



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY		4 to 18 & 50 to 62
Day and Date	Wednesday and 28.10.2022	
Complaint Nos.	CR/4655/2020 Case titled as Ashish Kumar Dhimam and Anr V/s M/s Vatika Ltd. & Anr.	
	CR/4698/2020: Arun Sharma And Anr V/S Vatika Limited	
	CR/4700/2020: Madan Singh And Anr V/S Vatika Limited	
	CR/4736/2020: Biswajit Acharya And Anr V/S Vatika Limited	
	CR/4760/2020: Himanshu Pachauri V/S Vatika Limited	
	CR/4778/2020: Anjali Rathore And Anr V/S Vatika Limited	
	CR/4815/2020: Vinod Kumar Agarwal V/S Vatika Limited	
	CR/4823/2020: Amit Kumar Gupta V/S Vatika Limited	
	CR/4838/2020: Gaurav Kumar And Anr V/S Vatika Limited	
	CR/4853/2020: Sharad Drolia V/S Vatika Limited	
	CR/4856/2020: Manoj Taneja V/S Vatika Limited	
	CR/4860/2020: Himanshu Arora V/S Vatika Limited	
	CR/4875/2020: Pritesh Saparia V/S Vatika Limited	
	CR/4900/2020: Vikas Jindal and Anr V/S Vatika Limited	
	CR/4903/2020: Umar Shafi Banday and Ors V/S Vatika Limited	
	CR/173/2021: Ashish Kumar Aggarwal V/S Vatika Limited	

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016
Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण
भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



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CR/4655/2020

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	CR/221/2021; Mukta Singh and Anr V/S Vatika Limited
	CR/314/2021: Kapil Tiwari and Ors V/S Vatika Limited
	CR/315/2021: Rahul Arora and Anr V/S Vatika Limited
	CR/318/2021: Rishab Rohit Jain and Anr V/S Vatika Limited
	CR/403/2021: Sudhir Nayyar and Anr V/S Vatika Limited
	CR/404/2021: Rahul Sahi and Anr V/S Vatika Limited
	CR/413/2021: Ayush Vardhan Agarwal V/S Vatika Limited
	CR/567/2021: Ruchir Chawla and Anr V/S Vatika Limited
	CR/1043/2021: Anurag Singh Nirmal V/S Vatika Limited
	CR/1905/2021: Ketav Sharma V/S Vatika Limited
	CR/1908/2021: Arvind Pandey and Anr V/S Vatika Limited
	CR/2728/2021: Ashish Malhan V/S Vatika Limited
Complainants	Arun Sharma
	Madan Singh
	Biswajit Acharya
	Himanshu Pachauri
	Anjali Rathore
	Vinod Kumar Agarwal
	Amit Kumar Gupta
	Gaurav Kumar
	Sharad Drolia

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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR 14655/2020

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

	Manoj Taneja
	Himanshu Arora
	Pritesh Saparia
	Vikas Jindal and Anr
	Umar Shafi Banday and Ors
	Ashish Kumar Aggarwal
	Mukta Singh and Anr
	Kapil Tiwari and Ors
	Rahul Arora and Anr
	Rishab Rohit Jain and Anr
	Sudhir Nayyar and Anr
	Rahul Sahi and Anr
	Ayush Vardhan Agarwal
	Ruchir Chawla And Anr
	Anurag Singh Nirmal
	Ketav Sharma
	Arvind Pandey And Anr
	Ashish Malhan
Represented through	S/Shri Deepak Jain, Abhijeet Gupta and Tanpreet Gulati, Advocates except in CR at serial No.59
Respondents	1.Vatika Limited 2.Indiabulls Housing Finance Ltd. 3.Piramal Capital and Housing Finance Limited.
Respondents represented through	S/Shri Venket Rao and Pankaj Chandola Advocates Shri Vidur Sikka Adv. for R2 in CR at serial No.4,8,11,12, 15,16,17,51, 53, 54, 58 Shri Gaurav Dua Advocate for R2 in CR at serial No.6, 7, 9, 10,13, 14, 55, 57, 60

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016
Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अर्तगत गठित प्राधिकरण
भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



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CR 1655/2024

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Last date of hearing	Previous date 19.10.2022
Proceeding Recorded by	Naresh Kumari and HR Mehta
<p style="text-align: center;">Proceedings</p> <p>1. On the basis of license No. 91 of 2013 dated 26.10.2013 issued by DTCP, Haryana, a residential group housing colony by the name of "Turning Point" was to be developed by the respondent/builder over land admeasuring 18.80 acres situated in Sector 88-B, Gurugram. This project was later on registered vide registration certificate No. 213 of 2017 with the authority. After its launch by the respondent/builder, units in the same were allotted to different persons on different dates and that too for various sale considerations. Though, the due date for completion of the project and offer of possession of the allotted units was mentioned as validity of registration certificate being 15.03.2025 but after expiry of more than 4 years from the booking, there is no physical work progress at the site except for some digging work. Even the promoter failed to file quarterly progress reports giving the status of project required under section 11 of Act, 2016. So, keeping in view all these facts, 28 allottees of that project approached the authority seeking refund of the paid-up amount besides compensation by taking a plea that the project has been abandoned and there is no progress of the project at the site. The version of respondent/builder is otherwise and who took a plea that the complaints being pre-mature are not maintainable. Secondly, the project has not been abandoned and there is delay in completion of the project due to the reasons beyond its control. Thirdly, the allotment was made under subvention scheme and the respondent/builder had been paying Pre-EMI interest as committed.</p> <p>2. It was pleaded by respondent no.2 in some of the complaints that it advanced loan against the allotted units leading to execution of tripartite agreements between them. But the primary responsibility to pay the loan amount was that of the allottees. So, in case of refund of any amount, the</p>	



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same be paid to it against the loan amount so disbursed and the remainder if any be paid back to the allottees.

3. During the proceedings held on 12.08.2022, the authority observed & directed as under:

- i. Interim RERA Panchkula issued a registration certificate for the above project being developed by M/s Vatika Limited in the form REP-III prescribed in the Haryana Real Estate (Regulation and Development) Rules, 2017 vide registration no. 213 of 2017 on 15.09.2017 valid up to 15.09.2025 under section 5 of the Act ibid. But in spite of lapse of more than 4 years since grant of registration, It was alleged by the counsel of complainant that there is no physical work progress at site except for some digging work and appears to be abandoned project. No quarterly progress report is being filed by the promoter giving the status of work progress required under section 11 of the Act, 2016.
- ii. The license no. 91 of 2013 granted by DTCP has expired on 26.10.2017 and the same is not yet renewed/revived, while BBA has been signed declaring the validity of license. It becomes amply clear that the promoter is not only defaulting/omitting in discharge of its obligations under the Real Estate (Regulation and Development) Act, 2016 but at the same time, violating the provisions of the Haryana Development and Regulation of Urban Area, Act 1975 also.
- iii. The authority directed the respondent to furnish the details of bank account along with the statements of all the accounts associated with these promoters.
- iv. In order to safeguard the interest of the allottees and keeping in view the above facts, the authority exercising its power under section 36 of the Act, directs the promoter's M/S Vatika limited to stop operations from bank accounts of the above project namely "Turning Point".
- v. Therefore, the banks are directed to freeze the accounts associated with the above-mentioned promoters in order to restrict the promoter from further withdrawal from the accounts till further order.

4. It was also observed that work at the site is standstill for many years. So, the authority decided to appoint Shr. Ramesh Kumar DSP (Retd.) as enquiry officer to enquire into the affairs of the promoter regarding the project. It was also directed that the enquiry officer shall report about the compliance of the obligations by the promoter regarding the project and more specifically having regard to 70% of the total amount collected from the allottees of the project minus the proportionate land cost and construction cost whether deposited in the separate RERA account as per



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the requirements of the Act of 2016 and Rules 2017. He was further directed to submit a report on the above-mentioned issues besides giving a direction to the promoter to make available books of accounts and other relevant documents required for enquiry to the enquiry officer in the office of the authority. The company secretary and the chief financial officer as well as the officer responsible for day-to-day affairs of the project were also directed to appear before the enquiry officer. They were further directed to bring along with them the record of allotment and status of the project.

5. In pursuance to above-mentioned directions passed by the authority and conveyed to the promoter, the enquiry officer submitted a report on 18.10.2022. It is evident from a perusal of the report that there is no construction of the project except some excavation work and pucca labour quarters built at the site. Some raw material such as steel, dust, other material and a diesel set were lying there. It was submitted that despite issuance of a number of notices w.e.f. 17.08.2022 to 18.10.2022 to Mr. Surender Singh director of the project, non-turned up to join the enquiry and file the requisite information as directed by the authority. Thus, it shows that despite specific directions of the authority as well as of the enquiry officer, the promoter failed to place on record the requisite information as directed vide its order dated 12.08.2022. So, it shows that the project has been abandoned by the promoter. Even a letter dated 30.09.2022 filed by the promoter containing a proposal for de-registration of the project "Turning Point" and settlement with the existing allottees therein has been received by the authority and wherein following prayer has been made by it:

- i. Allow the present proposal/application
- ii. Pass an order to de-register the project "turning Point" registered vide registration certificate bearing no. 213 of 2017 dated 15.09.2017.
- iii. Allow the proposal for settlement of allottees proposed in the present application



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iv. To pass an order to club all the pending complaints/claims with respect to the project "turning Point" before the Id. Authority in the present matter and to decide the same in the manner as the Id. Authority will approve under the present proposal.

v. To pass any other relief in the favour of the applicant company in the interest of justice.

6. Thus, in view of the proposal given by the promoter to the authority on 30.09.2022 and corroborated by the report of enquiry officer dated 18.10.2022, it is evident that the project namely "Turning Point" is not being developed and has been abandoned by the promoter. Even he is applying for de-registration of the project registered vide certificate no. 213 of 2017 dated 15.09.2017 and is filing a proposal for settlement with the allottees in the project by way of re-allotment or by refund of monies paid by them. So, in view of the stand taken by the developer while submitting proposal with authority on 30.09.2022 and the report of the Enquiry Officer, it is evident that the project has been abandoned. Thus, the allottees in all the cases are entitled to refund of the amount paid by them to the promoter against the allotment of their units as prescribed under section 18(1)(b) of the Act, 2016 providing for refund of the paid up amount with interest at the prescribed rate of 10.25% p.a. from the date of each payment till the date of actual realization within the timeline as prescribed under rule 16 of the Rules, 2017. A reference to section 18(1)(b) of the Act is necessary providing as under:

18. If the promoter fails to complete or is unable to give possession of an apartment, plot or building,

(a)

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate



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as may be prescribed in this behalf including compensation in the manner as provided under this Act

7. It has been pointed out on behalf of respondent/builder that it was paying assured returns against the allotted units to some of the allottees upto certain dates. So, while allowing refund of the paid-up amount in their favour, a direction be given for adjustment of that amount from the total amount. Thus, while paying back the paid-up amount to the allottees who were receiving assured returns upto certain dates, that amount would be adjusted.
8. It is proved that the project has already been abandoned and there is no progress at the spot. The developer used the monies of the allottees for a number of years without initiating any work at the project site and continued to receive payments against the allotted units. Even while filing replies, the developer took a plea that the project is taking up and which is otherwise false and against the facts on record. So, in such situation for claiming compensation, the allottees may file complaints separately before the adjudicating officer having powers under section 71 of the Act of 2016.
9. However, while paying sale consideration of the allotted units, some of the allottees raised loans from the different financial institutions and the same were deposited with the promoter. While refunding the amount deposited by the allottees who have raised loans against the allotted units, the promoter shall clear such of the loan amount upto date with those financial institutions and the balance amount shall be paid to the allottees within a period of 90 days from the date of order.

Detailed order will follow. Complaints stand disposed of. Files be consigned to the registry.


Sanjeev Kumar Arora
Member


Vijay Kumar Goyal
Member
28.10.2022