



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

SUO MOTU COMPLAINT NO. 2441 OF 2023

HRERA Panchkula

....COMPLAINANT

VERSUS

1. Bhupesh Mittal

...RESPONDENTS

2. Pivotal Infrastructure Pvt. Ltd.

CORAM: Nadim Akhtar

Member

Chander Shekhar

Member

Date of Hearing: 08.07.2024

Hearing: 1st

Present: - Adv. Akshat Mittal, counsel for the respondent no.1.
None for respondent no. 2.

ORDER (NADIM AKHTAR - MEMBER)

1. Captioned suo moto complaint was initiated by the Authority for refund of the pre-deposit amount of ₹1,74,450/- received from Haryana Real Estate Appellate Tribunal pursuant to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016.
2. An execution complaint no. 590 of 2018 titled as "Bhupesh Mittal versus Pivotal Infrastructure Pvt. Ltd." was earlier filed before the Authority

wherein complainant i.e, Bhupesh Mittal in his pleading stated that an apartment buyer agreement was executed between the parties on 25.08.2012 for an apartment bearing no. 103, first floor, Tower no. 12A, measuring 1485 sq. ft. super area in the project of the respondent named "Royal Heritage", Sector-70, Faridabad. As per clause 18 of the agreement, the respondent i.e., Pivotal Infrastructure Pvt. Ltd. was under an obligation to deliver possession of the apartment within 42 months from the date of execution of the agreement/ start of construction. Thus, the due date of possession of the apartment is 28.11.2015. The complainant had already paid an amount of ₹32,13,394.84, which is 95% of the total sale consideration of ₹32,95,720/-. However, the possession of the unit has yet not been handed over to the complainant, though; offer of possession has been made on 08.12.2017. With this offer of possession, an additional amount of ₹6,92,753.16/- was received towards the full and final settlement. It was further pleaded that the respondent has charged an amount of ₹1,26,571.20 towards the enhanced EDC and also imposed interest of ₹1,11,078/- over the remaining payment of ₹1,00,000.01/-. The demand of ₹40,072.32/- was also raised on account of VAT. A sum of ₹1,52,568.85/- was also levied on account of unlawful demand as service tax. The grievance of the complainant is that the respondent has raised illegal demand of ₹6,92,753.16/- under various heads and has compensated for two years of delay in delivery of possession. The Authority after



considering the pleas raised by the parties, passed the impugned order dated 14.11.2018, wherein Authority passed following directions

“4. The authority was apprised by the counsels for the parties that various points relating to the demand raised against the complainant has already been dealt with by the Authority in the previous Complaint no. 49 of 2018 titled as Parkash Chnad Arohi versus M/s Pivotal Infrastructure Pvt. Ltd. decided on 04.09.2018. so the learned counsel for the parties have requested that the issues concerning the legality and propriety of various demands and manner about the arriving at calculations under various heads may be decided in terms of the judgment passed in complaint no. 49 of 2018 ibid.

5. Consequently, the present complaint is disposed of with the directions that the respondent shall recalculate the various amounts raised in the impugned demanding the manner as already decided in complaint case no. 49 of 2018. Parties shall remain bound by the basic principles illustrative in the said judgment and the respondent shall supply all necessary details to complainant after making calculation per decision of the said judgment.”

3. Further, respondent no. 2, i.e., Pivotal Infrastructure Pvt. Ltd. preferred an appeal against the above order of Authority before Hon’ble Tribunal bearing Appeal no. 1382 of 2019, wherein vide order dated 13.10.2023, Hon’ble Tribunal dismissed the appeal and directed that amount as paid by




the respondent deserves to be refunded to the allottee i.e, Bhupesh Mittal.

Relevant part of the said order is reproduced below for reference: -

19. *Consequently, the present appeal is dismissed with the cost as above.*
20. *The amount of ₹1,74,450/- deposited by the appellant with this Tribunal in view of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016, along with interest accrued thereon, be sent to the learned Authority for disbursement to the allottee subject to tax liability, if any, as per law and rules."*

4. Today, Adv. Akshat Mittal appeared on behalf of respondent no. 1 and stated that in compliance of last order dated 04.03.2024, respondent no. 1 has filed an application dated 03.07.2024 for placing on record the Performa P-1.
5. In view of the above said situation, present complaint is disposed of with the direction to the office to disburse the amount of ₹1,74,450/- to respondent no. 1, within 7 days of uploading of the order.
6. The complaint is **disposed of** accordingly. File be consigned to record room, after uploading of the order.


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CHANDER SHEKHAR
[MEMBER]


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NADIM AKHTAR
[MEMBER]