

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, GURUGRAM**

Complaint no. : 1151 of 2022
First date of hearing: 27.07.2022
Date of decision : 09.02.2023

Mabood Aryaman

R/o: - Apartment No. B, 502, ATS 1, Sector 50,
Noida, Uttar Pradesh

Complainant

Versus

M/s Pareena Infrastructures Private Limited
Office: C1/7 A, 2nd Floor, Omaxe City Centre,
Sohana Road, Gurugram

Respondent

CORAM:

Shri Vijay Kumar Goyal
Shri Sanjeev Kumar Arora

Member
Member

APPEARANCE:

Sh. Pardyot Parvesh
Sh. Prashant Shoeran

Counsel for Complainant
Counsel for Respondent

ORDER

1. The present complaint dated 30.03.2022 has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the Rules and regulations

made there under or to the allottee as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. The particulars of unit details, sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

| S.N. | Particulars | Details |
|------|----------------------------------|---|
| 1. | Name and location of the project | "Coban Residences", sector-99A, Gurgaon |
| 2. | Nature of the project | Group Housing Project |
| 3. | Project area | 10.5875 acres |
| 4. | DTCP license no. | 10 of 2013 dated 12.03.2013 valid up to 11.06.2024 |
| 5. | RERA Registered/ not registered | Registered Vide no. 35 of 2020 issued on 16.10.2020 valid up to 11.03.2022 + 6 months = 11.09.2024 |
| 6. | Unit no. | 1104, T-1 (page 18 of complaint) |
| 7. | Unit admeasuring area | 2352 sq. ft. of super area |
| 8. | Provisional allotment letter | 27.11.2013 (page 18 of complaint) |
| 9. | Date of builder buyer agreement | 21.12.2013 (page 20 of complaint) |
| 10. | Date of start of construction | 16.10.2014 (page 66 of complaint) |
| 11. | Possession clause | <i>3.1 That the developer shall, under normal conditions, subject to force majeure, complete construction of Tower/Building in which the said flat is to be located with 4 years of the start of construction or execution of this Agreement whichever is later, as per the said plans.....</i> <i>Emphasis supplied....</i> |
| 12. | Due date of possession | 16.10.2018 |

| | | |
|-----|--------------------------------------|--|
| 13. | Total sale consideration | 1,49,92,185/- (annexure I, page 43 of complaint) |
| 14. | Total amount paid by the complainant | 39,95,237/- (as per alleged by the complainant, page 6 of complaint) |
| 15. | Occupation certificate | N/A |
| 16. | Offer of possession | N/A |
| 17. | Email w.r.t refund | 09.02.2016, 15.09.2016 18.03.2017, 23.04.2017, 07.06.2017, 12.08.2017 (page 68, 74, 75 of complaint) |
| 19. | Cancellation letter | 23.02.2021 (page 138 of reply) |

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:

- I. The complainant booked a flat in the project "Coban Residences" by respondent situated in C-7A, 2nd Floor, Omaxe City Centre Mall, Sohna Road, Gurgaon, Haryana for which the total cost was Rs.1,49,92,185.6/- @ Rs. 5065.2 per sq. ft. for super area of 2352 sq. ft. That the complainant booked the apartment by making payment of Rs. 7,50,000/- vide Cheque no. 193791 drawn on axis bank and vide cheque no. 487779 of amount Rs. 2,50,000./- drawn on IndusInd bank. The complainant received the provisional allotment letter dated 27.11.2013 of apartment no. T-1/1104 in the project. The complainant made further payment of Rs 14,71,019/- vide cheque no. 193811 dated 01.09.2013 drawn on axis bank.
- II. That complainant requested the respondent to execute the builder buyer agreement. but the respondent delayed response citing baseless and flimsy reasons. After a lot of persuasion and request, the complainant received the builder buyer agreement through courier. The complainant



requested to respondent to execute the agreement, but respondent was never serious about the same & hence declined to respond and same has not been executed by respondent. The complainant has made a further payment of Rs. 15,24,218/- on 29.06.2015. That although a builder buyer agreement was not executed between the parties, still 30% of the payment was made till date.

- III. That the complainant visited the construction site of the respondent and was shocked to see that the respondent has not started the foundation work, yet the respondent just demanded money from the complainant. Respondent promised that the project was going to start very soon. They sent first reminder dated 29.09.2015.
- IV. That the complainant regularly used to visit the project site and to his utmost shock and dismay, found that the progress of the project was very slow and was not as per the terms and conditions of the agreement to sell and as such all claims made by the respondent were appearing to be untrue and false.
- V. That, in order to enquire as to the reasons for such state of work, the complainant made various calls to respondent seeking response as to the expected deadline for handing over of the possession which was earlier promised to be within 48 months after making first payment. However, the calls were ignored by the respondent and no reply followed.
- VI. A bare perusal of the schedule of payment shows that almost 30 percent payment was made within first 29 months of booking of flat, wherein the stage of development was not even 2% of the scheduled construction



plan. The complainant understood the malafide intention of the respondent of extorting money. The complainant was left with no option but to stop payment to respondent and asking for refund from respondent.

- VII. That in the course of time complainant faced medical emergency in his family members and on personal front also. He had lost his job also. Due to these circumstances the complainant had written letter dated 15.09.2016, 07.06.2017 and 12.08.2017 for refund of the payment.
- VIII. That subsequently waiting for more then four years and failing to hear any update in the status of the project, the complainant wrote another e-mail reiterating his question with respect to the tentative schedule for completion of work and handing over of possession. However, that email was also ignored by the respondent.
- IX. That, the aggrieving complainant lodged a compliant to PMO vide registration No. PMOPG/E/2017/0024196 against respondent. When respondent got to knew this fact, the request came from side of respondent that they were ready to settle the issue after withdrawal of complaint. Believing words of respondent complainant withdrew the complaint expecting that respondent will settle the issues.
- X. That complainant was shocked to receive a letter dated 03.02.2021 in which the respondent asked the complainant to transfer to another project at exorbitant rates contrary to discussions i.e. MICASA in sector 68, Gurugram. Further, the complainant received an email dated 16.09.2018 in which it was intimated to the complainant that allotment



of flat changed to 2BHK measuring 865 sq. mtr. of flat in MICASA, sector 68 of an exorbitantly high amount of Rs. 58,11,000/-. The complainant vehemently declined this proposal via mail, as the same flat was available @ 40 lakh again this was another delated project where no possession was possible till 2024.

- XI. Thereafter, several emails dated 24.03.2018, 06.04.2018, 08.04.2018, 10.05.2018, 13.07.2018, 29.08.2018, 18.09.2018 have been exchanged between the parties but no fruitful result came out, except for harassment and false promises made by the respondent.
- XII. That finally, on 31.07.2020 the complainant sent a final reminder email. In which it was clearly mentioned that he would be constrained to take the legal recourse against the respondent if they fail to update him about the development and completion date of the project.
- XIII. That, it is submitted that the project was supposed to be completed in year 2017, and the delay is being caused since then. Therefore, the delay of more than 4 year in delivery of possession be linked to deficiency of service. It is pertinent to mention here that not even 5 % of the project has been completed within stipulated period of delivery. It is further clarified that respondent is interested in knowing only next payment mile stone, instead he should be keen on telling the schedule of completion and handing over with completion certificate because the tentative date of delivery of possession has already passed by.
- XIV. The complainant clarified his stand for not making payment owing to the delay in handing over the possession and indicated his desire to

withdraw from the project in such situation and sought a refund with simple interest.

- XV. That as per the supposed BBA, which was not executed between the Parties, the Respondent proposed to hand over possession of the apartment within 48 months of first payment. The said period was supposed to end in December, 2017.
- XVI. That during this delayed period of more than 4 years for handing over possession, the complainant has suffered huge monetary loss on account of interest on his money for making timely payment to the respondent. The complainant is not in a position to afford to wait for any more time for his money to be held up like this and paying even more money towards future payments. Moreover the respondent company never took the customer seriously & kept on giving wrong commitments even after an agreement was reached to get an alternative flat (Ready to move) at similar original booking rates.
- XVII. That as on the present date, the complainant has made payment of Rs. 39,95,237/- (Thirty Nine Lakhs Ninty Five Thousand Two Hundred Thirty Seven) which is almost 30% of the selling price of the allotted unit. The complainant has invested his hard earned money and savings of his life in the project. But due to lackadaisical approach of the respondent, the complainant has now become vulnerable. That this unexplained & inordinate delay has eroded the trust and confidence of the complainant. This has also given him lot of stress, anxiety and immense pressure impacting his physical and mental wellbeing.

C. Relief sought by the complainant:

4. The complainants have sought following relief(s).
- I. **Direct the respondent to refund the entire amount paid by the complainant.**
 - II. **Direct the respondent to pay Rs. 20,00,000/- as compensation.**
5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the act to plead guilty or not to plead guilty.

D. Reply by the respondent

6. The respondent has contested the complaint on the following grounds.
- a. That, the complainant has not come with clean hands before this Hon'ble forum and have concealed the true and material facts.
 - b. That, the respondent is in the process of developing several residential group housing colonies in Gurugram, out of them one is "Coban Residences" at Sector 99A. The respondent has already applied for occupation certificate and very soon same will be granted.
 - c. That the respondent continues to bonafidely develop the project in question despite there being various instances of non-payments of instalments by various allottees. This clearly shows unwavering commitment on the part of the respondent to complete the project. Yet, various frivolous petitions such as the present once are seriously hampering the capability of the respondent to deliver the project as soon as possible. The amount which was realized from the complainant has already been spent in the development work of the proposed project. On the other hand the respondent is still ready to deliver the unit in question

to the complainant, of course, subject to payment of due installments and charges.

- d. That, it has become a matter of routine that baseless and unsubstantiated oral allegations are made by allottees against the respondent with a mere motive of avoiding the payment of balance consideration and charges of the unit in question. If such frivolous and foundationless allegations are admitted, then interest of other genuine allottees of the project will be adversely affected. In these circumstances, the present complaint deserves to be dismissed.
- e. That admittedly completion of project is dependent on collective payment by all the allottees and just because few of the allottees paid the amount, it does not fulfill the criteria of collective payment. It is submitted that numerous allottees have defaulted in payment demanded by the respondent, resulting in delaying of completion of project, yet the respondent is trying to complete the project as soon as possible by managing available funds.
- f. On the other hand the respondent is still ready to deliver the unit in question to the complainant, of course subject to payment of due instalments and charges.
- g. That without prejudice, it is submitted that as is clear from the complaint itself, the complainant knew that the unit allotted to her has been cancelled in pursuance of the final notice dated 10.09.2020 which has been annexed by himself and relief has been sought qua the said legal and valid cancellation. That it has become a matter of routine that

baseless and unsubstantiated oral allegations are made by allottees against the respondent with a mere motive of avoiding the payment of balance consideration and charges of the unit in question.

- h. That, over a period of time numerous allottees have defaulted in their payments at the relevant stages of construction and it is not possible to construct with inadequate funds. Thus the situation of non -payment of amount by the allottees is beyond the control of respondent. It is submitted that even in the apartment buyer agreement it was stated that period of 4 years 6 months was subjected to normal conditions and force majeure and with any stretch of imagination situations faced by respondents are not normal. It is submitted that above more than 30% payment was not received by the respondent yet the work at the site is approximately 80 to 90 percent completed. That, it is the fault of those allottees who had committed defaults and respondent should not be made to suffer for the same.
- i. That, other than above stated factor there are lots of other reason which either hamper the progress of construction or in many cases complete stoppage of construction work i.e. NGT orders.
- j. The Hon'ble supreme court in Nov 2019 ordered that *"With respect to demolition and construction activities we direct that no demolition and construction activities take place in Delhi and NCR region. In case it is found that such activity is done, the local administration as well as the municipal authorities including the Zonal Commissioners, Deputy Zonal Commissioners shall be personally held responsible for all such activities.*

They have to act in furtherance of the Court's order and to ensure that no such activity takes place" That said order was revoked by Hon'ble supreme court in Feb 2020 whereby it was ordered that "The restriction imposed vide order dated 04.11.2019 is recalled. As per the norms, the work can be undertaken during day and night by all concerned, as permissible. Application for direction is, accordingly, disposed of".

- k. That, the situation of COVID pandemic is in the knowledge of everyone, that since march 2020, our country has seen mass migration of laborers, complete lockdown in whole of the country, curfews and several other restrictions. That, present situation seriously hampers the construction progress in real estate sector. That from march 2020 there has been several months where the construction work was completely stopped either due to nationwide lock down or regional restrictions, that metro cities like Gurgaon and Delhi suffered from a major outburst of COVID cases and deaths in such a number which can't be comprehended. That there has been a severe dearth of labour due to state imposed restrictions. That, developers were helpless in these times since they had no alternative but to wait for the situation to come under control. That, even RERA has extended the time limits for completion of project vide notification dated 26.05.2020 by six months. But the aforesaid was the period evidencing the first wave, but the relaxation in restrictions were seen at fag end of year 2020. However, soon thereafter our country saw a more dangerous variant of COVID from the month of March 2021 and only recently restrictions have been lifted by the government. That,



whole of this consumed more than 11 months wherein 2/3rd time there could be no construction and for rest of the time construction progressed at very slow pace due to several restrictions imposed by state government on movement and number of persons allowed etc. That, the authority would appreciate the fact that developer has to face several difficulties in construction of project, few out of these are already discussed above and moreover, the complainant did not opt for services of respondent against a single unit isolated from whole of the project or other units in same tower. That, at the time of seeking allotment in the project of respondent, the complainant very well knew that unit / apartment in question is a part of tower consisting of several other units and the unit shall be completed along with other units which belong to other allottees. It is submitted that merely because few allottees have paid on time, it does not fulfill the criteria of complete payment required for construction of whole of the tower/project. That, the complainant knew that without complete payment on time from all allottees it is not possible or quite difficult to complete the project in time. It is submitted that for the same reason the clause of "force majeure" was made part of agreement. It is submitted that it is absolutely beyond the control of developer to get money from the buyer on time. It is submitted that after a demand was raised, the only thing developer can do is to send a reminder and in extreme cases cancellation of the said unit. But reminders / cancellation do not bring money which the developer had already incurred and is incurring continuously. That, even the hon'ble



apex court has already held that notice, order, rules, notification of the Government and/or other public or competent authority, including any prohibitory order of any court against development of property comes under force majeure and the period for handing over of the possession stands extended during the prevalence of the force majeure event.

- l. That, material, labor and other requirements does not come for free and if the allottees wish to get the possession on time, then it is their legal duty to pay on time, since without money it is not possible to construct the project on time. That cancellation request qua above stated unit is even annexed by complainant himself.
- m. That, complainant never paid amount on time. It is submitted that RERA is based on principles of natural justice and equity and these principles applies to the allottee and the developer alike. It is further submitted that RERA does not give absolute right to allottee to seek refund if in standard time project is not completed. It is submitted that the allottees rights are governed through their duties and if they fail to fulfill their duties, than they have no right to seek refund. That none is allowed to take benefit of their own mistake.
- n. That the construction is reciprocal to amount paid and it is not possible to complete construction without getting complete amount. That in such cases if refund is granted then it would be absolutely against natural justice. It is pertinent to mention here that whatsoever amount which was received by respondent qua construction has already been utilized for construction and it is the complainant who never paid the amount

demanded. Thus, he cannot put blame upon respondent. Thus, keeping in view of above stated facts and circumstances, present complaint is not maintainable and deserves to be dismissed.

7. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

8. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject-matter jurisdiction

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11

.....

(4) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made.

thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

11. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.
12. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors.*** 2021-2022(I) RCR,357 wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and

functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

13. Hence, in view of the authoritative pronouncement of the hon'ble supreme court in the case mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

F. Finding on objections raised by the respondent.

F.I Objection regarding force majeure conditions:

14. The respondent-promoter alleged that grace period on account of force majeure conditions be allowed to it. It raised the contention that the construction of the project was delayed due to force majeure conditions such as orders of Hon'ble Supreme Court of India to curb pollution in NCR, various orders passed by NGT, EPCA and non-payment of instalment by different allottees of the project but all the pleas advanced in this regard are devoid of merit. As per the flat buyer's agreement the due date of handing over of possession comes out to be 16.10.2018. The events such as Hon'ble Supreme Court of India to curb pollution in NCR, various orders passed by NGT, EPCA were for a shorter duration of time and were not continuous as there is a delay of more than three years and even some happening after due date of handing over of possession. Thus, the promoter-respondent cannot be given any leniency on based of aforesaid reasons and hence plea taken by respondent is devoid of merits.

15. As far as delay in construction due to outbreak of Covid-19 is concerned, Hon'ble Delhi High Court in case titled as *M/s Halliburton Offshore Services Inc. V/S Vedanta Ltd. & Anr. bearing no. O.M.P (I)*

(Comm.) no. 88/ 2020 and I.As 3696-3697/2020 dated 29.05.2020 has observed that:

"69. The past non-performance of the Contractor cannot be condoned due to the COVID-19 lockdown in March 2020 in India. The Contractor was in breach since September 2019. Opportunities were given to the Contractor to cure the same repeatedly. Despite the same, the Contractor could not complete the Project. The outbreak of a pandemic cannot be used as an excuse for non- performance of a contract for which the deadlines were much before the outbreak itself."

16. The respondent was liable to complete the construction of the project and the possession of the said unit was to be handed over by 16.10.2018 and is claiming benefit of lockdown which came into effect on 24.03.2020 whereas the due date of handing over of possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore, the authority is of the view that the outbreak of a pandemic cannot be used as an excuse for non-performance of a contract for which the deadlines were much before the outbreak itself and for the said reason, the said time period is not excluded while calculating the delay in handing over possession

G Findings on the relief sought by the complainant.

G I. Direct the respondent to refund the entire amount paid by the complainant.

17. The complainant booked a flat in the project named as "Coban Residences" and paid Rs. 39,95,237/- on different dates against the total sale consideration of Rs. 1,49,92,185/-. On 21.12.2013 a BBA was executed between the parties. The contention of the complainant is that there has been an inordinate delay in the construction of the project and that the construction is very slow paced. He understood the malafide intention of the extortion of money by respondent. He was left with no option but to stop payment to it and asked for refund by sending emails on various dates

09.02.2016, 15.09.2016 18.03.2017, 23.04.2017, 07.06.2017, 12.08.2017
etc.

18. The respondent denied all the averments made by the complainant and submitted that the complainant never paid amount on time. The respondent sent various reminder letter for paying outstanding dues, but he failed to clear outstanding dues which ultimately lead to cancellation of the allotted unit.
19. Upon perusal of above-mentioned documents, it is observed by the authority that the due date of possession is calculated as per clause 3.1 of buyers' agreement i.e., within 4 years of the start of construction or execution of this Agreement whichever is later. The date of start of construction being later, the due date of handing over of possession is reckoned from the date of start of construction. Therefore, the due date of handing over of possession comes out to be 16.10.2018. The complainant surrendered the allotted unit before the issuance of cancellation of the unit by the respondent.
20. Thus, the complainant has approached for the cancellation of unit even before the due date of possession which makes it is a case of surrender. So, the deduction should be made as per the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, which states that-

"5. AMOUNT OF EARNEST MONEY

Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money shall not exceed more than 10% of the amount of the real estate i.e. apartment/plot/building as the case may be in all case where the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer."

21. Keeping in view of aforesaid circumstances, the respondent is directed to refund the amount after deducting 10% of the sale consideration of the unit being earnest money as per regulation Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 2018 within 90 days from the date of this order along with an interest @10.60% p.a.(inadvertently recorded as 10%p.a in proceedings dated 09.02.2023 and the same is rectified vide this order as prescribed rate as per Rule 15 of the Rules, 2017 is 10.60% as on date 09.02.2023) on the refundable amount, from the date of surrender till the date of realization of payment.

G. II. Direct the respondent to pay Rs. 20,00,000/- as compensation.

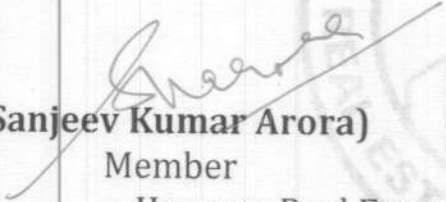
22. The complainant is also seeking relief w.r.t litigation expenses. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors.* (supra), has held that an allottee is entitled to claim compensation & litigation charges under sections 12,14,18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainant is advised to approach the adjudicating officer for seeking the relief of litigation expenses.

F. Directions of the authority

23. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):




- i. The respondent is directed to refund the paid up amount i.e. Rs. 39,95,237/- after deducting 10% of the sale consideration of the unit being earnest money as per regulation Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 2018 within 90 days from the date of this order along with an interest @10.60% p.a. on the refundable amount, from the date of surrender till the date of realization of payment.
 - ii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
24. Complaint stands disposed of.
25. File be consigned to registry.


(Sanjeev Kumar Arora)

Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 09.02.2023


(Vijay Kumar Goyal)

Member