



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1212 OF 2020
(re-opened after rectification application dated 30.09.2022)

Sanjeev Khokhar

....COMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.

....RESPONDENT(S)

CORAM:

Dr. Geeta Rathee Singh
Nadim Akhtar

Member
Member

Date of Hearing: 22.03.2023

Hearing:

6th

Present: -

Mr. Sanjeev Khokhar, the complainant
Ms. Rupali S. Verma, learned counsel for the respondent

ORDER (DR GEETA RATHEE SINGH-MEMBER)

Present complaint has been disposed of vide order dated 30.03.2022 whereby Authority directed the respondent to refund the amount to the complainant along with interest in terms of section 18 of RERA Act, 2016. The

Dr. Geeta Rathee

total amount of refund comes out to ₹1,13,80,835/-. The relevant part of the said order has been reproduced below:

"This project is already delayed by several years. It is still not complete and admittedly respondent is not in a position to complete the project in foreseeable future, therefore, Authority finds it to be fit case for allowing refund in favour of the complainants. The view already expressed by Authority on 03.03.2022 stands confirmed. Hence, Authority directs respondent to refund the complainants the amounts paid by them 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 % which as on date works out to 9.30% (7.30% + 2.00%) from the date amounts were paid till today. Accordingly, total amount along with interest calculated at the rate 9.30% works out to ₹1,13,80,835/- as per detail given in the table below:

S.No.	Principal Amount	Date of payment	Interest Accrued till 30.03.2022	TOTAL AMOUNT PAYABLE TO COMPLAINANT
1.	₹5,84,775/-	30.06.2008	₹7,48,265/-	₹13,33,040/-
2.	₹40,00,000/-	18.08.2008	₹50,68,373/-	₹90,68,373/-
3.	₹4,32,211/-	22.08.2008	₹5,47,211/-	₹9,79,422/-
Total	₹50,16,986/-		₹63,63,849/-	₹1,13,80,835/-

Respondent is directed to make the entire payment of ₹1,13,80,835/- to the complainant within 90 days from the date of uploading of this order, as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017."

2. Learned counsel for the respondent has filed a rectification application dated 30.09.2022 for the modification / correction of the order dated 30.03.2022 on the ground that complainant before approaching the Hon'ble Authority has already filed a consumer complaint before the Hon'ble National Consumer Redressal Commission (NCDRC) in Complaint no. 847 of 2017 titled as "Amarjit Singh Sidhu and Anr vs. M/s Parsvnath Developers Ltd" and Hon'ble

G. Ramesh

National Consumer Dispute Redressal Commission had passed its final order dated 11.02.2022 whereas respondent is directed to complete the project within a year and offer possession to the complainant along with delay interest at the rate 6% per annum. It has been stated that this fact was brought to the notice of the Hon'ble Authority and a copy of the order passed by the Hon'ble National Consumer Dispute Redressal Commission (NCDRC) was also supplied to the Hon'ble Authority. However, inadvertently while deciding the complaint, the said fact was not considered by this Hon'ble Authority. It has also been stated that complainant has concealed the relevant facts before the Hon'ble Authority that the issue involved in the present complaint has already been decided by the Consumer Court. Therefore, the complaint had been filed in clear violation of the settled principles of law and as such order passed by the Hon'ble Authority needs to be modified as the complainant cannot take the benefit of two Forums.

3. However, during the oral arguments, learned counsel for the respondent admitted that order dated 11.02.2022 of the NCDRC has not been placed on record before the Hon'ble Authority, rather it was placed in bunch of some other cases as the aforesaid order dated 11.02.2022 could not be located in the file. She however argued that still fact remains that complainant before approaching the Hon'ble Authority had already filed a consumer complaint before Hon'ble NCDRC and had obtained order in their favour, therefore the order dated 30.03.2022 passed by the Hon'ble Authority may be rectified.

4. In view of the above submissions made by the respondent, Authority has perused the complaint case filed before the Authority and it is revealed that no order of Hon'ble NCDRC was placed on record by the respondent during hearing of the matter on 30.03.2022. Therefore, Authority has passed the order dated 30.03.2022 in all its wisdom and if the prayer/ request of the respondent is allowed at this stage, it will amend the substantive part of the order which amounts to review of its final order.

Further, under section 39 of RERA Act, 2016, only error apparent on record can be rectified. However, the Authority cannot amend the substantive part of this order passed under the provisions of RERA Act, 2016. Further, proviso to section 39 provides that the Authority while rectifying any mistake apparent from record, shall not amend the substantive part of its order passed under the provisions of this Act.

Thus, the Authority cannot review its order and consequently application filed by the respondent for the modification of the order dated 30.03.2022 is rejected. Respondent is at liberty to avail other remedies available as per law.

File be consigned to record room after uploading the order in continuation of order dated 30.03.2022,


.....
NADIM AKHTAR
[MEMBER]


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Dr GEETA RATHEE SINGH
[MEMBER]