



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2347 of 2023
Date of filing:	16.10.2023
First date of hearing:	29.11.2023
Date of decision:	06.02.2025

Akshi Nayyar W/o Sh. Sachin Prashar
R/o Bhagwati Nagar, Canal Road, Opposite Bright Candle School,
Sector-1, Jammu and Kashmir-180001

.....COMPLAINANT

Versus

1. Raheja Developers Ltd through its Managing Director
W4-D, 204/5, Keshav Kunj, Cariappa Marg, Western Avenue,
Sainik Farms, New Delhi-110062
2. Navin M Raheja R/o
W4-D, 204/5, Keshav Kunj, Cariappa Marg, Western Avenue,
Sainik Farms, New Delhi-110062
3. Sangeeta Kumar R/o
W4-D, 204/5, Keshav Kunj, Cariappa Marg, Western Avenue,
Sainik Farms, New Delhi-110062
4. Nitesh Kumar Jha R/o
W4-D, 204/5, Keshav Kunj, Cariappa Marg, Western Avenue,
Sainik Farms, New Delhi-110062

.....RESPONDENT

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CORAM: Parneet S Sachdev	Chairman
Nadim Akhtar	Member
Dr. Geeta Rathee Singh	Member
Chander Shekhar	Member

Present: - Mr. Himanshu Raj, Counsel for the complainant through VC.
Mr. Abhishek Kathuria, Counsel for the respondent through VC.

ORDER (PARNEET S SACHDEV-CHAIRMAN)

1. Present complaint was filed on 16.10.2023 by the complainant for contravention of Section 63 of the Real Estate Regulatory Authority Act 2016, i.e for failure on part of the respondent to comply with the order dated 25.04.2023 passed by this Authority, in complaint no. 1525 of 2022. In the order referred to above, relief of refund of ₹ 37,28,608/- to be paid by respondent to the complainant was granted. Authority vide this order had directed the respondent promoter to make the payment of the above stated amount within 90 days. That period lapsed on 24.07.2023. However, respondent has failed to refund the said amount as directed.

2. The complainant has prayed for a relief of imposition of penalty against the respondent u/s 63 of the RERA Act. That complainant has also referred to a Judgment dated 31.05.2022, titled as Amandeep Kaur and Sukwant Singh Bhatti Versus ATS Infrabuild Pvt Ltd. passed by



RERA Punjab, wherein same relief has been adjudicated and granted to the complainant upon by the said forum, which is annexed as Annexure C-3 of the complaint book.

3. After going through relevant record, it is observed that the case of the complainant is that the Authority vide its final disposal order dated 25.04.2023 passed in complaint no. 1525 of 2022, titled as Akshi Nayyar Versus Raheja Developers Limited had directed the respondent-promoter to refund to the complainant the paid amount along with interest i.e ₹ 37,28,608/-within 90 days, as provided under Rule 16 of the Haryana Real Estate (Regulatory and Development) Rules 2017. However, the respondent had failed to comply with the order of the Authority dated 25.04.2-23 passed in complaint no.1525 of 2022 and is thus liable for imposition of penalty under Section 63 of the Real Estate Regulatory Authority Act 2016, which may extend to upto 5% of the estimated cost of the development of the project. It is noteworthy here that the complainant by way of filing the present complaint is seeking the relief of “ imposition of penalty under Section 63 of the Real Estate Regulatory Authority Act 2016 upon respondent for non-compliance of the order dated 25.04.2023 passed by the Authority”. Further it is pertinent to mention that the complainant is seeking the above mentioned relief without prejudice to his rights under the Real Estate



Regulatory Authority Act 2016, w.r.t. execution of the orders of the Authority.

The respondent-promoter vide last order dated 01.10.2024 was provided opportunity to file reply. However, no reply has been filed by respondents till date. Therefore, Authority decides to adjudicate the matter by considering the facts on record.

4. The following issues are to be adjudicated upon:-

- (i) The complainant-allottee being aggrieved as discussed above, what is the remedy available to the allottees as per provisions of Real Estate Regulatory Authority Act 2016.
- (ii) Can imposition of penalty under Section 63 of the Real Estate Regulatory Authority Act 2016 be sought as a relief by aggrieved allottees for non-compliance of an order of the Authority or is it a power entrusted upon the Authority.

In this regard, the Authority observes that Section 40 of the Real Estate Regulatory Authority Act 2016, provides that if a promoter or an allottee or real estate agent fails to pay any interest or penalty or compensation imposed on him by the Regulatory Authority under the Act or the Rules and Regulation made thereunder, it shall be recoverable from such promoter or allottee or real estate agent, in such manner, as may be prescribed, as arrears of land revenue. Thus an appropriate remedy to recover

said amount lies under Section 40 of the Real Estate Regulatory Authority Act 2016 read with Rule 27 of Haryana Real Estate (Regulation & Development) Rules, 2017 i.e that of Execution of relief granted.


The Authority observes that in the present complaint the rights of the aggrieved allottee visa-vis- the respondent with regard to violation of agreement for sale had already been adjudicated upon and the appropriate relief as provided under the Act had been granted vide order dated 25.04.2023 in complaint no. 1525 of 2022 as mentioned above. A penalty to be imposed on the respondent u/s 63 cannot be considered as a "relief" for an aggrieved person i.e the complainant in this case.

5. Therefore, the Authority is of the considered view that **“ exercise of its own powers by the Authority under the Act cannot be sought as a “relief” by an aggrieved person/ allottee”**. It is a general law that whatever is the entitlement can be granted as a relief.
6. In the present case, the interest of the complainant had already been safeguarded and entitled relief of refund along with interest had already has been granted vide order dated 25.04.2023 in complaint no. 1525 of 2022.



7. Imposition of penalty is not a relief entitlement of a complainant.
For the above stated reasons, present complaint is **disposed of as dismissed.**
8. File be consigned to record room after uploading of this order on the website of the Authority.


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CHANDER SHEKHAR
[MEMBER]


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DR. GEETA RATHEE SINGH
[MEMBER]


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NADIM AKHTAR
[MEMBER]


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PARNEET S SACHDEV
[CHAIRMAN]