



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 311 OF 2018

Nirmal Deep SawhneyCOMPLAINANT(S)

VERSUS

Pal Infrastructure And Developers P Ltd.RESPONDENT(S)

2. COMPLAINT NO. 504 OF 2019

Subhash Chand MittalCOMPLAINANT(S)

VERSUS

Pal Infrastructure And Developers P Ltd.RESPONDENT(S)

3. COMPLAINT NO. 344 OF 2019

Subhash KumariCOMPLAINANT(S)

VERSUS

Pal Infrastructure And Developers P Ltd.RESPONDENT(S)

4. COMPLAINT NO. 776 OF 2019

Ravinder Kumar PalCOMPLAINANT(S)

VERSUS

Pal Infrastructure And Developers P Ltd.RESPONDENT(S)

CORAM: Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag

Chairman
Member
Member

Date of Hearing: 23.10.2019

Hearing: 7th (In complaint no.311 of 2018)
3rd (In complaint no.504 of 2019)
4th (In complaint no.344 of 2019)
3rd (In complaint no.504 of 2019)

Present: - Mr. Parminder Rattan, Counsel for complainant.
(In complaint no. 311 of 2018)
Mr. Gaurav, Counsel for complainant.
(In complaint no. 344 of 2019)
None for complainant.
(In complaint no. 504 & 776 of 2019)

Mr. Atul Goyal & Arjun Kundra, Counsels on behalf of Mr. Dilip Niranjani (Interim Resolution Professional).

ORDER (ANIL KUMAR PANWAR-MEMBER)

1. The complainants in the above captioned cases had booked residential flats in respondent's project named "Pal Garden" situated in Sector-89, Faridabad. The complainants made payments as shown below:-

Complaint no.	Agreed total Sale Consideration	Amount already paid by the complainant.
344/2019	Rs.22,93,000/-	Rs.15,18,915/-
776/2019	Rs. 21,31,250/-	Rs. 6,40,000/-
504/2019	Rs. 32,00,250/-	Rs. 9,77,500/-
311/2018	Rs. 22,12,500	Rs. 20,23,241/-



3. The notice issued to the respondent in some complaints could not be delivered for the want of correct address whereas in some complaints notice was delivered but neither any one appeared nor the reply has been filed on behalf of the respondent.

4. 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 already 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 2019 and other connected complaints, had ruled that the allottees of a project should be treated on different footing than the 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 and the directions issued in the said complaint are reproduced below:

- (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.”

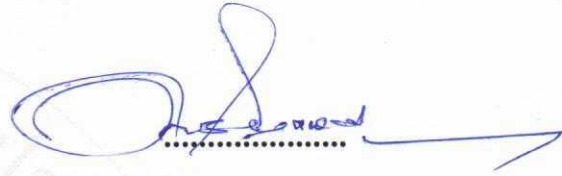
7. On the aforesaid corollary, the present complainant-allottees can also be and are hereby held entitled to the same relief as are allowed by this Authority in complaint case no. 383 of 2018 and the present complaints are **disposed of** accordingly.



8. Orders be uploaded on the website of the Authority and file be consigned to the record room.



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RAJAN GUPTA
[CHAIRMAN]



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ANIL KUMAR PANWAR
[MEMBER]



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DILBAG SINGH SIHAG
[MEMBER]

