



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

## 1. COMPLAINT NO. 88 OF 2021

(Re-opened for Rectification Application)

Bijender Kumar Taparia

....COMPLAINANT(S)

VERSUS

Aarcity Builders Pvt. Ltd

....RESPONDENT(S)

## 2. COMPLAINT NO. 153 OF 2021

(Re-opened for Rectification Application)

Mukesh

....COMPLAINANT(S)

VERSUS

Aarcity Builders Pvt. Ltd

....RESPONDENT(S)

**CORAM:**

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

**Member**  
**Member**

**Date of Hearing:**

26.04.2023

**Hearing:**

Reopened(9th)

**Present:-**

Mr. Vivek Thakral, Counsel for the complainant  
(in complaint no. 88 & 153 of 2021)  
Ms.Rupali Verma, Counsel for respondent

*Dr. Geeta Rathee*

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

1. Captioned complaints were disposed of by the Authority vide order dated 31.05.2022, granting relief of refund of the paid amount along with interest to the complainants in both the complaints. Relevant part of order dated 31.05.2022 is reproduced below for reference:-

“4. In light of the facts and circumstances, Authority observes that though in present complaint complainant had submitted that he has paid an amount of Rs 10,75,000/- to the respondent for booked unit of which Rs 3,25,000/- were paid by the complainant in cash of which he could not produce any receipt or proof thereof. Respondent on the other hand has only admitted to having received an amount of Rs 7,50,000/- from the complainant and denied having received a further cash amount of Rs 3,25,000/-. Therefore, Authority vide its order dated 05.05.2022 had given the complainant an opportunity to prove its claim in regard to the amount of Rs 3,25,000/- by substantiating his claim with documentary evidence. However, complainant could not provide any proof for the same. Therefore, Authority is unable to accept the submission of the complainant of having paid a total amount of Rs 10,75,000/- to the complainant and thus will only allow relief to the extent of a total amount of Rs 7,50,000/-. Therefore, Authority in furtherance of its observations recorder vide order dated 05.05.2022 directs the respondent to refund the amount of Rs 7,50,000/- to the complainant alongwith admissible interest in terms of Rule 15 of HRERA Rules 2017 after deducting earnest money.

*Geeta Rathee*

5. As per clause 9 of the terms and conditions of application/booking form earnest money was to be 20 % of the sale consideration. Authority observes that 20% earnest money is too high. Authority would therefore consider it unconscionable and unreasonable. RERA provides for Earnest money of 10% of basic cost price of the unit. This is also a standard market practice. Therefore, respondent can be allowed to deduct only 10% of basic sale price as earnest money and return remaining amount to the complainant.

6. Authority accordingly orders refund of the amount paid by the complainants alongwith interest as shown in table below:

S.No	Complaint No.	Principal amount (In Rs.)	Interest @9.50% (In Rs)	Total amount to be refunded by the respondent (In Rs)
1.	88 of 2021	7,50,000/-	6,80,838/-	14,30,838/-
2.	153 of 2021	7,50,000/-	6,80,134/-	14,30,134/-

7. Respondents shall refund the paid amount alongwith interest within the period prescribed in Rule 16 of RERA Rules 2017.

Disposed of. Files be consigned to record room after uploading of the order on the website of the Authority. ”



2. Respondent has filed application for modification/rectification of the order dated 31.05.2022 in captioned complaints on ground that in the table drawn in para 6 of the impugned order while calculating the quantum of interest the full amount received from the allottee has been made the basis to calculate the amount to be refunded to the allottees whereas vide said order, respondent is also allowed to deduct 10% of the basic sale price as earnest money.
3. Today, Ms Rupali Verma, learned counsel for the respondent submitted that in captioned complaint, Authority vide order dated 31.05.2022 had granted relief of refund of paid amount along with interest to complainants in both complaints. Authority had further observed that respondent is entitled to deduct 10% of basic sale price as earnest money and thereafter return remaining amount to the complainants. However, at the time of calculation of interest the total amount of ₹ 7,50,000/- was taken into consideration without deduction of the earnest money to be forfeited by the respondent , thus make a total amount ₹ 14,30,838/- payable to complainant in Complaint no. 88 of 2021 and ₹ 14,30,134/- payable to complainant in Complaint no. 153 of 2021 resulting in filing of the application for correction/modification of the order dated 31.05.2022 on account of error occurred at the time of

calculating interest admissible to complainant. Therefore, she prayed that the order dated 31.05.2022 be rectified to that extent.

4. Mr. Vivek Thakral, learned counsel for the complainant objected to the averments of the respondent, submitting, that complainant is entitled to receive interest on the entire amount of ₹ 7,50,000/- as the same has been retained by the respondent till the date of order.
5. Upon perusal of the order dated 31.05.2022 and application filed by respondent, it is observed that in the order dated 31.05.2022 the amount of interest has been calculated on the total paid amount of ₹ 7,50,000/- which works out to ₹ 6,80,838/- in Complaint no. 88 of 2021 and ₹ 6,80,134/- in Complaint no. 153 of 2021 whereas the total amount payable to complainant works out ₹ 14,30,838/- in Complaint no. 88 of 2021 and ₹ 14,30,134/- in Complaint no. 153 of 2021 accordingly. In para 5 of the impugned order it has been categorically mentioned that respondent is allowed to deduct only 10% of basic sale price as earnest money and return remaining amount to the complainants meaning thereby, respondent is allowed to deduct 10% of basic sale price as earnest money from the total amount of ₹ 14,30,838/- payable to complainant in Complaint no. 88 of 2021 and ₹ 14,30,134/- payable to complainant in Complaint no. 153 of 2021 and thereafter refund

the remaining amount to each complainant respectively. The interest admissible to complainant has been calculated on the total paid amount as the same has been retained and utilised by the respondent till date of order. The calculations in order dated 31.5.2022 have been arrived at based on the aforementioned principal and are found to be correct. Therefore, there is no requirement to rectify/modify the order dated 31.05.2022 passed in captioned complaints.

6. So, Application filed by the respondent for review of the order dated 12.07.2022 is dismissed.



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



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**DR. GEETA RATHEE SINGH**  
**[MEMBER]**