



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 2666 OF 2019

(Re-opened for Rectification Application)

Dinesh Jindal

....COMPLAINANT

VERSUS

M/S Arcity Builders Pvt. Ltd.

....RESPONDENT

CORAM: Dr. Geeta Rathee Singh

Member

Nadim Akhtar

Member

Date of Hearing: 24.01.2023

Hearing: 11th (Reopened)

Present: - Mr. Anurag Jain, Counsel for the complainant.
through VC.

None for respondent.

ORDER (NADIM AKHTAR- MEMBER)

1. Captioned complaint was disposed of by the Authority vide order dated 31.05.2022, granting relief of payment refund of deposited money alongwith interest i.e Rs 34,20,201/- to the complainant. Relevant part of order dated 31.05.2022 is reproduced below for reference:

“ 13. *After considering submissions of both parties, Authority observes that complainant*

had

had booked the unit in the project of the respondent in the year 2011 and by 2014 had paid an amount of Rs 18,19,292/- for the booked unit. Possession of the flat should have been delivered by the year 2015 by respondent company. However, it is more than 6 years and project of the respondent is yet to be completed. As per submission of respondent the tower in which flat of the complainant is located is yet to be completed. Further, complainant was given an opportunity to shift his booking to phase I of the project which is nearing completion but out of all available flats none suited the complainant and therefore he did not accept the offer of relocation sent by the respondent. There has already been a delay of more than 6 years and the tower in which the unit in question is located will not be ready for possession in the foreseeable future. In these circumstances, complainant cannot be forced to wait for another uncertain amount of time to avail possession of his booked unit.

For these reasons, complainant is insisting on refund of paid amount alongwith interest. There are adequate number of allottees of phase-II who are willing to be relocated to phase-I. Accordingly, allowing refund in the present matter will not adversely affect progress of the project which is at advance stage of completion. Authority accordingly allows refund of the money paid by complainant along with delay interest calculated @ 9.50 % which is at the rate of SBI MCLR+2% on the date of passing the order. The amount of interest payable to the complainant has been calculated at the rate of 9.50% and same works out to Rs 16,00,909/-. Therefore, respondent is directed to pay an amount of Rs 34,20,201/- as refund of deposited money alongwith interest to the complainant. The money

shall be returned by respondent within time period prescribed in Rule 16 of the RERA Rules.

14. In these terms, the present complaint stands disposed of. File be consigned to record room, after uploading order on website of Authority.”

2. Thereafter, complainant filed an application for review of order dated 31.05.2022 seeking directions to respondent for payment of interest from date of order till actual payment of refund amount.
3. Mr. Anurag Jain, learned counsel for the complainant further submitted that during the pendency of litigation, Authority vide order dated 20.10.2020 had issued directions to respondent to make payment of a cost of ₹ 5,000/- to the complainant on account of deliberate non compliance of orders of Authority. Said cost had been deposited by the respondent during the course of hearing 31.05.2022 vide a cheque bearing no. '024005' issued by IDBI Bank for payment of a sum of ₹ 5,000/- in the name of complainant Shri. Dinesh Jindal. The cheque was collected by the complainant from the office of the Authority but by that time the cheque had been expired. Therefore, he requested that directions be issued to respondent to issue a fresh cheque to the complainant.
4. Upon perusal of the application file by the complainant, it is observed that the complainant is seeking amendment of substantive part of order



dated 31.05.2022 which amounts to review of the impugned order. It is pertinent to mention that under section 39 of the RERA Act of 2016, the Authority may, with a view to rectify any mistake apparent from the record, amend any order passed by it. However, proviso to section 39 further provides that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of the RERA Act, 2016. Thus, Authority cannot review its order. Therefore, the application filed by the respondent for review of the order dated 12.07.2022 is rejected/dismitted.

5. With regard to the payment of cost payable to complainant, respondent is directed to issue a fresh cheque of ₹ 5,000/- in favour of the complainant and deposit the same in the registry of the office. Thereafter, complainant will collect the same from the office.

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DR. GEETA RATHEE SINGH
[MEMBER]

.....
NADIM AKHTAR
[MEMBER]