



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 564 OF 2019

Anita GoyalCOMPLAINANT(S)

VERSUS

Umang Realtech Pvt. Ltd.RESPONDENT(S)

2. COMPLAINT NO. 565 OF 2019

UjjawalaCOMPLAINANT(S)

VERSUS

Umang Realtech Pvt. Ltd.RESPONDENT(S)

3. COMPLAINT NO. 516 OF 2019

Sonika Maan & Amit MaanCOMPLAINANT(S)

VERSUS

Umang Realtech Pvt. Ltd.RESPONDENT(S)

4. COMPLAINT NO. 517 OF 2019

Surbhi

....COMPLAINANT(S)

VERSUS

Umang Realtech Pvt. Ltd.

....RESPONDENT(S)

CORAM:

**Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag**

**Chairman
Member
Member**

Date of Hearing: 24.09.2019

Hearing:

4th

Present: - Mr. Drupad Sangwan, Counsel for the complainants

Ms. Rakhi, Proxy Counsel for the respondent

ORDER (RAJAN GUPTA- CHAIRMAN)

1. All the captioned complainants were taken up together for hearing as the grievances involved therein are common and pertaining against the same project of the respondent. The complaint no 565 of 2019 has been taken as lead case.

2. Learned Counsel for the complainant submitted that he had booked an apartment bearing No. H-401 in the respondent's project namely "Summer Palms" situated at Bahadurgarh on 09.12.2013. The complainant had paid Rs. 5,00,000/- out of the total sale consideration, however, Total sale consideration has not been mentioned and no copy agreement has been filed with the complaint. The possession of the apartment was to be delivered within 48 months from the date of booking i.e. by 2017 but till date no possession has been offered, therefore, the complainant prays for refund of the amount along with interest at rate 18% p.a. from the date of respective instalments/ realization of the sale consideration by the respondent till the date of refund. Further, the complainant prays for disposal of present complaints in terms of Complaint No. 339 of 2018 titled as Anita Rathi Versus Umang Realtech Pvt. Ltd. and Complaint No. 383 of 2018 titled as Gurbaksh & Anr. Vs. M/s ABW Infrastructure Pvt. Ltd. & Ors.

3. The respondent filed a copy of the order wherein Hon'ble National Company Law Tribunal (NCLT), vide its order dated 20.08.2019 had imposed



moratorium under Section 14 of the Insolvency and Bankruptcy Code 2016 (IBC). He has further pleaded that this complaint cannot be proceed with in view of the moratorium imposed by Hon'ble NCLT.

4. Learned counsels for the parties have been heard and record has been perused.

5. Learned counsel for the complainant requested the Authority to dispose of this matter in terms of complaint No.339 of 2018 titled Anit Rathi Versus M/s Umang Realtech Pvt. Ltd. He further requested for granting additional relief in terms of complaint No.383 of 2018 Gurbaksh and another Versus M/s ABW Infrastructures Pvt.Ltd.

6. The Authority has gone through the matter in detail. The relief sought by the complainant that this bunch of complaints may also be disposed of in terms of complaint No.339 of 2018 is hereby allowed. Accordingly, this bunch of complaints disposed of in same terms as complaint No.339 of 2018.

The Authority had also disposed of a complaint No.383 of 2018 titled Gurbaksh Singh & another Versus M/s ABW Infrastructure Pvt. Ltd. While disposing of this and other connected complaints the Authority had ruled that the Allottees of a project should be treated on different footings from rest of the financial or operational creditors. The Allottees to the extent of payments made to the promoters become owner of the project. Further, their rights cannot be adversely affected without their own consent. The Authority

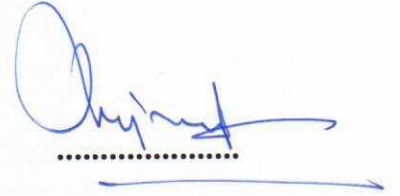


had ruled that vis-à-vis the assets of the project of which they are allottees, they shall have a superior right over anyone else. However, in respect of the assets of the company other than the assets of the project concerned, the allottees shall be treated at par with the other financial creditors. The operative part of the order of this Authority in the said complaint is reproduced below:

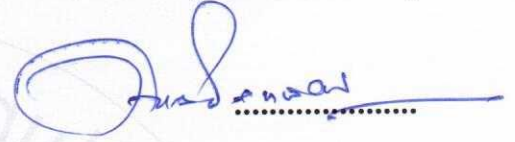
1. " The directions issued in the foregoing Paras are summarized as follows:-
 - (i) The allottees of the project in question shall be treated as deemed owners of the project. The promoters of the project and the lending financial institutions cannot alienate the ownership rights of the allottees at their own level without their consent. Therefore, the claim of the allottees against the assets of the project shall be treated superior to any other right of any other person or entity including the financial institutions and/or other creditors.
 - (ii) If claims of the allottees are not satisfied fully from the assets of the project in question, they shall be treated creditors of the promoters at par with other creditors for satisfaction of their claims from the assets of the promoters other than the assets of the project in question.
 - (iii) ***
 - (iv) ***
 - (v) The complainants and other similarly placed allottees may present these orders before any authority dealing with liquidation of assets of the Project, or the respondents and seek satisfaction of their claims on priority. It is, however made clear that the claims of the allottees shall be restricted to the refund of the money paid by them to the respondents along with interest as provided for in rule 15 of the HRERA Rules, 2017."




7. Disposed of accordingly. File be consigned to the record room and these orders be uploaded on the website of the Authority.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]



DILBAG SINGH SIHAG
[MEMBER]

