

PROCEEDINGS OF THE DAY		6
Day and Date	Tuesday and 24.12.2024	
Complaint No.	MA NO. 784/2024 in CR/4757/2020 Case titled as Satinder Singh Sondhi and Sunita Sondhi Vs Haamid Real Estates Private Limited	
Complainant	Satinder Singh Sondhi and Sunita Sondhi	
Represented through	Shri Sanjeev Sharma	
Respondent	Haamid Real Estates Private Limited	
Respondent Represented through	Shri Dhruv Rohatgi	
Last date of hearing	Appl. u/s 39 of the Act/19.11.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Rectification-order

The applicant-promoter filed an application under Section 39 of the Act, 2016, seeking rectification of the order dated **21.11.2023**, stating that the said order contradicts the order dated 16.05.2023 in **CR No. 3170/2021**. The applicant-promoter states that issuing such a direction again is neither legal nor practical, as the authority has already passed an order in the CR NO. 3170/2021.

The applicant states that while passing the final order dated **21.11.2023**, in the complaint bearing no. **4757 of 2020**, the Authority, passed directions to the respondent, not only in respect of the present complaint, but also caused directions pertaining to the complainant in complaint bearing no. 3170 of 2021. The Authority passed the following direction in CR no. 4757 of 2020 which reproduced below as:

48 (i)The respondent/promoter is directed to refund the entire paid-up amount of Rs. 1,44,76,467/- received by it from the complainant along with interest at the rate of 10.75% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of filing of the complaint i.e. 18.12.2020 till the actual realization of the amount.

(ii)If in pursuance to order in Cr. No. 3170/2021, the respondent builder has already refunded any amount to the complainant then the respondent builder is directed to adjust/deduct such refunded amount from the paid up amount of Rs. 1,44,76,467/- and to pay the balance amount with interest as directed above. However, if no amount is refunded till date then the



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

respondent builder is directed to pay the entire clubbed amount i.e. Rs. 1,44,76,467/- to the complainants.

(iii) A period of 90 days is given to the respondent-builder to comply with the directions given in this order and failing which legal consequences would follow

The applicant also had moved the Hon'ble High Court of Punjab & Haryana in CWP-23724 of 2024, against the directions passed by the Authority, however, after arguing the matter at length, the respondent, withdrew the petition, seeking liberty to approach the Authority, by filing the present application

Finding of the Authority:

It is observed that two complaints were filed in the Authority pertaining to separate units in the project namely, 'The peaceful Homes' Sector 70-A, Gurugram being developed by the respondent namely Haamid Real Estates Private Limited, the details of which are as under:

CR. No.	Name of complainant	Unit Number	Surrender Request
3170-2021	Harsh Joneja	B-071	Surrender request on 26.11.2019
4757-2020	Satinder Singh Sondhi and Sunita Sondhi	A-083 & C-032	Surrender request on 27.11.2019

It is pertinent to mention here that although two complaints viz CR No.3170/2021 and CR No.4757/2020 were filed by them and an application for merger of the above complaints was received as the issues involved are inter-connected and involved change of the unit stating that " the above referred both the complaints are so interlinked with each other that it would be more appropriate to club both the case together for hearing before the Authority under natural law. The promoter has clubbed both the allottees and reconciled them in purchasing one apartment. The apartment allotted to them after reconciliation is bone of dispute". Thereafter both the complaints were clubbed together vide orders dated 29.07.2022 and complainant was heard by taking CR No.4757/2020 as the lead case during the proceedings dated 27.4.2023 and 16.5.2023.

From the facts of both the complaints filed under CR NO. 3170/2021 and CR No. 4757/2020, it is observed that the complainants in both the above complaints were stately friends and were allotted units in the project of the applicant-promoter on 27.11.2019. The complainant Shri Harsh Juneja in CR NO.



3170/2021 was allotted unit no. B-071 and the complainants in CR NO. 4757/2020 were allotted unit numbers A-083 & C-032. However, due to certain eventualities the units of the complainants were cancelled. Thereafter, after the cancellation, the complainant and his friend requested for merger of their units. The respondent vide email dated 14.8.2020 accepted the said merger, they were allotted unit no. A-083 and the unit nos. C-032 and B-071 were cancelled mentioning that there shall lie no claim, rights, interests, title, benefits on the said two units thereupon. However, third party rights were created even on unit no. A-083 on 19.08.2020 by the applicant-promoter. This resulted in complaint no. 4757/2020.

Vide proceeding dated 16.05.2023, both the complaints were disposed of with the remarks that detail order will follow. However, order in respect of **Cr No. 3170/2021** was inadvertently uploaded separately on 16.05.2023 wherein the respondent was directed to refund the paid-up amount of Rs. 50,30,000/- after deduction of 10% sale consideration with interest from date of surrender i.e., 26.11.2019 till date of realization of amount.

Thereafter, before passing the order in CR NO. 4757/2020, the Authority deemed it appropriate to list the matter for rehearing and the same was heard and disposed of on 21.11.2023 with the following directions:

48 (i) The respondent/promoter is directed to refund the entire paid-up amount of Rs. 1,44,76,467/- received by it from the complainant along with interest at the rate of 10.75% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of filing of the complaint i.e. 18.12.2020 till the actual realization of the amount.

(ii) If in pursuance to order in Cr. No. 3170/2021, the respondent builder has already refunded any amount to the complainant then the respondent builder is directed to adjust/deduct such refunded amount from the paid up amount of Rs. 1,44,76,467/- and to pay the balance amount with interest as directed above. However, if no amount is refunded till date then the respondent builder is directed to pay the entire clubbed amount i.e. Rs. 1,44,76,467/- to the complainants.

(iii) A period of 90 days is given to the respondent-builder to comply with the directions given in this order and failing which legal consequences would follow.

The applicant-promoter states that while allowing a refund in **CR No. 4757/2020**, a duplication has occurred, as an order for **CR No. 3170/2021** had already been passed on **16.05.2023**. Therefore, the above complaint should not have been included in the subsequent order issued under **CR No. 4757/2020**. It is important to note that on 21.11.2023, the Authority, passed directions in CR no.



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4757 of 2020 to the respondent, not only in respect of the present complaints, but also passed directions pertaining to the complainants in complaint bearing no. 3170 of 2021. Despite the complainant's knowledge of the fact that a combined order had been passed, the complainant proceeded to file a separate execution complaint in CR No. 3170 of 2021 on 05.04.2024. It was subsequently admitted that the amount had already been refunded to the complainant in relation to the matter in CR No.3170 of 2021.

The Authority observes that the complainant cannot receive a refund of the same amount for the same unit twice. Both parties have acknowledged and agreed that the refund in respect of **CR No. 3170 of 2021** has already been made. Therefore, in **CR No. 4757 of 2020**, the applicant-promoter was directed to refund the amount paid by the complainants in respect of the total amount paid by them with the proviso that *If in pursuance to order in Cr. No. 3170/2021, the respondent builder has already refunded any amount to the complainant then the respondent builder is directed to adjust/deduct such refunded amount from the paid up amount of Rs. 1,44,76,467/- and to pay the balance amount with interest as directed above.* The complainant can not seek refund for the same unit twice.

Consequently, the directions in CR No. **4757 of 2020** is hereby amended and to be read as "respondent builder is directed to refund the entire paid up amount paid by the complainant in the present complaint i.e. Rs. 94,87,406/- along with interest at the rate of 10.75% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of filing of the complaint i.e. 18.12.2020 till the actual realisation".

Application stands Disposed of. File be consigned to the registry.


Ashok Sangwan
Member


Arun Kumar
Chairman
24.12.2024


Vijay Kumar Goyal
Member