HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

BEFORE THE ADJUDICATING OFFICER
COMPLAINT NO. 1314 OF 2023

Anjali Kapoor and Sanjay Kumar Alias Sanjay Kapoor

....COMPLAINANTS

VERSUS

RPS Infrastructure Ltd ....RESPONDENT

Date of Hearing: 30.01.2025

Hearing: **12th**

Present: Mr. Harprit Singh Arora, Advocate, for the complainants through VC.
Mr. Vaibhav Dheeka, Advocate, proxy for Mr. Garvit Gupta, Advocate, for the respondent through VC.

30/1/2025

ORDER

Today, case for fixed for arguments.

2. Before hearing arguments, this Forum poses a query to learned counsel for complainants as to how the present complaint is maintainable in view of provisions of Rule 29 of HRERA, Rules, 2017, which mandates that complaint under Section 71 of RERA Act, 2016 read with Rule 29 of HRERA,

Rules, 2017, is to be filed only when Hon'ble Authority as defined in Section 2(i) of the RERA Act, 2016, in its order, find violation of the provisions of the Act, 2016, established on its record in the complaint filed before it under Section 31 of the Act, 2016. For ready reference, Rule 29 of the Rules, 2017 is reproduced below;

> *"**Rule 29(1)(a)** Any aggrieved person may file an application/ complaint with the Adjudicating Officer for adjudging quantum of compensation as provided under sections 12,14,18 and 19, where violation by the promoter has been established by the Authority in an enquiry under section 35, in Form 'CAO' or in such form as specified in the regulations, which shall be accompanied by a fee as mentioned in Schedule III in the form of demand draft or a bankers cheque drawn on a Scheduled bank, or online payment in favour of "Haryana Real Estate Regulatory Authority" and payable at the branch of that bank at the station where the seat of the said Authority is situated."*

30/1/2025

The perusal of above provision makes it clear that there is no provision in Rule 29 of Rules, 2017, which enables an allottee to apply for compensation under Section 71 of Act, 2016, read with Rule 29 of the Rules ,2017, directly by approaching Adjudicating Officer to get relief without approaching Hon'ble Authority to get relief under Section 35 of the Act, 2016. It is the reason that Form 'CAO', at point no.4, "Facts of the case", requires such information. For ready reference, the contents of point no.4 are reproduced below;

"4. ***Facts of the case:****[give a concise statement of facts and grounds of claim for compensation against the promoter and the contravention or violation of provisions of the Act or the Rules or regulations made thereunder as established by an enquiry under section 35 by the Authority being ground for claim of the compensation, if yes, copy be enclosed];"*

With above observations, learned counsel for complainant is posed a question as to how, the present complaint is maintainable under Section 71 of the Act, 2016, when so far no relief under Section 35 of the Act, 2016 has been granted by the Hon'ble Authority while exercising its powers under Section 31 of the Act, 2016?

3. Learned counsel for the complainants has agreed to the above raised query and requested to withdraw the present complaint being non-mainatable in view of provisions of Section 71 of RERA Act, 2016 read with Rule 29 of HRERA, Rules, 2017, seeking permission to file afresh in accordance with law.

Heard. Request allowed.

On request, present complaint is **dismissed** being non-maintainable with liberty to the complainant to file afresh in accordance with law.

Let, file be consigned to record room after uploading order on the website of the Authority.

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MAJOR PHALIT SHARMA
ADSJ(Retd.)
ADJUDICATING OFFICER
30.01.2025