioned bunch of complaints is being disposed of together by  
this common order. Complaint No.944 of 2020 titled "Rajiv Arora Versus  
Ansal Properties & Infrastructure Pvt. Ltd". has been taken as lead case.

2.         Complainant in the lead case, is a subsequent purchaser. Original  
allottee had booked a flat bearing no.0102-26-0501, in Tower T-26  
admeasuring 1541 sq. ft. in respondent's project "Green Escape  
Apartments", Sonapat on 29.10.2012. Original allottee and respondent had

*l.*



executed flat buyer agreement dated 29.10.2012. As per Clause 5.1 of the agreement, possession of booked property was to be delivered within 42 months with a grace period of 6 months. So, deemed date of possession comes to 30.10.2016. Subsequently, original allottee assigned all rights and liabilities in favour of complainant on 07.12.2012, which is evident from letter dated 07.12.2012 annexed as Annexure C-6 of complaint. Total sale consideration of the flat was Rs. 25,49,452.34/- against which complainant had already paid an amount of Rs. 23,28,824/-. Learned counsel for complainant states that there is no possibility of getting the project completed in near future. For the reason of inordinate delay of over six 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. 23,28,824/- 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.

3. A table has been prepared by the Authority, wherein details regarding date of booking; date of FBA execution; deemed date of completion of project; payment made by the complainants against their respective sale consideration have been summarised. Said table is reproduced below:





Sr. No.	COMPLAINT NO.	Tower	DATE OF AGREEMENT	TOTAL SALES CONSIDERATION (In Rs.)	TOTAL AMOUNT PAID BY THE COMPLAINANT (In Rs.)	DEEMED DATE OF POSSESSION
1.	944/2020	26	29.10.2012	25,49,452.34/-	23,28,824/-	30.10.2016
2.	1116/2021	19	14..02.2012	21,53,000/-	17,36,336.88/-	15.02.2016
3.	813/2021	15	14.02.2012	30,82,015/-	21,39,673.50/-	15.02.2016

4. On the other hand, respondent 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; complaint has not been filed on proper format etc. Further in para-8 of the reply submitted by the respondents, he stated that huge investments were made for carrying out construction and development work of project. At present, stage of construction is at advanced stage and the possession of unit is likely to be delivered in 8-9 months.

5. Sh. Vivek Sethi, learned counsel for complainant reiterated the facts mentioned in para 1 of this order. Respondent counsel Sh. Ajay Ghangas, had also made a statement during course of hearing that respondent would not in a position to complete the project and construction is stopped, So, possession to complainant cannot be delivered.

6. Since, vide captioned complaints complainants have sought relief of refund but the same was kept by Authority due to disputes of jurisdiction of the Authority to deal with complaints in which relief of refund was sought was subjudice before Hon'ble High Court and Hon'ble Supreme Court.



Now, the position of law has changed changed, in view of Judgment passed by Hon'ble Supreme Court in lead SLP Civil Appeal No. 6745-6749 titled as M/s. Newtech Promoters and Developers Pvt. Ltd. v. State of Uttar Pradesh & Ors. Etc. 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 with dealing with all the matter on their merits.

7. After going through record, respondent's stand in reply as stated in para 4 and considering the statement given by learned counsel for respondent in court proceeding today that construction of the project is stopped, so, respondent is not in position to handover the booked flat, Authority comes to conclusion that respondent have failed to develop the project on time and admittedly it is not being developed. Accordingly, booked flat of complainant cannot be completed in foreseeable future. Authority has laid down a principle that alternate unit can be offered to an allottee only with his express written consent. Allottees have a right to get possession of the apartment booked by them. As per law they cannot be forced to relocate themselves to an alternate unit. Respondent have not failed to show any progress of towers nor are they in a position to commit any time line to complete the project. Delay of nearly six year 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. If delay is caused further by the respondents, additional interest will also be payable.

8. Authority accordingly orders refund of the money paid by all 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.) @ 9.50	TOTAL AMOUNT TO BE REFUNDED BY RESPONDENT (In Rs. )
	944/2020	23,28,824/-	23,28,824/-	1702,372/-	40,31,196/-
2.	1116/2021	17,36,336.88/-	17,36,336.88/-	14,72,620/-	32,08,956.88/-
3.	813/2021	21,39,673.50/-	20,16,173.94/-	19,13,422/-	39,29,595.94/-

In complaint no 813/21, complainant has alleged that he had paid an amount ₹ 21,39,673.50/- . However, he had annexed statement of account issued by respondent at page no. 72 – 77 of complaint, wherein details of paid amount of ₹ 20,16,173.94/- only has been provided. Accordingly, complainant is entitled to receive interest on amount of ₹ 20,16,173.94/- instead of claimed amount of ₹ 21,39,673.50/-.

L.

9. 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 order.



RAJAN GUPTA  
[CHAIRMAN]



DILBAG SINGH SIHAG  
[MEMBER]

