



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

(Reopened for deciding Rectification Application)

IN COMPLAINT NO. 1304 OF 2023

Seema Mehta

....COMPLAINANT

Vs

M/s Green Space Infraheights Pvt. Ltd.

....RESPONDENT

CORAM: Dr. Geeta Rathee Singh

Member

Nadim Akhtar

Member

Date of Hearing: 06.07.2023

Hearing: 1st

Present: Ripudaman Singh, Advocate, counsel for the complainant.
None for the respondent.

ORDER (DR. GEETA RATHEE SINGH - MEMBER)

1. Learned counsel for the complainant filed an application dated 13.06.2023 praying for rectification of order dated 28.09.2022 passed in the **complaint no. 939 of 2021** titled as **Seema Mehta v. M/s Green Space Infraheights Pvt. Ltd.**, wherein the Authority had directed the respondent to refund an amount of ₹

G. Rathee

32,03,977/- along with interest. The upfront interest was calculated from the date of making payments till the date of final order dated i.e. 28.09.2023. Relevant part of the order dated 28.09.2023 is reproduced below:

"5. In view of the above observation, Authority is disposing of these complaints with the order of refund along with delay interest as per Rule 15 of RERA Rues, 2017. The upfront interest is being calculated from the respective date of payments up to the date of passing this order i.e. 28.09.2022, @ SBI MCLR rate + 2% i.e., 10.00% upfront interest payable to each complainant is shown in the table below:-

SR NO	COMPLA INT NO.	DATE OF AGREEMENT	TOTAL AMOUNT PAID BY THE COMPLAINANT AS PER RECEIPTS PLACED ON RECORD (In Rs.)	INTEREST @ 10% (In Rs.)	TOTAL AMOUNT TO BE REFUNDED BY RESPONDENT (In Rs.)
1.	14/2022	07.05.2016	21,86,175/-	12,45,661/-	34,31,836/-
2.	681/2022	16.02.2018	19,26,680/-	7,89,338/-	27,16,018/-
3.	703/2022	24.02.2018	18,73,320/-	7,80,473/-	26,53,793/-
4.	868/2022	16.01.2018	17,25,200/-	7,34,774/-	24,59,974/-
5.	939/2021	04.02.2016	20,47,435/-	11,56,542/-	32,03,977/-

Tatwa

6.	1191/2020	02.04.2016	21,85,183/-	12,53,009/-	34,38,192/-
7.	1464/202 2	14.03.2016	19,09,335/-	10,32,937/-	29,42,272/-

7. It is pertinent to mention that complainant in the prayer clause in complaint no. 703/2022 has prayed for refund of Rs. 17,17,080/- however upon perusal of annexed receipts, the total paid amount works to Rs. 18,73,320/- and the same is being taken as final amount for calculation of interest.

Respondents shall refund the money along with interest within period prescribed in Rule 16 of the RERA Rules of 2017.

8. **Disposed of.** Files be consigned to the record room after uploading of this order on the web portal of the Authority."

2. Sh. Ripudaman, learned counsel for the complainant in the present rectification application has raised the ground that in order dated 28.09.2022, relief of refund granted to complainant was till the date of final order, i.e. 28.09.2022. However, it should have been till the actual realization of the total amount.

3. Respondent was duly communicated regarding the date of hearing. However, none appeared on behalf of the respondent.

4. Authority on consideration of said application and record, observes that relief of refund along with interest was granted to the complainant. As per Section 18 of the Real Estate (Regulation & Development) Act, 2016 r/w Rule 15 and Rule 16 of the Haryana Real Estate (Regulation & Development) Rules, 2017. The definition of 'interest' under Section 2 (za) itself provides that "interest payable to

the allottee shall be from the date, the promoter received the amount or part, till the date the amount is refunded to the allottee". Mere reading of the section clarifies that when a relief of refund along with interest is granted, it is payable to the allottee till the date the amount is refunded by respondent to complainant. Merely for the purpose of ascertaining an upfront amount, the calculation of interest is done till the date of order, it does not mean that the relief of refund is confined till the date of order. This practice is followed generally in all refund cases. Hence, it is further clarified that respondent is liable to pay interest with effect from date of each payment till the actual realization.

5. For the above stated reasons, the present rectification application is dismissed with aforementioned clarification. File be consigned to record room after uploading of this order on the website of the Authority.



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DR. GEETA RATHEE SINGH सत्यमेव जयते
[MEMBER]



.....
NADIM AKHTAR
[MEMBER]