



Complaint no.2097 & 2334 of 2019

## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

### 1. COMPLAINT NO. 2097 OF 2019

Dr. Ida Bharti

....COMPLAINANT(S)

VERSUS

M/s Piyush Coloniser Ltd.

....RESPONDENT(S)

### 2. COMPLAINT NO. 2334 OF 2019

Anita Rustgi

....COMPLAINANT(S)

VERSUS

M/s Piyush Coloniser Ltd

....RESPONDENT(S)

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

**Chairman**  
**Member**  
**Member**

**Date of Hearing:** 13.11.2019

**Hearing:** 1<sup>st</sup>

**Present:** - Mr. Jagdeep Singh, Counsel for complainant.  
Mr. Gaurav Gupta, Counsel for respondent.

**ORDER (ANIL KUMAR PANWAR-MEMBER)**

1. The present complaints were filed for the execution of order dated 11.12.2018 passed by this Hon'ble Authority in Complaint No. 510 of 2018 as lead case titled Hoshiar Singh Mandiwal vs M/s Piyush Coloniser Ltd. The operative part of order reads as under:

“It is, therefore, ordered that the respondent shall refund the entire sum of money paid by the complainants to them along with interest as prescribed in Rule 15 of RERA Rules, 2017. The respondent shall pay the money within a period of 60 days from the date of passing these orders.”

2. The counsel for complainant states that The National Company Law Tribunal (NCLT) has initiated insolvency proceedings against the respondent under Section 7 of the Insolvency and Bankruptcy Code 2016 and has also appointed interim resolution professional (IRP). Learned counsel has requested the Authority to dispose of these matters in terms of decision taken by this Authority in the aforesaid circumstances in complaint No.383 of 2018 Gurbaksh and another Versus M/s ABW Infrastructures Pvt.Ltd.

3. The Authority while disposing of Complaint no.383 of 2018 and other connected complaints, 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 which they had already made become owner of the project and therefore, their rights cannot be adversely affected without their consent. The Authority had further ruled that vis-à-vis the assets of the project of



which they are allottees, they shall have a superior right over everyone else. It was further observed that the allottees even in respect of the assets of the company other than the assets of project in question, 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:

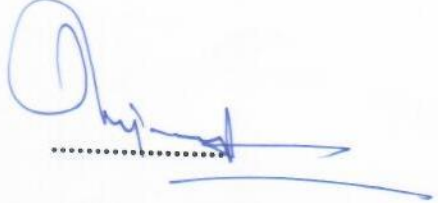
“The directions issued in the foregoing Paras are summarized as follows:-

- (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. Consequently, the complainant-allottees are held entitled to the same relief as are allowed by this Authority in complaint case no. 383 of 2018 and the present complaints are disposed of accordingly.



**RAJAN GUPTA**  
[CHAIRMAN]



**ANIL KUMAR PANWAR**  
[MEMBER]



**DILBAG SINGH SIHAG**  
[MEMBER]

