



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 1008 OF 2018

Arun Kumar Goel

....COMPLAINANT

VERSUS

M/s Alpha G Corp Development Pvt. Ltd.

....RESPONDENT

2. COMPLAINT NO. 1009 OF 2018

Bhagat Ram Aggarwal

....COMPLAINANT

VERSUS

M/s Alpha G Corp Development Pvt. Ltd.

....RESPONDENT

CORAM: **Dr. Geeta Rathee Singh** Member

Nadim Akhtar Member

Date of Hearing: 06.12.2022

Hearing: 15th

Present: Mr. Vikas Deep, Ld. counsel for the complainant through VC.

None for the respondent.

ORDER (NADIM AKHTAR - MEMBER)

Perusal of record reveals that Authority had already dealt with this case at length and has passed a detailed order vide order dated 20.07.2022. Further

Authority has given its tentative view. Relevant part of the order is reproduced below for reference.

Captioned complaints were disposed of vide order dated 11.04.2019. In this complaint the complainant has sought relief of refund but on account of the fact that the project had been completed and the respondent had applied for the grant of part completion certificate in respect of the project, request for refund was declined and instead relief of possession was granted. It was further directed that respondent should send a fresh offer of possession along a fresh statement of accounts to the complainants stating therein the amount to be paid by complainants after making suitable adjustment on account of delay compensation to be paid to the complainants by the respondents in accordance with directions issued in said order.

2. As is gathered from the order dated 22.09.2020 passed by learned Adjudicating Officer, appeal no. 558 of 2019 against order dated 11.04.2019 was filed before Hon'ble Real Estate Appellate Tribunal, Haryana. Hon'ble Appellate Tribunal had disposed of said appeal vide their order dated 19.08.2020 with a direction that complaint is sent back to Adjudicating Officer, Panchkula for deciding the complaint afresh in accordance with law. The orders passed by Hon'ble Appellate Tribunal is reproduced below:

"At the very outset, Shri Alok Jain, Ld. counsel for the respondent promoter contended that the appellant-allottee has filed the complaint for grant of relief of refund along with interest @18% per annum. The appellant has also sought the loss of amount of housing opportunity which is in the shape of compensation. Thus, he contended that the Ld. Authority had no jurisdiction to deal with the complaint. He has also raised certain other objections regarding maintainability of the complaint alleging that the project was complete and even the possession was offered before the enforcement of the Real Estate (Regulation & Development) Act, 2016. Faced with this situation, Ld. counsel for the appellant contended that as the appellant-allottee intends to withdraw from the project and wants refund of the amount deposited by him along with interest and compensation, so the present appeal may be allowed and the complaint may be transferred to the Ld. Adjudicating Officer, Panchkula for fresh decision of the case in accordance with law. Shri

Alok Jain, Ld. counsel for the respondent has no objection to this proposal. However, he stated that the respondent-promoter should be allowed to raise all the issues raised by it, before the Ld. Adjudicating Officer which should be considered in a judicious manner. Thus, keeping in view the aforesaid statements at bar, the present appeal is hereby allowed. The impugned order dated 11th April, 2019 passed by the Ld. Authority is hereby set aside and the complaint filed by the appellant-allottee stands transferred to the Ld. Adjudicating Officer, Panchkula for adjudication in accordance with law. It is made clear that the parties shall be at liberty to raise all the issues available to them before the Ld. Adjudicating Officer which shall be considered in a judicious manner. It is further made clear that the Ld. Adjudicating Officer will decide the matter afresh independently irrespective of the observations of the Ld. Authority in the impugned order. Parties are directed to appear before the Ld. Adjudicating Officer, Panchkula, on 22nd September, 2020. Copy of this order be communicated to the Ld. counsel for the parties/parties, Ld. Haryana Real Estate Regulatory Authority, Panchkula and the Ld. Adjudicating Officer."

3. Thereafter matter remained adjourned for the reason that jurisdiction of the Authority to decide the complaints in which relief of refund had been sought was sub-judice first before Hon'ble High Court and then before Hon'ble Supreme Court.

4. It is pertinent to mention here that Authority had not been hearing the matters in which relief of refund was sought for the reasons that its jurisdiction. Now the position of law has changed on account of verdict dated 13.05.2022 passed by Hon'ble Supreme Court in SLP Civil Appeal no. 13005 of 2020 titled as *M/s Sana Realtors Pvt Ltd vs Union of India & others* whereby special leave petitions have been dismissed with an observation that relief that was granted in terms of paragraph 142 of the decision in *M/s. Newtech Promoters & Developers Pvt. Ltd. v. State of UP & Others*, reported in 2021 (13) SCALE 466, in rest of the matters [i.e. SLP © No.13005 of 2020 Etc.] disposed of on 12.05.2022 shall be available to the petitioners in the instant matters.

5. Consequent to the decision of above referred SLPs, the issue relating to the jurisdiction of Authority stands finally settled. Accordingly, Authority hereby proceeds to deal with this matter on its merits to deal with such matters was subjudice before Hon'ble Supreme Court.


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6. Authority observes that it has already passed its final order dated 24.01.2019 in captioned complaint. It further observes that the only reason for which Hon'ble Appellate Tribunal had remanded this case to learned Adjudicating Officer was the dispute relating to jurisdiction of the Authority to deal with complaints in which relief of refund had been sought. Now the question of jurisdiction of Authority stands finally settled on account of verdict dated 13.05.2022 passed by Hon'ble Supreme Court in SLP Civil Appeal no. 13005 of 2020 titled as M/s Sana Realtors Pvt Ltd vs Union of India & others.

7. In view of above, Authority observes that order dated 19.08.2020 passed by Hon'ble Appellate Tribunal now has become infructuous. Accordingly, the original order dated 11.04.2019 passed by Authority stands revived. The Authority cannot decide the same matter again once it had disposed it of by giving its final order. Accordingly, the Authority proposes to dispose of the captioned complaint in terms of the same order dated 11.04.2019.

2. During proceedings none of the parties raised any objections or put forth any contention on merit of the case. Authority confirms its tentative view and dispose of both cases in terms of order dated 11.04.2019.

3. Both the cases are disposed of. Files be consigned to record room after uploading of order on the website of the Authority.


DR. GEETA RATHEE SINGH
[MEMBER]


NADIM AKHTAR
[MEMBER]