



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	1551 of 2022
Date of filing:	04.07.2022
Date of first hearing:	21.09.2022
Date of decision:	06.08.2024

Rattan Kumar S/o Sh. Prakash Chand

R/o #538, Sector 13,

Kurukshetra, Haryana

...Complainant

Versus

MVL Limited,

Reg. Office: 1201-B, Hemkund Chamber,

89 Nehru Place, New Delhi- 110019

6th Floor, Near Red Cross Society, Chandan Nagar,

Sector-15(II), Gurgaon- 122001

...Respondent

CORAM:

**Dr. Geeta Rathee Singh
Chander Shekhar**

**Member
Member**

Present: -

Adv. Ravi Kamal Gupta, Counsel for the complainant through video conference.

None for the respondent.

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ORDER (Dr. GEETA RATHEE SINGH - MEMBER)

1. Present complaint dated 04.07.2022 has been filed by complainant 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 fulfill all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of the unit booked by complainant, the details of sale consideration, the amount paid by the complainant and details of project are detailed in following table:

S.No.	Particulars	Details
1.	Name of the project	MVL River City, Yamuna Nagar, Haryana.
2.	Name of promoter	MVL Limited.
3.	Date of Provisional allotment	11.12.2013
4.	Unit details	Plot no. 31, Block- F, Sector-29. 300 sq. Yard.
5.	Date of plot buyer agreement	19.07.2014
6.	Basic Sale Price (As per	₹24,00,000/-



	PBA)	
7.	Amount paid by complainant	₹26,40,000/-
8.	Due date of possession	19.07.2018 <i>Clause 5.1 – “The Company shall endeavour to give possession of the Plot to the Intending Allottee (s) within a period of 4 (four) years with 1 (one) year extension from the date of execution of this Agreement (“Commitment Period”), subject however to Force-Majeure Event and subject to receipt of complete dues and other charges as per payment plan opted by the intending Allottee(s). During Force Majeure Event, the Company reserves the right to alter or vary the terms and conditions of this Agreement or if the circumstances so warrant, the Company may also suspend the development of the Colony for such period as is considered expedient, the Intending Allottee(s) agrees and consents that he/she/they shall have no right to raise any claim for compensation of any nature whatsoever for or with regard to such suspension. The Intending Allottee(s) shall not be entitled to any compensation on the grounds of delay in possession due to reasons beyond the control of the</i>

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		<i>Company. The Intending Allottee(s) further agrees and understands that the Company shall additionally be entitled to a period of twelve (12) months as Grace Period after the expiry of the aforesaid Commitment Period.”</i>
9.	Offer of possession	Not yet offered

B. FACTS OF THE COMPLAINT

3. That the respondent engaged in the process of booking for development of MVL Rivercity over land of 5.65 acres at Sector- 29 Yamuna Nagar, Haryana.
4. That on 06.12.2012 the complainant had paid a sum of Rs. 6,00,000/- for booking of a 300 sq yard plot in the project “MVL River City” at Yamuna Nagar, Haryana. Subsequently, the respondent issued a provisional allotment letter to the executed a plot buyer agreement on 19.07.2014 for plot no. 31, block No. F in Sector 29. Basic sale price for the plot is Rs. 24,00,000/- against which the complainant has paid an amount for Rs. 26,40,000.
5. That clause 5.1 of plot buyer agreement stipulates that the respondent shall endeavour to give possession of the plot within a period of 4 years with 1 year extension from the date of execution of agreement subject to

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force majeure clause and receipt of complete dues and other charges as per payment plan. Deemed date of possession works out to be 19.07.2018.

6. That despite of complainant's timely payment and requests for possession, respondent has not offered the possession. Project is inordinately delayed and respondent never intimated the status of the project and its development to the complainant.
7. That due to non-delivery of plot, cause of action is in favor of complainant and against the respondent, is a continuing cause of action and still subsisting since the respondent failed to give allotment and possession of plot to the complainant till date.
8. That no other complaint against the respondent company by complainant is pending in any other court/forum in India.
9. That this Hon'ble Real Estate Regulatory Authority has jurisdiction to try and decide this complaint since the project which was to be developed and is within the jurisdiction of the Hon'ble Authority.

C. RELIEF SOUGHT

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may be pleased to direct;

- (a) Refund the amount paid by the complainant i.e. 22,80,000/- (receipts attached as C-4) along with interest calculated in accordance with Rule


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15 of the HRERA Rules i.e. @ SBI MCLR +2% within period prescribed in Rule 16 of the RERA Rules, as has been done in Bunch matter between similarly situated persons/ complainants and the same builder/ developer/ promoter (Somesh Grover and another vs. MVL Ltd. Complaint no. 102 of 2022) Copy of the order is annexed C-6.

- (b) In the event that the registration has been granted to the Respondent-Promoter for the project namely "MVL Rivercity" project situated at Sector 29, Yamuna Nagar, Haryana under RERA read with relevant Rules, it is prayed that the same may be revoked under Section 7 of the RERA for violating the provisions of the RERA.
- (c) In exercise of powers under section 35, direct the Respondent-Promoter to place on record all statutory approvals and sanctions of the project;
- (d) In exercise of powers under section 35 OF RERA AND RULE 21 OF HRE(R&D) RULES, 2017, to provide complete details of EDC/IDC and statutory dues paid to the Competent Authority and pending demand if any;
- (e) To refund the entire amount along with SBI MCLR + interest.
- (f) To pay the late possession interests @ SBI MCLR + interest as per Haryana RERA Rules and Rs.3,00,000/- for causing, harassment, mental agony and undue hardship caused to the Complainant on account of



deficiency in service and unfair trade practices and with costs and litigation expenses;

- (g) Any other relied as this Hon'ble Authority may deem fit and appropriate in the facts and circumstances of the present case.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

10. Reply has not been filed by the respondent despite availing two opportunities dated 23.11.2023 and 13.02.2024.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

11. During oral arguments both parties reiterated their arguments as were submitted in writing. Learned counsel for complainant submitted that complainant is willing to accept refund of the amount deposited by him and the case may be decided in terms of Complaint no. 102 of 2022 titled as Somesh Grover and another vs. MVL Ltd. Ltd.
12. Counsel for the respondent submitted that respondent is not contesting the present complaint as Authority has already decided a similar matter in complaint no. 102 of 2022. However, he submitted that only an amount of Rs. 22,80,000/- has been received from the complainant in the present case and not Rs. 26,40,000/- as alleged by the complainant.

F. ISSUES FOR ADJUDICATION

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



G. OBSERVATIONS AND FINDINGS OF THE AUTHORITY

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

- (i) It is an admitted fact that complainant was provisionally allotted a plot in the respondent's project "MVL River City", Yamunanagar on 11.12.2013. Plot buyer agreement was executed between the parties on 19.07.2014 for plot no. 31, block F, Sector 29 admeasuring 300 sq. yards. Basic sales price of the plot is Rs. 24,00,000/- against which the complainant has allegedly paid an amount of Rs. 26,40,000/-. As per clause 5.1 of the plot buter's agreement, the respondent shall endeavour to give possession of the plot within a period of 4 years with 1 year extension from the date of execution of agreement subject to force majeure clause and receipt of complete dues and other charges as per payment plan, however possession has not been offered to the complainant till date.
- (ii) Issues in the present case are similar to the issues settled down by the Authority in complaint case no. 102 of 2022 titled as Somesh Grover and another vs. MVL Ltd. Since in the present complaint reply has not been filed and ld. counsel for the complainant has not contested the complaint as facts and circumstances are similar to aforementioned complaint no. 102 of 2022. Authority observes that the factual matrix of present case is



similar to bunch of cases with lead case Complaint no. 102 of 2022 titled as “**Somesh Grover and another vs. MVL Ltd.**” Accordingly, Authority is satisfied that issues and controversies involved in present complaints are of similar nature as complaint case no. 102 of 2022. Therefore, captioned complaint is disposed of in terms of the orders passed by the Authority in **Complaint no. 102 of 2022 titled as “Somesh Grover and another vs. MVL Ltd.”** Therefore, complainant will be entitled to refund along with interest as per Section 18 of RERA Act, 2016.

Nevertheless, Ld. Counsel for respondent had orally objected to the total amount paid by the complainant and stated that only an amount of Rs. 22,80,000/- has been received from the complainant in the present case and not Rs. 26,40,000/- as alleged by the complainant. On perusal of the complaint file, it has been observed that complainant has submitted a table of payments on 15.07.2022 which shows the amount, dates of payment and page no.s of proof of such payments. In the said table complainant has alleged that an amount of Rs. 26,40,000/- has been paid to the respondent. For proving the said amount complainant has annexed receipt dated 06.12.2012 for an amount of Rs. 6,00,000/-, receipt dated 03.01.2014 for an amount of Rs. 1,20,000/-, receipt dated 12.03.2014 for an amount of Rs. 7,80,000/-, receipt dated 12.06.2014 for an amount of Rs. 7,80,000/- at page no.s 33,34,35 and 36 of the complaint respectively.



For proof of an amount of Rs. 3,60,000/-, complainant has annexed a statement by Branch Manager, SBI, Pipli, Kurukshetra that an amount of Rs. 3,60,000/- has been sent in favor of the respondent through RTGS. Payment of Rs. 26,40,000/- made by the complainant are proved through the receipts and statement annexed by the complainant.

- (iii) As per Section 18 of Act, interest shall be awarded at such rate as may be prescribed. 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 (NCLR) 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”.

- (iv) The legislature in its wisdom in the subordinate legislation under the provisions of Rule 15 of the Rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

- (v) Consequently, as per website of the state Bank of India i.e. <https://sbi.co.in>, the marginal cost of lending rate (in short MCLR) as on date i.e. 06.08.2024 is 9 %. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 11%.



(vi) The definition of term 'interest' is defined under Section 2(z) 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 the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

Accordingly, respondent will be liable to pay the complainant interest from the date amounts were paid till the actual realization of the amount. Hence, Authority directs respondent to refund to the complainant the paid amount of ₹26,40,000/- 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 Rs. 30,73,032/- (9% + 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 11% till the date of this order and said amount works out to ₹57,13,032 -/- as per detail given in the table below:



Sr. No.	Principal Amount	Date of payment	Interest Accrued till 06.08.2024
1.	₹7,80,000/-	12.03.2014	₹8,93,495/-
2.	₹6,00,000/-	06.12.2012	₹7,70,663/-
3.	₹7,80,000/-	12.06.2014	₹8,71,869/-
4.	₹1,20,000/-	03.01.2014	₹1,39,920/-
5.	₹3,60,000/-	31.07.2014	₹3,97,085/-
	Total= ₹26,40,000/-		₹30,73,032/-

H. DIRECTIONS OF THE AUTHORITY

15. 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 ₹ 57,13,032/- to the complainant.

(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.

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


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CHANDER SHEKHAR
[MEMBER]


.....
Dr. GEETA RATHEE SINGH
[MEMBER]