



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 830 OF 2020

Manoj MalikCOMPLAINANT

VERSUS

Ansal Properties and Infrastructure Ltd.RESPONDENT

2. COMPLAINT NO. 755 OF 2020

Monica Rani GargCOMPLAINANT

VERSUS

Ansal Properties and Infrastructure Ltd.RESPONDENT

CORAM: Dr. Geeta Rathee Singh
Nadim Akhtar
Dilbag Singh Sihag

Member
Member
Member

Date of Hearing: 21.09.2022

Hearing: 5th in both complaints

Present through video calling:

Adv. Vivek Sethi, learned counsel for the complainants in both complaints.

Adv. Aditya Pratap, learned counsel for the respondents in both complaints.

ORDER (DILBAG SINGH SIHAG-MEMBER)

1. Captioned bunch of complaints is being disposed of together by this common order. Complaint No. 830 of 2020 titled "Manoj Malik Versus Ansal Properties & Infrastructure Pvt. Ltd". has been taken as lead case.
2. Complainant in the lead case, had booked a flat bearing no.0102-15-1102, in Tower T-15 admeasuring 1690 sq. ft. in respondent's project "Green Escape Apartments", Sonapat on 21.07.2013. Flat buyer agreement was executed between parties on 21.07.2013. As per Clause 5.4 of the agreement, possession of booked property was to be delivered within 48 months from the date of execution of said agreement. So, deemed date of possession comes to 21.07.2017. Total sale consideration of the flat was Rs. 37,25,400/- against which complainant had already paid an amount of Rs. 13,74,295/-. 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 five 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.

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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.	830/2020	15	21.07.2013	37,25,400/-	13,74,295/-	21.07.2017
2.	755/2020	37	03.11.2014	55,13,830/-	34,58,577/-	03.11.2018

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. From reading of para-8 of the reply submitted by the respondent, it could be clearly made out that respondent had conceded that they were not in a position to complete the project. Further, respondent is ready to consider allotment of an alternate flat to the complainant in some nearby project of other builder.

5. Sh. Vivek Sethi, learned counsel for complainant reiterated the facts mentioned in para 1 of this order. Respondent counsel Sh. Aditya Pratap, 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 not adjudicated initially by Authority on account of dispute with regard to 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, position of law has stands cleared, 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 proceeded in dealing with such cases on their respective merits.

7. After going through record, especially respondent's stand in reply under para 4 and considering verbal statement given by learned counsel for respondent during hearing today that construction of the project has been stopped and respondent was not in position to handover booked flat, Authority comes to the conclusion that respondents have admittedly failed to complete the project on time nor booked flat of complainant would be completed in foreseeable future. As far as offering of alternative unit is concerned, it can be offered to the 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 failed to show any progress of towers nor they in a position to commit any time line to complete the project even after delay of nearly five years.

Therefore this is a valid ground under section 18 of RERA Act 2016 for allowing 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 shall 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-

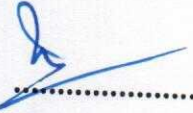
Sr. No.	COMPLAINT NO.	Total amount claimed to be paid by the complainant (In Rs.)	Total amount on which interest is calculated(in Rs.)	INTEREST (In Rs.) @ 10%	TOTAL AMOUNT TO BE REFUNDED BY RESPONDENT (In Rs.)
	830/2020	13,74,295/-	13,74,295/-	12,73,789./-	26,48,084/-
2.	755/2020	34,58,477/-	34,58,477/-	33,41,147/-	67,99,624/-

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.



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DR. GEETA RATHEE SINGH
[MEMBER]



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NADIM AKHTAR
[MEMBER]



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DILBAG SINGH SIHAG
[MEMBER]

