



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

**COMPLAINT NO. 2321 OF 2022**

Rachna Sehgal

....COMPLAINANT

VERSUS

Samar Estates Pvt. Ltd.

....RESPONDENT

**CORAM: Dr. Geeta Rathee Singh  
Nadim Akhtar**

**Member  
Member**

**Date of Hearing: 20.12.2022**

**Hearing: 2<sup>nd</sup>**

**Present: - Mr. Vishal Madaan, Id. Counsel for complainants  
None for the respondent**

### **ORDER (DR. GEETA RATHEE SINGH-MEMBER)**

The complainant in this case is seeking refund along with interest of an amount of ₹21,50,000/- which he had already paid to the respondent against total sale consideration of ₹36,32,000/- for an apartment bearing no.

*Geeta Rathee*

O-404 admeasuring 1600 sq. ft. which he had agreed to purchase in the year 2006 in respondent's project named Ess Vee Apartments, Sector-20, Panchkula. Builder buyer agreement was executed between both parties on 29.06.2007. As per clause 32 of the agreement, respondent was under obligation to deliver possession within 36 months from commencement of construction after completing all external and internal services. Till date, neither possession has been handed over nor project is complete. Therefore, complainant pleaded for refund along with interest on the ground that the respondent even after lapse of sixteen years from the date of booking has not completed the project and it is not likely to be completed in near future due to mismanagement.

2. Despite giving two opportunities, respondent has not filed his reply nor any justified reasons have been given for causing delay. Today also, none is present on behalf of respondent.

3. After hearing the parties, it has been observed that despite taking two opportunities, reply has not been filed. Therefore, defence of the respondent is hereby struck off and the Authority decides to proceed further with the matter on its merits. Authority finds that it has already allowed refund to various allottees of the same project i.e. 'Ess Vee Apartments' in bunch of cases earlier decided on 09.10.2019 with lead case bearing Complaint No. 865

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*Rathee*

of 2019 titled as Mamta Gupta Versus M/s Samar Estate Pvt. Ltd., due to the following reasons: -

- i) The promoter while seeking registration of the project had disclosed that first phase of the project which was earlier scheduled to be completed in December, 2009 will be completed by December, 2019, second phase of the project which was earlier scheduled for completion in August, 2014 would be completed by March, 2019 and third phase of the project which was earlier scheduled to be completed in December, 2015 would be completed by December 2019. However, the promoter inspite of seeking several adjournments has not been able to arrange funds for further investment in the project and therefore it is unlikely for him to complete the project and handover possession to the allottees on the time so projected;
- ii) The promoter has mismanaged his finances and due to non-payment of loans raised from the banks and financial institutions has already incurred huge interest liability;
- iii) That the promoter's interest liability will also be huge towards allottees on account of already incurred delay of more than 15 years in completing the project and delivering possession. The allottees who have lost faith in the promoter and have been



waiting of possession of their apartments for the last more than 15 years are unlikely to pay more money to the respondent.

- iv) The Town and Country Planning Department has already clarified that it cannot take over the project for completion and the department is only concerned with recovery of arrears of ₹98.65 lacs on account of Internal Development Charges.
- v) That the allottees of the project have also expressed their inability to join together for forming an association for the purpose of taking over and completing the project.

4. None of the reasons narrated above have changed and the project is still unlikely to see the light of the day. Thus, Authority is of the considered opinion that the present complainant on parity with other allottees is also entitled to refund. The complaint deserves to be allowed in terms of the decision already rendered by this Authority in lead case No. 865 of 2019 titled as Mamta Gupta Versus M/s Samar Estate Pvt. Ltd.

5. In view of above, the Authority directs the respondent to refund amount of ₹21,50,000/- along with interest at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % (10.60%) from the actual date of payment till today i.e. 20.12.2022. The total amount payable to the complainant works out to ₹53,68,349/- as per following details:

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Rathee

S.No.	Principal Amount	Date of payment	Interest Accrued till 20.12.2022	TOTAL
1.	₹5,00,000/-	09.06.2006	₹8,76,896/-	₹13,76,896/-
2.	₹1,00,000/-	14.10.2007	₹1,61,091/-	₹2,61,091/-
3.	₹6,00,000/-	26.05.2008	₹9,27,340/-	₹15,27,340/-
4.	₹4,00,000/-	05.12.2008	₹5,95,807/-	₹9,95,807/-
5.	₹3,90,000/-	29.10.2011	₹4,61,083/-	₹8,51,083/-
6.	₹1,60,000/-	01.06.2011	₹1,96,132/-	₹3,56,132/-
<b>Total</b>	<b>₹21,50,000/-</b>		<b>₹32,18,349/-</b>	<b>₹53,68,349/-</b>

6. Case is **disposed of** accordingly and file be consigned to record room after uploading of order on the website of the Authority.



DR. GEETA RATHEE SINGH  
(MEMBER)



NADIM AKHTAR  
(MEMBER)