



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	1207, 1077 of 2019
Date of filing:	20.05.2019
First date of hearing:	21.08.2019
Date of decision:	02.08.2023

1. COMPLAINT NO. 1207 OF 2019

1. Ram Darshan Bhatia

House no. 102, Sector 10A, Chandigarh-160011COMPLAINANT

Versus

Vatika Limited and Anrs.

1. Vatika Limited
Vatika Triangle ,4th floor, Sushant Lok,
Phase 1, Block A , Mehroli Gurugram Road,
Gurugram, Haryana
2. Department of Town and Country Planning
SCO No. 71-75, Sector -17, Chandigarh

.....RESPONDENTS

Rattree

2. COMPLAINT NO. 1077 OF 2019

2.Subhash Chand Chhabra

House no. 1266, Sector I, Phase II Hudda,

Shahabad Markanda,Kurukshetra, Haryana-136135.

.....COMPLAINANT

Versus

Vatika Limited and Anrs.

1. Vatika Limited

Vatika Triangle ,4th floor, Sushant Lok,
Phase 1, Block A , Mehroli Gurugram Road,
Gurugram, Haryana

2. Department of Town and Country Planning
SCO No. 71-75, Sector -17, Chandigarh

.....RESPONDENTS

CORAM: Dr. Geeta Rathee Singh
Nadim Akhtar

Member
Member

Date of Hearing: 02.08.2023

Hearing: 14th

Present: - Mr. Pranav Goyal, proxy counsel for the complainants through VC.

Ms. Navneet , learned counsel for the respondents through VC.


Rathee

ORDER (DR. GEETA RATHEE SINGH - MEMBER)

1. Present complaints have been filed by complainants under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

2. Both of captioned complaints are taken up together for hearing as they involves same issues pertaining to same project and against same respondent only i.e. "Vatika Limited and Anothers". This order is passed taking complaint no. 1207 of 2019 titled "Ram Darshan Bhatia versus Vatika Limited and Anothers" as lead case
3. The particulars of the project, the details of 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 table:


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S.No.	Particulars	Details	
		Complaint no. 1207 of 2019	Complaint no. 1077 of 2019
1.	Name of the project	Vatika City Central , sector – 23, near Rajeev Gandhi Stadium, Ambala, Haryan- 134003	Vatika City Central , sector – 23, near Rajeev Gandhi Stadium, Ambala, Haryan- 134003
2.	Name of the promoter	Vatika Limited	Vatika Limited
3.	Unit No.	E/E 8/07	C/C 7/9
4.	RERA registered/not registered	Registered	Registered
5.	Unit area	302 sq. yard	500 sq. yard
6.	Date of allotment	26.04.2011	23.02.2011
8.	Date of builder buyer agreement	26.04.2011 BBA not on record	20.12.2011
9.	Due date of offer of possession	26.04.2014	20.12.2014
10.	Possession clause in	BBA not placed on	Clause 10- "The

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	BBA	record	<p><i>promoter based on its present plans and estimates and subject to all just exceptions, contemplates to complete the development of said colony or sector/part thereof where said plot is proposed to be located, within a period of three years from date of execution of this agreement unless there is a delay or there is failure due to reasons beyond the control of the promoter or due to failure of allottee to pay in time the price of said plot along with all other charges and dues in accordance with schedule of</i></p>
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Rattree

			<i>payments or as per demands raised by the promoter from time to time or any failure on part of allottee to abide by any of the terms or conditions of this agreement.</i>
11.	Total sale consideration	₹38,94,999.49/-	₹42,53,500/-
12.	Amount paid by complainant	₹11,36,806 /-	₹22,50,000/-
13.	Offer of possession	10.08.2016	No offer of possession

B. FACTS OF THE LEAD COMPLAINT No. 1207 of 2019

4. Case of complainant is that the original allottee booked a plot measuring 302 sq. yard in project "VATIKA CITY CENTRAL" situated in Sector-23, Ambala. Respondent no.1 i.e. Vatika Limited allotted plot no. E/E8/07 and executed builder buyer agreement on 26.04.2011, wherein possession of unit was to be handed over by 26.04.2014 i.e. 3 years from date of agreement.

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5. That on 25.03.2013, complainant purchased unit from original allottee on assurance and promise from respondent no.1 that unit will be handed over within stipulated time and respondent no.1 possess all the clearances and certificates from concerned authority. On being assured by respondent no.1 complainant paid an amount of ₹11,36,806 /-. Copy of account statement is annexed as Annexure C-2.
6. That plot buyer agreement along with other documents relating to plot has been misplaced by the complainant. Copy of Lost property report is attached as Annexure C-3 but respondent no. 1 is in possession of said agreement and same was requested by complainant but respondent No. 1 refused to furnish the copy of agreements and documents.
7. That on 10.08.2016, respondent no. 1 offered possession of plot but said offer was not actual and complete offer of possession but mere paper possession. The averments and the promises of the facilities/amenities as stated in brochure, which were assured and promised by respondent no.1 to the complainant were not fulfilled and no development in regard to completion of said amenities/facilities were completed. The respondent no.1 had also sent reminder for intimation of possession on 19.02.2017 but till date the development of said project is incomplete. Reminder of

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intimation is annexed as Annexure C-5. as no amenities / facilities which were stated in brochure, were available.

8. That more than 8 years from date of booking of property has been passed but till date there has been no substantial development of plotted area and surrounding thus lacking all amenities as stated in brochure. Thus respondent no.1 failed to hand over the actual possession of property within stipulate time except paper possession.

C. RELIEF SOUGHT

9. Complainants sought following reliefs :

- (i) To direct the respondent no.1 to refund the complete amount which has been deposited against the plot so booked by the complainant along with an Interest on the amount from the date of deposit at the rate of 18% P.A till the actual realization of the complete amount within 90 days according to section 18(1) Real Estate (Regulation And Development) Act, 2016, Section 19(4) of The Real Estate (Regulation And Development) Act, 2016, r/w Rule 15 and Rule 16 of Haryana Real Estate (Regulation and Development) Rules, 2017.
- (ii) To direct the respondent no.1 to pay Rs.10,000/month from the committed date of possession till the filing of the present petition, for causing mental agony caused to the complainant.



- (iii) To direct the respondent no.1 to pay Rs.10,000/month from the committed date of possession till the filing of the present petition, to the complainant as the deficiency in services for keeping the complainant in dark in regard to the progress of the property.
- (iv) To direct the respondent no.1 to pay Rs.10,000/month from the committed date of possession till the filing of the present petition, under Section 12 of The Real Estate (Regulation And Development) Act, 2016
- (v) To direct the respondent no.1 to pay Rs.10,000/month from the committed date of possession till the filing of the present petition, for causing physical harassment caused to the complainant.
- (vi) To direct the respondent no.1 to pay 10% of the total estimated cost of the project under section 59 of Real Estate (Regulation & Development) Act2016
- (vii) To direct the respondent no.1 to pay 5% of the total estimated cost of the project under section 61 of Real Estate(Regulation & Development) Act, 2016.
- (viii) Any other relief or claim which the Hon'ble Authority deems appropriate.


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was to be handed over by 2014 subject to other terms and conditions but complainant has defaulted in making payments.

14. Despites several reminders by respondent no. 1, complainant failed to pay due amounts till date. Therefore respondent no. 1 terminated the booking of complainant on 21.01.2019, further respondent no. 1 sent final termination letter to the complainant along with calculation sheet and give last opportunity either to pay the outstanding amount or pay the recoverable as per the agreement but complainant never turned up and in consequence of that respondent no. 1 sent cancellation letter dated 19.02.2019 herein annexed as Annexure R-4.

E. REPLY SUBMITTED ON BEHALF OF RESPONDENT NO.2

15. Notice dated 27.05.2019.was issued to respondent no. 2,i.e.,DTCP.

Neither any one present in any of hearing nor filed any reply.

F. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

16. Ld counsel for both the parties reiterated their submissions as mentioned in complaint and reply.



G. ISSUE FOR ADJUDICATION

17. Whether the complainant is entitled to refund of amount deposited by him along with interest in terms of Section 18 of Act of 2016?

H. FINDINGS ON THE OBJECTIONS RAISED BY THE RESPONDENT.

I. Objection regarding execution of BBA prior to the coming into force of RERA Act,2016.

18. One of the averments of respondent No.1 is that the agreement for sale/plot buyer agreement was entered into between the original allottee and the respondent No.1 on 26.04.2011. The complainant bought the plot from the original allottee and the fact was acknowledged by the respondent No.1 and consequently thereupon the complainant admittedly made payments till year 2014. Since the agreement to sell/plot buyer agreement was entered before the RERA Act and complainant too stepped into the shoe of the original allottee before RERA, Act 2016 coming into force, therefore, the provisions of the RERA Act, 2016 will not apply on the agreements executed prior to coming into force of RERA Act,2016. Accordingly, respondent No.1 has argued that relationship of builder and buyer in this case will be regulated by the agreement previously executed between them and the same cannot be examined



under the provisions of RERA Act. In this regard, Authority observes that after coming into force the RERA Act, 2016, jurisdiction of the civil court is barred by Section 79 of the Act. Authority, however, is deciding disputes between builders and buyers strictly in accordance with terms of the provisions of flat-buyer agreements. After RERA Act of 2016 coming into force the terms of agreement are not re-written, the Act of 2016 only ensure that whatever were the obligations of the promoter as per agreement for sale, same may be fulfilled by the promoter within the stipulated time agreed upon between the parties. Issue regarding opening of agreements executed prior to coming into force of the RERA Act, 2016 was already dealt in detail by this Authority in ***complaint no. 113 of 2018 titled as Madhu Sareen v/s BPTP Ltd*** decided on 16.07.2018. Relevant part of the order is being reproduced below:

“The RERA Act nowhere provides, nor can it be so construed, that all previous agreements will be re-written after coming into force of RERA. Therefore, the provisions of the Act, the Rules and the Agreements have to be interpreted harmoniously. However, if the Act or the Rules provides for dealing with certain specific situation in a particular manner, then that situation will be dealt with in accordance with the Act and the Rules after the date of coming into force of the Act and the Rules. However, before the date of coming into force of the Act and the Rules, the

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provisions of the agreement shall remain applicable. Numerous provisions of the Act saves the provisions of the agreements made between the buyers and seller.”

Thus, there remains no ambiguity w.r.t the fact that the complainant stepped into shoes of the original allottee in the year 2013 and he shall remain obligated as per terms of agreement for sale with the original allottee. The Authority is deciding the dispute between allottee and promoter in terms with agreement for sale, in the light of RERA Act, 2016.

II. Objection regarding jurisdiction of the Authority to adjudicate and grant relief of refund.

19. Complainant filed the complaint in the year 2019. Respondent No.1 filed its reply on 10.10.2019 and contended that the Authority lacks the jurisdiction to adjudicate and grant the relief of refund under section-18 of the RERA, Act 2016 as the same may only be granted by the Adjudicating officer of the Authority. In this regard the Authority has no hitch in the proceeding with the complaints and to grant the relief of refund in the present complaints. In view of the judgment passed by the Hon'ble Apex Court in “**Newtech Promoters and Developers Pvt. Ltd versus State of UP and Ors.**” 2021-2022 (1) RCR (C) 357 and followed in the case of “**Ramprastha Promoter and Developers Pvt. Ltd. Verus Union of**



India and others” dated 13.01.2022 in CWP bearing number 6688 of 2021 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.”



Hence, in the view of authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the Authority has the jurisdiction to entertain/adjudicate a complaint seeking refund of amount, and interest on refund amount.

20. Further, the issue as to where project shall be considered as "on-going project" has been dealt with and settled by the Hon'ble Supreme court in **Newtech Promoters and developers Pvt. Ltd Civil Appeal no. 6745-6749 of 2021** herein reproduced: .

" 37. Looking to the scheme of Act 2016 and Section 3 in particular of which a detailed discussion has been made, all "ongoing projects" that commence prior to the Act and in respect to which completion certificate has not been issued are covered under the Act. It manifests that the legislative intent is to make the Act applicable not only to the projects which were yet to commence after the Act became operational but also to bring under its fold the ongoing projects and to protect from its inception the inter se rights of the stake holders, including allottees/home buyers, promoters and real estate agents while imposing certain duties and responsibilities on each of them and to regulate, administer and supervise the unregulated real estate sector within the fold of the real estate authority."

Wherein Hon'ble Apex held that the projects in which completion certificate has not been granted by the competent Authority, such



projects are within the ambit of the definition of on-going projects and the provisions of the RERA Act,2016 shall be applicable to such real estate projects. Furthermore, as per section 34(e) it is the function of the Authority to ensure compliance of obligation cast upon the promoters, the allottees and the real estate agents under this Act, and the rules and regulations made thereunder.

21. Therefore this Authority has complete jurisdiction to entertain the captioned complaint and objection raised by the respondent regarding maintainability of the present complaint is rejected.

I. OBSERVATIONS AND DECISION OF AUTHORITY

22. The Authority has gone through the rival contentions. In light of the background of the matter as captured in this order and also the arguments submitted by both parties, Authority observes as follows:

(i) Admittedly, the original allottee booked the plot in the project of respondent no. 1 in the year 2011 and plot buyer agreement was executed on 26.04.2011 between the original allottee and respondent No.1. Thereafter complainant purchased the plot from original allottee in year 2013 and the rights and interest qua the plot buyer agreement was assigned in favour of the complainant's name on the request of original allottee, against which an amount of Rs 11,36,806/- had been paid by the complainant till the year 2014. Copy of plot buyer agreement is not placed on record by any of



parties, however date of execution of BBA with original allottee stand admitted by both the parties . The complainant in its complaint has stated that the plot buyer agreement as signed with the original allottee and later on he purchased the plot from the original allottee. He stepped into the shoe of the original allottee in 2013. However, the complainant has not placed on record a copy of the BBA/PBA, instead the complainant has taken a plea that he has lost the BBA and to prove the factum of this he has attached undated copy of computer generated acknowledgement of a "lost property report" annexed as Annexure C-3 at page no. 31 of complaint, wherein it is mentioned that the date and time when the property was lost was 21.11.2018. Nonetheless, the respondent No.1 has admitted entering into plot buyer agreement with the original allottee on 26.04.2011 and thereafter, assigning the rights of the plot in favour of the complainant. Respondent No.1 has also admitted the fact that complainant has paid ₹11,36,806/- till May 2014. However, in the absence of plot buyer agreement or endorsement letter in favour of the complainant exact deemed date of possession and the date on which complainant step into the shows of original allottee cannot be ascertained. In absence of specific clause for deemed date of possession it is pertinent to mention Hon'ble Apex Court in 2018 STPL 4215 SC titled as M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr has observed that period of 3 years is reasonable time of completion of construction work and delivery of possession. In present complaint, the plot



was booked by the original allottee in the year 2011 and plot buyer agreement was executed between original allottee and respondent No.1 on 26.04.2011, accordingly, taking a period of 3 years from the date of agreement i.e 26.04.2011 as a reasonable time to complete development works in the project and handover possession to the allottee, the deemed date of possession comes to 26.04.2014. Further, in the absence of a plot buyer agreement on record the exact date of assignment of rights in favour of the complainant cannot be ascertained. However, the complainant has placed on record a demand letter dated 05.11.2013, thus the Authority considers that on 05.11.2013, i.e. before the deemed date of possession i.e. 26.04.2014, the complainant had already stepped into shoes of the original allottee. If these facts are taken into consideration, the complainant/subsequent allottee had agreed to purchase the plot with the expectation that the respondent No.1 /promoter would abide by the terms of plot buyer agreement and would deliver the plot by the said due date i.e.26.04.2014. Furthermore, on perusal of the account statement (Annexure C-2) it is apparent that the complainant made the last payment of ₹3,85,000/- on 22.05.2014 i.e. even after the deemed date of possession. Thus complainant fulfilled his obligations till the deemed date of possession.

(ii) Respondent No.1 has taken a defence that it had offered possession of the plot in the year 2016, however no part completion certificate has been placed on record to show the offer of possession was a legally valid offer of



possession. Furthermore, respondent No.1 cancelled the unit on 19.02.2019, nevertheless, even after cancelling the unit in 2019, respondent no.1 did not refund the money/amount paid by the complainant and has been enjoying the same to his benefit.

(iii) When an allottee becomes a part of the project it is with hopes that he will be able to enjoy the fruits of his hard earned money in terms of a safety and security of his own home. However, in this case due to peculiar circumstances complainant has not been able to enjoy the fruits of his investment capital as the possession of the flat in question is shrouded by a veil of uncertainty. Complainant had invested a huge amount of ₹ 11,36,806/- with the respondent by the year 2014, however, despite the lapse of the deemed date of possession respondent was not in a position to offer a valid offer to the complainant since the project is yet to receive part completion certificate. Ironically, despite not having a part completion certificate the respondent offered possession with huge demand and upon the non-acceptance of the plot without the part completion certificate the respondent cancelled the plot on 19.02.2019. Authority is of view that the complainant was under obligation to fulfill his part of contract till the deemed date of possession. On lapse of the deemed date of possession complainant cannot be forced to take possession of the plot and that too, without a valid part completion certificate. In the present case, respondent has cancelled the unit post the deemed date of possession for refusal to accept invalid possession.



Thus, respondent cannot be allowed to deduct the earnest amount. Post the deemed date of possession as per section 18, it is allottee who has the right to demand refund of amount paid along with interest. Thus, complainant is at liberty to exercise his rights to withdraw from the project on account of default on the part of respondent to offer legally valid possession and seek refund of the paid amount along with interest.

(vi) Further, Hon'ble Supreme Court in the matter of "***Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others***" in Civil Appeal no. 6745-6749 of 2021 has highlighted that the allottee has an unqualified right to seek refund of the deposited amount if delivery of possession is not done as per terms agreed between them. Para 25 of this judgement is reproduced below:

"25. The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the



State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."

The decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of delayed delivery of possession. The complainant wishes to withdraw from the project of the respondent No.1, therefore, Authority finds it to be fit case for allowing refund in favour of complainant.

23. The definition of term 'interest' is defined under Section 2(za) of the Act which is as under:

(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation.-For the purpose of this clause-

(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to

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the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

24. Consequently, as per website of the state Bank of India i.e., <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date i.e. 02.08.2023 is 8.75%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 10.75%.

25. Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

"Rule 15. Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12; section 18, and sub sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%: Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public".

26. From above discussion, it is amply proved on record that the respondent No.1 has not fulfilled its obligations cast upon him under RERA Act,2016 and the complainant is entitled for refund of deposited amount along with interest. Thus, respondent will be liable to pay the complainant interest from the date the amounts were paid till the actual realization of the amount. Authority directs respondent to refund to the complainant the paid



amount of ₹ 11,36,806 /- 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 10.75% (8.75% + 2.00%) from the date amounts were paid till the actual realization of the amount. Authority has got calculated the total amount along with interest calculated at the rate of 10.75% till the date of this order and total amount works out to ₹...../- as per detail given in the table below:

Sr. No.	Principal Amount	Date of payment	Interest Accrued till 02.08.2023
1.	₹ 3,30,000/-	29.04.2011	₹4,35,322/-
2.	₹ 3,30,000/-	27.07.2012	₹3,91,100/-
3.	₹ 58,098/-	02.04.2013	₹64,594/-
4.	₹ 33,708/-	02.04.2013	₹37,477/-
5.	₹ 3,85,000/-	22.05.2014	₹3,80,992/-
6.	Total=₹11,36,806/-		₹13,09,485/-
7. Total amount of refund+ interest= ₹11,36,806 + ₹13,09,485/-			
			= ₹24,46,291/-

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27. In complaint no.1077 of 2019 calculations are as follow:

Sr. No.	Principal Amount	Date of payment	Interest Accrued till 02.08.2023
1.	₹ 3,75,000/-	20.12.2010	₹509042/-
2.	₹ 3,75,000/-	09.03.2011	₹500317/-
3.	₹ 3,75,000/-	06.06.2011	₹490487/-
4.	₹ 3,75,000/-	19.07.2011	₹485738/-
5.	₹ 3,75,000/-	23.08.2011	₹481872/-
6.	₹ 3,75,000/-	10.10.2011	₹476571/-
7.	Total=22,50,000/-		₹29,44,027/-
8. Total amount of refund+ interest= ₹22,50,000/- +₹29,44,027/- = ₹51,94,027/-			

28. On perusal of complaint file it is observed that no relief has been claimed by complainant against respondent no. 2.
29. The reliefs claimed under clause (iv), (vi) and (vii) are not pressed by the complainant during the course of proceeding nor argued.
30. Further, the complainant is seeking compensation on account of mental agony, physical harassment caused to the complainant, deficiency in services. It is observed that Hon'ble Supreme Court of



India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt Ltd. V/s State of U.P. & 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 learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned 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 complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

J. DIRECTIONS OF THE AUTHORITY

30. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

(i) Respondent is directed to refund the entire amount of ₹24,46,291/- to the complainant in complaint no. 1207 of 2019 and ₹51,94,027/- to the complainant in complaint no. 1077 of 2019.

(ii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of



Haryana Real Estate (Regulation & Development) Rules, 2017
failing which legal consequences would follow.

31. **Disposed of.** File be consigned to record room after uploading on the website of the Authority.


.....
NADIM AKHTAR
[MEMBER]


.....
DR. GEETA RATHEE SINGH
[MEMBER]