



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

## COMPLAINT NO. 43 OF 2022

Braham Pal Singh

....COMPLAINANT(S)

VERSUS

Raheja Developers Ltd.

....RESPONDENT(S)

**CORAM:**

**Rajan Gupta  
Dilbag Singh Sihag**

**Chairman  
Member**

**Date of Hearing:** 07.07.2022

**Hearing:** 3<sup>rd</sup>

**Present:** Complainant in person  
Mr. Kamaljit Dahiya, Ld. Counsel for the respondent

### ORDER (RAJAN GUPTA- CHAIRMAN)

1. When this matter was heard by Authority for first time on 17.03.2022, following order was passed:-

“1. Complainant appeared in person and stated that he got allotment in “Krishna Housing Scheme” project of the respondent situated in sector 14, Sohna, Gurugram. As the possession was not handed over, he filed a complaint before HRERA, Gurugram Authority for the refund of the money. Gurugram Authority vide order dated 05.06.2018 in the complaint 96/2018 titled “Braham Pal Singh vs. M/S Raheja Developers Ltd.” has allowed refund of Rs.

9,72,435 along with 10.45% interest w.e.f. 31.07.2017. Relevant part of the order is as follows:

7. The prayer of the complainant is considered and allowed by the authority and the respondent is directed to refund the amount deposited by the complainant Rs. 9,72,435/- along with prescribed interest of 10.45% p.a. w.e.f. 31.07.2017 within a month.

2. When the order was not complied by the respondent, complainant filed for an execution on 05.08.2020 and subsequently a bailable warrant was issued against Managing Directors of respondent. During course of hearing before Gurugram Authority, respondent apprised the fact that project "Krishna Housing Scheme" is located in the revenue district of Mewat which does not come under territorial jurisdiction of HRERA, Gurugram. During the last hearing before HRERA, Gurugram dated 21.10.2021, a cheque of Rs. 3,00,000/- was handed over to the complainant and since then no payment has been tendered to him. The relevant order of 21.10.2021 is as follows:

As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by the Department of Town and Country Planning, Government of Haryana, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be the entire revenue estate of Gurugram





District for all the purpose with offices situated in Gurugram.

As per information downloaded from the website of the DTCP, Haryana in respect of license no.115 of 2014, this project is located in the revenue estate of village Raisika, District Mewat which is not within the territorial jurisdiction of HRERA Gurugram and as such, this authority has no territorial jurisdiction to adjudicate the present matter.

This fact of jurisdiction was not brought to the notice of the Authority by either of the party during proceedings in the relevant complaint.

So, the decree was passed in this case is non est in the eyes of law being without jurisdiction of this authority. The counsel for the JD submitted that we are issuing cheque for refund as per provisions of section 18 (1) of the Act, 2016. A cheque of Rs.3 Lakhs was handed over to the decree holder by the counsel for the JD during proceedings and assured him that balance payment will be made in installments within 2 months.

3. A separate compliant in regard to the refund of the balance amount for the unit situated in Mewat district has been filed with

HRERA, Panchkula. Respondent is thereby directed to file reply.

4. Adjourned to 20.04.2022 with a direction to respondent to file reply at least 15 prior to next date of hearing and also supply the copy to the complainants.”

2. Today complainant was present himself. He reiterated the fact that HRERA Gurugram have passed an order for refund of Rs.9,72,435/- in his favour out of which respondent-company has already returned him Rs.3,00,000/-. Further, having later realised that the project in question is actually situated in the jurisdiction of HRERA Panchkula, this complaint has been filed for recovery of balance amount.

3. Authority has given thoughtful consideration to the matter. It observes that the project in respect of which refund is being sought, is situated at Sohna which is in the jurisdiction of HRERA, Panchkula. The complainant by mistake filed a complaint before HRERA, Gurugram and they by mistake passed an order allowing refund of the amount paid along with interest to the complainant. The respondents have even partly executed the order by paying Rs. 3,00,000/-. Now complainant is pressing for payment of remaining amount.

Authority observes that admittedly the order passed by learned HRERA Gurugram Authority was without jurisdiction. Law of the land on the subject is that an order passed without jurisdiction is non-est and void



ab-initio. Further, the question of jurisdiction of a court or an Authority can be challenged at any stage of proceedings including at the stage of execution. This Authority, therefore, is unable to execute the part orders passed by HRERA, Gurugram which was to begin with totally outside its jurisdiction.

4. Authority has no other option but to dismiss this execution complaint. Complainant, however, is at liberty to file a fresh complaint stating therein its own fact. Authority will consider those facts on their own merits in past appropriate order.

5. **Disposed of.** File be consigned to the record room and orders be uploaded on the website of the Authority.



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



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