



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 3036 OF 2019 (Rectification application U/S 39)

Mr. Nikhil Kapoor

....COMPLAINANT(S)

VERSUS

Parsvnath Developers Ltd.

....RESPONDENT(S)

Date of Hearing: 22.03.2023

Hearing: 23rd (re-opened)

Present: - Ms. Priyanka Aggarwal, counsel for the complainant
through video conference

Ms. Rupali S. Verma, counsel for the respondent

ORDER (Dr. GEETA RATHEE SINGH- MEMBER)

1. Captioned complaint was disposed of by the Authority vide order dated 22.04.2022, granting relief of refund of the amount deposited by complainant along with interest which worked out to ₹56,99,143.75/-. Relevant part of order dated 22.04.2022 is reproduced below for reference:

Geeta Rathee

“16. 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 29.03.2022 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 9.40% (7.40% + 2.00%) from the date amounts were paid till today.

17. Authority has got calculated the interest payable to the complainants and accordingly total amount payable to the complainants including interest calculated at the rate 9.40% is depicted in table below:

| S.No. | Complaint no. | Amounts paid by complainants | Interest Accrued till 22.04.2022 | TOTAL AMOUNT PAYABLE TO COMPLAINANTS |
|-------|---------------|------------------------------|----------------------------------|--------------------------------------|
| 1. | 3036 of 2019 | ₹27,20,185.75/- | ₹29,78,958/- | ₹56,99,143.75/- |
| 2. | 3041 of 2019 | ₹9,99,650/- | ₹11,59,312/- | ₹21,58,962/- |
| 3. | 110 of 2020 | ₹5,41,870/- | ₹6,09,135/- | ₹11,51,005/- |

Respondent is directed to make the entire payment to the complainants within 90 days from the date of uploading of this order, as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017.

18. Complaints are, accordingly, **disposed of**. Files be consigned to the record room and order be uploaded on the website of the Authority.”

2. Thereafter, respondent filed an application on 30.09.2022 for modification/correction of order dated 22.04.2022 on the ground that complainants before approaching the Authority had already filed a consumer complaint bearing no. 847 of 2021 before Hon'ble National Consumer Disputes Redressal Commission and Hon'ble NCDRC had

passed its final order on 11.02.2022 whereby respondent has been directed to complete the project within one year and offer possession to complainants along with delay interest @6%. It has been stated that this fact was brought to notice of Hon'ble Authority and copy of order passed by Hon'ble NCDRC was also supplied, however, inadvertently while deciding the complaint, this fact was not considered by the Authority. It has also been stated that complainants had concealed the relevant facts before approaching the Authority, therefore the complaint filed before this Authority is in complete violation of settled principles of law and order passed by Authority in said complaint needs to be modified as complainants can't take benefit of two forums. So, it has been prayed that application be accepted and order dated 22.04.2022 be rectified and modified.

3. However, during arguments of application dated 30.09.2022, learned counsel for the respondent admitted that order dated 11.02.2022 passed by Hon'ble NCDRC was not placed before Authority in present case rather it was placed in bunch of some other cases, as order dated 11.02.2022 could not be located in the file. She however argued that the fact remains that the complainants had already approached Hon'ble NCDRC and had obtained order in their favour, therefore, order dated 22.04.2022 may be rectified.

4. Authority has also perused the file in present case and it is revealed that no order of Hon'ble NCDRC was placed by respondent during hearing of the matter on 22.04.2022. Therefore, the Authority after considering the facts of case and documents available on record passed the order dated 22.04.2022 in all its wisdom and if the relief sought by the applicant respondent is allowed at this stage, it will be a review of its own order by the Authority.

Further, 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. Authority cannot review its order, therefore the application filed by the respondent for modification of order dated 22.04.2022 is rejected. Respondent is at liberty to avail other remedies available as per law.

5. File be consigned to record room after uploading the order in continuation of order dated 22.04.2022.



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NADIM AKHTAR
[MEMBER]



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Dr. GEETA RATHEE SINGH
[MEMBER]