



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

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

## 1. COMPLAINT NO. 1255 OF 2019

Rajesh Bhateja .....COMPLAINANT

VERSUS

Ansal Properties and Infrastructure Ltd. ....RESPONDENT

## 2. COMPLAINT NO. 1256 OF 2019

Rajeev Kumar Guglani .....COMPLAINANT

VERSUS

Ansal Properties and Infrastructure Ltd. ....RESPONDENT

## 3. COMPLAINT NO. 190 OF 2020

Pawan Kumar .....COMPLAINANT

VERSUS

Ansal Properties and Infrastructure Ltd. ....RESPONDENT

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**4. COMPLAINT NO. 1289 OF 2019**

Jatin Sapra

....COMPLAINANT

VERSUS

Ansal Properties and Infrastructure Ltd.

....RESPONDENT

**5. COMPLAINT NO. 776 OF 2020**

Mahesh Kanojiya and Suman Lata

....COMPLAINANTS

VERSUS

Ansal Properties and Infrastructure Ltd.

....RESPONDENT

**6. COMPLAINT NO. 820 OF 2020**

Ruchira Bharti and Bharat Bhushan Bharti

....COMPLAINANTS

VERSUS

Ansal Properties and Infrastructure Ltd.

....RESPONDENT

2

**7. COMPLAINT NO. 2125 OF 2019**

Tilak Raj Wasan .....COMPLAINANT

VERSUS

Ansal Properties and Infrastructure Ltd. ....RESPONDENT

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

**Date of Hearing:** 21.09.2022

**Hearing:** 12<sup>th</sup> (in complaint no. 1255,1256,1289/2019)

5<sup>th</sup> (in complaint no. 190,820/2020)

4<sup>th</sup> (in complaint no. 776/2020)

9<sup>th</sup> (in complaint no. 2125/2019)

**Present through video calling:**

Adv. Vivek Sethi, learned counsel for the complainants (in complaint nos. 1255,1256,1289/2019 and 190/2020)

Adv. Satyajeet Singh, learned counsel for the complainant (in complaint no. 776/2020)

Sh. Surbhi Grover, learned counsel for the complainant (in complaint no. 820/2020)

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Adv. O.P Gupta, learned counsel for the complainant (in complaint no. 2125/2019)

Adv. Aditya Pratap, 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, since their facts and grievances are identical and against the same respondent-promoter. Complaint No. 1255 of 2019 titled "Rajesh Bhateja Versus Ansal Properties & Infrastructure Pvt. Ltd". has been taken as lead case.

2. While initiating his pleadings, learned counsel for the complainant submitted during hearing that decision dated 26.07.2022 taken by the Authority in Complaint No. 1007 of 2021 titled as "Jee Sukh Ram Khedar Versus Ansal Properties & Infrastructure Pvt. Ltd" squarely covers the controversy involved in above mentioned complaints. To support his contention, he briefly averred the facts of the lead case that complainant had booked flat bearing no. 0102-31, having area 1745 sq.ft. in year 2006. An agreement dated 01.02.2007 was executed between the parties, whereby respondent was supposed to handover possession by 01.08.2009.

Vide letter dated 12.05.2011 respondent changed earlier allotted flat no. 0103-0-0350801 to Flat no. 0103-0-311202 on the ground of non-construction of the tower. Thereafter, complainant signed new agreement

with respondent on 01.04.2011, vide which flat bearing no.103 , in tower 31, having an area 1745 sq.ft. in respondent project named, “ Green Escape Apartments, Sonipat” was allotted to him. Total sale price of flat was ₹ 34,84,125/- against which complainant has already paid an amount of ₹ 34,47,884/- . As a proof of payment, complainant has annexed receipts of payments as Annexure C-8 at page no. 55-67. Respondent was supposed to hand over possession of the booked apartment within 30 months from the date of sanctioning of building plans or making all payments whichever is later. As per BBA, deemed date of possession works out to be 01.10.2013. Respondent has not offered possession to the complainant till date. Learned counsel for the complainant states that there is no possibility of getting the project completed in near future. Complainant has sought relief of refund along with permissible interest as per Rule 15 of HRERA Rules, 2017. Considering inordinate delay of nine years and no hope of its completion in near future. Operative part of said order dated 26.07.2022 is reproduced below for ready references:

*“1. While initiating his pleadings, learned counsel for the complainant submitted that complainant had purchased a flat bearing no. 03, in Tower 31, admeasuring 1650 sq.ft in respondent’s project “Green Escape Apartments”, Sonapat from Original allottee Ms. Shelly Jain in the year of 2011. Respondent had issued letter of transfer of allotment in favour of complainant on 06.06.2011, which is evident from Annexure P-2 of complaint. Builder buyer agreement was executed between parties on 23.06.2011. As per Clause 12 of the agreement,*

possession of booked property was to be delivered within 30 months from the date of sanctioning of building plans. Total sale consideration of the flat was Rs. 35,33,900/- against which complainant had already paid an amount of Rs. 25,17,914/-. Further he argued that an email from respondent was received offering possession for fit outs subject to payment of Rs. 20,17,255.86/- on 02.07.2021. Thereafter, complainant visited the site and found that flat is still incomplete. To prove his contention he has annexed latest photographs of the flat as Annexure P-6 of complaint. Learned counsel for the complainant states that there is no possibility of getting the project completed in near future. For the reason of inordinate delay of over eight 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. 25,17,914/- 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.

2. On the other hand, respondent in their reply have raised mostly technical objections like 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, status of construction is at advanced stage and fit out possession has been offered to the complainant. Delay in completion of construction is due to unavoidable circumstances and reasons beyond the control of respondent-promoter.

3. Sh. Manoj Kumar, 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.*

*4. Since, complainants have sought relief of refund vide captioned complaints 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 which 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.*

*5. After going through record and stand taken by respondent in his reply upon para 2 apart from 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 in time and admittedly it is not being developed. Further, from bare perusal of photographs attached at Annexure P-6 of complaint, it proves that booked flat of complainant cannot be completed in foreseeable future. Respondent have failed to show any progress of towers nor they are in a position to commit any time line to complete the project. Delay of nearly eight year has already been caused.*

*Considering foregoing ground of 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.*

*Further, during hearing, complainant was granted one week time to submit receipts of paid amount by him to the respondent. Accordingly, complainant has attached a table showing dates and payments along with their proofs in the office of the Authority on 01.08.2022. On perusal of said documents, it is revealed that all payments amounting to ₹ 25,17,914/- were paid to present respondent namely, "Ansal Properties & Infrastructure" except one payment of ₹ 3,00,000/- which was paid on 04.06.2013 to another respondent, namely, "Ansal Housing and Construction Ltd." Fact remains that complainant in original complaint has prayed for refund of ₹ 25,17,914. Accordingly, Authority after considering all documents placed on record, orders to refund the amount which is prayed in original complaint by the complainant because amount of 25,17,914/- has only been paid to the present respondent-promoter.*

*6. Respondent are directed to refund an amount of ₹ 25,17,914/- paid by the complainant to the respondents along with interest @ Rule 15 of RERA, Rules, 2017 from respective dates of making payments till passing of this order. Authority has got the interest calculated, which works out to ₹ 26,04,133/-. This interest has been calculated from the date of making payments by the complainant upto the date of passing of this order i.e. 26.07.2022 at the rate of 7.80 plus 2%= 9.8%. Respondent shall pay ₹ 51,22,047/- (25,17,914/-+ ₹ 26,04,133/-) to the complainant within a period prescribed under Rule 16 of HRERA Rules i.e. 90 days from the date of uploading of the order on the website of the Authority."*

3. On the other hand, respondent counsel Sh. Aditya Pratap, had submitted certain photocopies while stating that project is almost complete and they had applied for Occupation Certificate of the Tower 31 and 32 on 22.12.2021. However, he has not placed on record any document whether his application for seeking Occupation Certificate was complete in all aspects.



Further, he has failed to explain why occupation Certificate has not been issued by concerned department from 22.12.2021 till today. However, it is a admitted fact of inordinate delay of nine years in handing over the possession of the booked flats to the complainants. Considering nine years of inordinate delay and respondent's stand taken in earlier decided cases on 26.07.2022, Authority concludes that respondent has failed to develop the project on time. Further, Authority is of the view that complainants can not be made to wait for endless period of time for possession. Therefore, Authority deems it appropriate to grant relief prayed by complainants, as per provisions of Section 18 of HRERA Rules 2016.

4. Further, 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/ Basic SALES CONSIDERATION (In Rs.)	TOTAL AMOUNT PAID BY THE COMPLAINANT (In Rs.)	DEEMED DATE OF POSSESSION
1.	1255/2019	31	01.04.2011	34,84,125/-	34,47,884/-	01.10.2013
2.	1256/2019	31	01.04.2011	31,68,750/-	31,27,200/-	01.10.2013
3.	1289/2019	28	08.10.2011	27,54,650/-	31,78,128/-	08.10.2015
4.	190/2020	28	28.11.2011	39,47,875/-	26,58,606/-	28.11.2015
5.	776/2020	19	14.02.2012	19,75,000/-	16,58,361/-	14.08.2015
6.	820/2020	27	01.11.2011	34,97,000/-	30,10,667.66/-	01.11.2015
7.	2125/2019	31	12.04.2007	25,60,000/-	26,93,996/-	12.10.2009

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5. Authority is satisfied that the issues and controversies involved in present complaints are of similar nature as in Complaint No. 1007 of 2021 titled as “Jee Sukh Ram Khedar Versus Ansal Properties & Infrastructure Pvt. Ltd”. Accordingly, captioned complaints are disposed of in terms of the order passed by Authority in Complaint no. 1007 of 2021.

6. In furtherance of above mentioned observation, Authority would dispose of captioned complaints with the order that refund of the amount paid by complainants to the respondent 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.

Authority accordingly orders refund of the money paid by 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.)
1.	1255/2019	34,47,884/-	34,47,884/-	30,31,819/-	64,79,703/-
2.	1256/2019	31,27,200/-	29,39,708/-	42,56,292/-	71,96,000/-
3.	1289/2019	31,78,128/-	31,78,128/-	27,73,456/-	59,51,584/-
4.	190/2020	26,58,606/-	26,58,606/-	26,28,674/-	52,87,280/-
5.	776/2020	16,58,361/-	16,58,361/-	12,51,759/-	29,10,120/-
6.	820/2020	30,10,667.66/-	30,10,667.66/-	27,27,049/-	57,37,716.66/-
7.	2125/2019	26,93,996/-	26,93,996/-	33,83,875/-	60,77,871/-

In complaint no.1256/2019, complainant has alleged that an amount of Rs. 1,96,992/- be refunded for early payment rebate. However, there are no receipts attached with the file which shows that said amount were paid by

the complainant. Further, respondent in his reply at para 4(i) has admitted that complainant in complaint no. 1256/2019, had paid an amount of Rs. 29,39,708/- only. Accordingly, refund of amount of Rs. 29,39,708/- in complainant no. 1256/2019 is calculated along with interest.

6. 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]



.....  
**NADIM AKHTAR**  
[MEMBER]



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