



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	1914 of 2023
Date of filing:	25.08.2023
Date of first hearing:	31.10.2023
Date of decision:	06.03.2025

SRS Resident Welfare Association through its
President, Sh. Chetram Sharma
R/o RWA, SRS Pearl,
Sector-5, Palwal.

....COMPLAINANT

VERSUS

M/s SRS Real Infrastructure Ltd. through its Director
Registered office: SRS Multiplex, Top Floor,
City Centre, Sector-12,
Faridabad-121007.

....RESPONDENT

CORAM: **Parneet S Sachdev** **Chairman**
 Nadim Akhtar **Member**
 Chander Shekhar **Member**

Present: Mr. Saleem Ahmed, proxy counsel for Adv. Sukesh K. Jindal, for the complainant through VC.
Mr. Pranjal Chaudhary, counsel for the complainant association.
Mr. Chetram Sharma, authorized representative of the complainant association, in person.
Mr. Anuj Chauhan, ld. counsel representing IRP through VC.
Mr. Anil Jindal, MD of the respondent company through VC.

ORDER (PARNEET S SACHDEV – CHAIRMAN)

1. Present complaint dated 25.08.2023 has been filed by the complainant's association under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of

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the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. FACTS OF THE COMPLAINT

2. Facts of the complaint are such that the complainant being a Resident Welfare Association hereinafter, referred as RWA, is a registered society under Section 33(4)(ii) of the Haryana Registration and Regulation of Societies Act, 2012. Present complaint is filed through its President, Mr. Chetram Sharma, who has been duly authorized by the complainant society to represent and act on its behalf. A copy of the registration certificate of the society is and marked as **ANNEXURE C-1** in complaint file.
3. That the respondent is a company engaged in the business of real estate development. The respondent undertook the development of a residential group housing colony in Sector - 5, Palwal, under the name and style of 'SRS Pearl' and was granted License No. 1301 of 2006 dated 23.12.2006 by the Directorate of Town and Country Planning, Haryana,



for the development of the said project. This license was subsequently renewed from time to time.

4. That the complainant has submitted a list of members of RWA. It consists of 86 allottees of the respondent in the aforementioned project, 'SRS Pearl', located in Sector - 5, Palwal. These 86 allottees are members of the complainant society, and the grievances of all the allottees are identical with respect to the respondent. Therefore, the present complaint is being filed by the complainant RWA on behalf of all the allottees, seeking the same relief for all affected parties. That the details of all the allottees, including their respective flat numbers, mobile numbers, and addresses, are annexed as **ANNEXURE C-2**.
5. That all the allottees have paid the entire sale consideration for their respective flats as per their individual builder-buyer agreements. Furthermore, each allottee has obtained possession certificates from the respondent and has been in actual, peaceful possession of their respective apartments for a considerable period. The complainant has attached a copy of the builder-buyer agreement dated 07.01.2013 and a possession certificate dated 14.04.2016 executed between the respondent and one of the allottees, Mr. Pawan Kumar for reference, which are annexed as **ANNEXURE C-3**, and **ANNEXURE C-4** respectively.



6. That despite the respondent having received the full sale consideration in accordance with the individual builder-buyer agreements and having issued possession certificates, the conveyance deeds for the allottees remain unexecuted. The respondent's officials have failed to address the repeated requests made by the allottees concerning the execution of the conveyance deeds, despite numerous visits by the allottees to the respondent's office.
7. That the complainant has relied upon the order passed by this Hon'ble Authority in Complaint No. 985 of 2022, titled '*Bhupinder Singh and Gurpreet Kaur Vs. SRS Real Estate and Others*', wherein, in Para 19 of the order dated 23.08.2022, it was directed that the respondent-promoter, SRS Real Estate shall authorize an official to execute the conveyance deeds in favor of the allottees. The respondent was further instructed to prepare draft conveyance deeds and send them to each allottee-complainant within 60 days, with the conveyance deeds to be executed in accordance with the law. The order specifically stated that it would apply to all similarly situated allottees, irrespective of whether they had approached the Authority through a complaint. Despite the complainant's reliance on these explicit directions from this Hon'ble Authority, the conveyance deeds have yet to be executed.



8. That the complainant has stated that the present complainants are identically situated to the allottees in the aforementioned complaint disposed of by this Hon'ble Authority on 23.08.2022. A copy of the order dated 23.08.2022 is annexed hereto as **ANNEXURE C-5**.

B. RELIEFS SOUGHT

9. In view of the facts mentioned above, complainant prays for the following relief(s):-
- i. The respondent may kindly be directed to execute the conveyance deeds of the allottees herein in terms of the order dated 23.08.2022 (Annexure C-5);
 - ii. The respondent may further be directed to pay compensation for failure to discharge their obligations in view of Section 12 of the Real Estate (Regulations and Development) Act, 2016;
 - iii. Cost of litigation may kindly be granted to the complainant;
 - iv. Any other relief which this Hon'ble Authority deems fit and appropriate in the facts and circumstances of the present complaint.

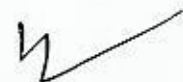
C. REPLY SUBMITTED BY INSOLVENCY RESOLUTION PROFESSIONAL

Reply on behalf of the of respondent company, SRS Real Infrastructure Limited (Corporate Debtor), was filed on 29.01.2024 through counsel on behalf of Interim Resolution Professional duly appointed by Hon'ble



NCLT, Chandigarh Bench vide order dated 16.08.2022 and further confirmed as Resolution Professional of the respondent company, who has been expressly authorized by the company to submit replies in the present matter wherein he submitted:

10. That pursuant to the insolvency proceedings initiated against the respondent, SRS Real Infrastructure Private Limited, before the Hon'ble NCLT, Chandigarh Bench, the Corporate Insolvency Resolution Process ("CIRP") was commenced under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") vide Order dated 16.08.2022 in case no. CP (IB) No. 266/Chd/Hry/2020. By the same order, Mr. Amarpal (IBBI/PA-001/P-P-01584/2018-2019/12411) was appointed as the Interim Resolution Professional ("IRP") for the respondent/Corporate Debtor ("CD"). The Copy of the Order dated 16.08.2022 is attached herewith and marked as **ANNEXURE-1**.
11. That upon initiation of the CIRP, the NCLT-appointed Interim Resolution Professional ("IRP") assumes the control of the company's management and assets, as per the IBC and its regulations, to maximize the value of the company's assets in the public interest.
12. That, in accordance with Regulation 6 of the IBBI (CIRP) Regulations, 2016, the Interim Resolution Professional ("IRP") made a Public Announcement under FORM A on 19.08.2022, notifying the public



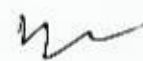
about the commencement of the CIRP against the Corporate Debtor and inviting creditors to submit their claims as per the prescribed procedure under the Code. The announcement was published in (i) Times of India (English), (ii) Dainik Bhaskar (Hindi), (iii) The Tribune-Chandigarh, and (iv) The Tribune-Punjab (Punjabi), considering the territorial jurisdiction of the Corporate Debtor's registered office. Additionally, the Form A was uploaded on the IBBI website. A copy of the Public Announcement dated 19.08.2022 is annexed in reply as **ANNEXURE-2 (COLLY)**.

13. That IRP was subsequently confirmed as the Resolution Professional ("RP") during the first meeting of the Committee of Creditors ("COC") held on 15.09.2022, with the responsibility to resolve the company in a time-bound manner, without any interference from courts or other authorities.
14. That pursuant to Section 17 of the IBC, the management of the company's affairs is vested solely in the Resolution Professional ("RP"), and the powers of the Board of Directors are suspended. Therefore, the RP is the sole representative of the company.
15. That vide order dated 16.08.2022, the Hon'ble NCLT declared a "Moratorium" against the Corporate Debtor under Section 14 of the IBC, which, by virtue of Section 238 of the IBC, 2016, overrides other



statutes to ensure the maximization of asset value and a time-bound resolution process. It is pertinent to note that the property located at Sector-5, Palwal was provisionally attached by the Enforcement Directorate vide order dated 08.01.2020, which was subsequently confirmed by the Hon'ble Adjudicating Authority under PMLA, 2002 vide order dated 31.08.2021.

16. That the IRP/RP while discharging his duties had received claims from homebuyers, banks, income tax department and on verification of the said claims filed by the homebuyers as per the provisions of IBC, 2016, the claim has been admitted on the basis of documents available on records which is evident from the list of creditors updated as on 19.12.2023 available on the website of respondent company.
17. That the claim for a nominal amount of Re. 1 has been provisionally accepted for homebuyers, provided they meet three conditions: payment is made as per the contract, possession has been given by the ex-management, and the homebuyer is occupying the unit. These homebuyers are now part of the Committee of Creditors (COC).
18. Additionally, an application has been filed before the Hon'ble NCLT, Chandigarh Bench (IA No. 1025/2023), seeking the exclusion of Tower C, SRS Pearl Floors, Palwal, Haryana, from the insolvency process. The



application states that Tower C is not an asset of the Corporate Debtor.

A copy of the application is attached as **ANNEXURE-3**.

19. Respondent specifically denied the averments made by the complainants and stated that in light of the moratorium imposed by the Hon'ble NCLT neither any existing legal proceeding could be continued nor any new suits could be instituted upon the corporate debtor. Further, he stated that the complainant's complaint holds no merit as the said property has been attached by the Enforcement Directorate (ED). Additionally, the complainant has failed to submit any documents related to payment proof, the Builder Buyer Agreement (BBA), possession certificate, or any other supporting documents before the Resolution Professional (RP), nor has any claim been filed before the RP.
20. He objected that the Complaint No. 985 of 2022 dated 23.08.2022 relied upon by the complainant, is not related to the current respondent, SRS Real Infrastructure Limited. The order in question was passed against a separate legal entity, SRS Real Estate Limited.
21. It is reiterated by the respondent that the complainant association is attempting to mislead the Authority and is forum shopping before the authority by filing multiple complaints against the CD before various courts/ tribunals, authorities. In view of the foregoing, respondent



prayed that the present complaint, being wholly frivolous be dismissed with costs.

D. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

22. During the course of oral arguments, ld. counsel for the complainants reiterated his arguments as were submitted in writing and further submitted that in compliance with the last order dated 23.01.2025, the complainants have duly amended their application before the Hon'ble NCLT. It was further submitted that the amended application, reflecting the changes made to avoid any multiplicity of prayers between the proceedings pending before the Hon'ble NCLT and this Authority, has been placed on record on 28.02.2025. He contended that the project had received Occupation Certificate (OC) in the year 2015 and possession was duly handed over by the promoter. The complainants also possess "No Due Certificates." The delay in execution of the Conveyance Deeds arose only because the promoter was incarcerated at the relevant time. He argued that, since possession was legally handed over in 2017, there should be no impediment in executing the Conveyance Deeds collectively for all the allottees as a single unit, without requiring individual claims to be filed separately. He asserted that there is no legal



necessity for individual filings when the allotments and possession were made collectively.

23. Ld. Counsel further submitted that although the IRP now contends that the Conveyance Deeds can be executed only with a resolution from the Committee of Creditors (COC), no such objection was ever raised by the IRP before the COC proceedings. It was alleged that the IRP, who is only a facilitator under the law, ought to assist in the liquidation process rather than adopting an adversarial stance against the complainants. He emphasized that all the necessary documents are already on record, and there is no factual impediment to the execution of the Conveyance Deeds. He concluded that the IRP's objections are misleading and unwarranted and urged the Authority to allow the execution of the Conveyance Deeds without further delay.
24. On the other hand, Mr. Anuj Chauhan, appearing on behalf of the IRP, submitted that Mr. Anil Jindal, being a suspended director of the respondent company, has no locus standi before this Authority. He further submitted that pursuant to the directions issued vide the last order, an affidavit explaining the valuation of the claim at Re.1 has been placed on record on 21.02.2025. The affidavit clarifies that, under the amended IBC regulations, the IRP can execute the Conveyance Deed only upon the passing of a resolution by the COC and pursuant to



directions issued by the Hon'ble NCLT. He stated that the application seeking approval for the execution of the Conveyance Deed is pending before the Hon'ble NCLT. The IRP has no objection to executing the Conveyance Deed provided that the COC passes the requisite resolution; however, in the absence of such a resolution and a specific order from the Hon'ble NCLT, the IRP is not legally empowered to execute the deed independently.

25. The IRP further pointed out that while the complainants claim that supporting documents have been filed, only a list has been placed on record and not the actual receipts or payment proofs, thereby raising concerns regarding the sufficiency of evidence for executing the Conveyance Deeds. He emphasized that the project is under moratorium, and until the NCLT grants specific directions or the moratorium is lifted, the Authority cannot proceed to decide the present matter. The IRP maintained that he is acting strictly within the confines of the law and cannot assume responsibilities beyond those permitted under the IBC framework.

E. WRITTEN SUBMISSION ON BEHALF OF THE RESOLUTION PROFESSIONAL

26. The Resolution Professional (RP) for respondent company has filed an affidavit dated 21.02.2025 in compliance of Authority's order dated



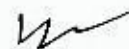
23.01.2025 wherein the authority had directed the respondent to place on record relevant documentary evidence substantiating the claim of valuation at Re. 1 for such allottees of flats where full payment is made, possession offered and only the conveyance deed is to be executed, along with the rationale behind such treatment, to enable a proper assessment of the claim. He submitted that the RP received claims from various stakeholders, including homebuyers, and admitted them based on records as submitted by homebuyers/ other creditors which is evident from list of creditors updated as on 20.11.2024 available on company's website.

27. Further, the claim of a nominal amount of Re. 1 was provisionally accepted for homebuyers where all the three following conditions were fulfilled: (i) full payment was made, (ii) possession has been delivered, and (iii) unit occupied. On fulfilling above these conditions, homebuyers were enabled to be part of the Committee of Creditors (COC). The details for the aforementioned were shared with the COC in its 7th meeting held on 22.06.2023, and relevant minutes have been annexed as Annexure 1 and Annexure 2 respectively.
28. He stated that the homebuyers of the corporate debtor, i.e., Respondent are adequately represented in the COC through the Authorised



representatives for the Class of Creditors, i.e., Allottees and were made aware of the process for better understanding.

29. That the admission of claims at Re. 1 is a technical measure to acknowledge homebuyers rights and facilitate their participation in the COC. Such inclusion in the COC ensures that the rights of the homebuyers over their units are formally recognised which will ultimately lead to execution of conveyance deed in their favour once it is directed by the Hon'ble NCLT or upon completion of the resolution process. Moreover, it is emphasised that it does not affect their entitlement to execute the conveyance deed. Further, he stated that the RP has taken necessary steps to protect the allottee's rights.
30. He stated that the complainants have filed IA No. 1025 of 2023 before the NCLT, Chandigarh, seeking exclusion of Tower C, SRS Pearl Floor, Palwal, from CIRP and requesting execution of transfer deeds. He added that the matter is pending for adjudication before the Hon'ble NCLT Chandigarh bench and the RP, as an officer of the court, is bound by the NCLT's decision.
31. Furthermore, the RP states his inability to comprehend as to how the complainants can claim that the possession of the unit had been taken validly, since the complaint is incomplete in that respect. He added that the complainants have not submitted necessary documents to verify their



claims, and in their absence, the RP has admitted claims based on record available with him or submitted by the creditors along with the claim form. Therefore, the affidavit clarifies that the valuation at Re. 1 is a procedural step ensuring homebuyers' participation in the CIRP.

F. ISSUES FOR ADJUDICATION AND OBSERVATION OF THE AUTHORITY ON THE RELIEF SOUGHT BY THE COMPLAINANTS.

Whether the complainant allottees are entitled to execution of conveyance deeds?

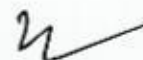
35. The present complaint has been instituted by the SRS Resident Welfare Association (RWA), a registered society representing 86 allottees in the 'SRS Pearl' residential group housing colony in Sector - 5, Palwal. The principal relief sought by the complainant association is a direction to the respondent-developer, SRS Real Infrastructure Limited, for execution of registered conveyance deeds in favour of the allottees who have paid full sale consideration and taken possession of their respective units.
36. It is the consistent case of the complainant association that all 86 represented allottees have fulfilled their contractual obligations by paying the full sale consideration and are in actual, lawful possession of their respective apartments, having obtained possession certificates from the developer. The conveyance deeds, however, remain unexecuted. In



support, the complainant places reliance on the Authority's order dated 23.08.2022 passed in Complaint No. 985 of 2022 titled '**Bhupinder Singh and Gurpreet Kaur Vs. SRS Real Estate and Others**', wherein the Authority held:

"Law of the land is that once full consideration has been paid, property has received occupation certificate from the State Government Authorities and possession is handed over in a lawful manner, the property in the apartment gets transferred automatically in favour of buyers. The allottee gets its legal ownership at the same moment of discharging his part of obligations. The seller loses its ownership in favour of allottee at that very moment. Consequently, execution of conveyance deed remains a mere formality for updating the records and signifying to the public at large regarding perfection of title. Non-execution of conveyance deed will not in any way adversely affect the rights of allottee and Right of allottee to get conveyance deed executed crystallises irrevocably at the same moment when he pays full consideration and obtains lawful possession. Delay caused by promoter in executing conveyance deed will not render imperfect an otherwise perfect title. In the considered view of this Authority ownership of the apartment has already got vested in the complaint. This prayer for execution of conveyance deed was their right under general law of the land, now made unambiguously clear by Section 17 of the RERA Act."

37. Authority, in the said order, further directed that the respondent-promoter shall authorize an official of the company to execute conveyance deeds, prepare draft deeds within 60 days, and execute the same as per law. Crucially, it was also held that



"these orders shall be applicable on all other similarly placed allottees also whether or not they have approached this Authority by way of a complaint."

38. Further reference is made to Complaint No. 14 of 2019, titled "**SRS Pearl Unity RWA vs. SRS Real Infrastructure**", where the Authority directed the Deputy Commissioner, Palwal to depute a Revenue Officer to facilitate execution of conveyance deeds in favour of 84 allottees who had cleared their dues, observing that:

"it will be in interest of justice that 84 allottees, who had cleared all their pending amounts be allowed to get the conveyance deed registered in their names..."

39. In the present case, however, it is not in dispute that the respondent company is undergoing Corporate Insolvency Resolution Process (CIRP) pursuant to the order dated 16.08.2022 passed by the Hon'ble NCLT under Section 7 of the Insolvency and Bankruptcy Code, 2016. An Interim Resolution Professional (IRP), later confirmed as Resolution Professional (RP), was appointed and a moratorium under Section 14 of the IBC has been in effect since 16.08.2022. The RP has taken the position that, owing to the moratorium under Section 14 of the IBC, no new legal proceedings can be initiated or continued against the corporate debtor. He submitted that execution of conveyance deeds can only take place pursuant to directions from the Hon'ble NCLT or through approval by the Committee of Creditors (CoC) and that an application



for such permission is already pending before the Hon'ble NCLT. The RP further argued that the affidavit filed by the complainant RWA is deficient, as it merely claims that full payments were made, without providing a process or documentary proof to verify whether the claimants are rightful owners or actual occupants.

40. In one of the earlier hearings, the RP had also stated that while possession has been given for 287 out of 356 units in the project, there is no systematic verification to determine the rightful ownership of those in possession. Moreover, the RP submitted that the allottees' claims have been nominally valued at Re. 1 for the technical purpose of their inclusion in the CoC, thereby allowing them to participate in the resolution process. He submitted that such inclusion formally acknowledges the rights of the allottees over their units and facilitates execution of conveyance deeds post-resolution.

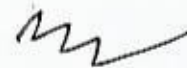
41. However, the ld. counsel for the complainant contended that the moratorium under the IBC, which came into effect on 16.08.2022, cannot be construed to apply retroactively to rights that had already crystallized in favour of the allottees. It was specifically argued that possession of the units in question was handed over in 2017 and full consideration had been paid prior to the commencement of the CIRP. The counsel relied upon the recent amendment to the IBBI (Insolvency



Resolution Process for Corporate Persons) Regulations, 2016, notified on 13.02.2024. Clause (m) inserted which states:

"Wherever the corporate debtor has given possession to an allottee in a real estate project, such asset shall not form a part of the liquidation estate of the corporate debtor."

42. Therefore, upon hearing the submissions of both the counsels and analyzing the facts and documents on record, Authority observes that the apartment units in respect of which possession had already been given fall outside the scope of the liquidation estate and therefore beyond the purview of the moratorium imposed under Section 14 of the IBC. The obligation to execute conveyance deeds is not a claim seeking recovery of dues from the corporate debtor but a procedural requirement to perfect title in favour of buyers whose ownership had already vested by operation of law. Thus, the moratorium cannot be used as a shield to indefinitely withhold execution of conveyance deeds for units already delivered.
43. This Authority is in agreement with the legal position as laid down in its earlier decisions, wherein it has consistently held that the ownership in a unit stands transferred to the allottee upon payment of full consideration and lawful delivery of possession, the execution of the conveyance deed, though mandatory under Sections 17 and 11(4) of the RERA Act, is a ministerial act, the non-performance of which does not impair the vested



rights of the allottee. Once the rights have crystallized prior to CIRP and particularly where possession has been handed over years before the declaration of moratorium, the assets in question fall outside the liquidation estate in light of clause (m) of the amended IBC regulations.

44. Accordingly, while this Authority takes note of the RP's submission regarding the pending application before the Hon'ble NCLT and the necessity of formal direction from that forum, the view of this Authority remains that, in law, the right of allottees to execution of the conveyance deed has already accrued and stands unaffected by the insolvency proceedings. The execution of the conveyance deed is not a claim in the nature of recovery but is a necessary legal obligation of the promoter under the RERA Act.
45. Therefore, in the considered opinion of this Authority, the execution of conveyance deeds in respect of units for which possession was delivered prior to commencement of the Corporate Insolvency Resolution Process (CIRP), and wherein the allottees have either made full payment or have paid a substantial portion of the total consideration, does not fall within the ambit of the moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016. Execution of conveyance deeds in favour of allottees who are in possession and have either discharged the full consideration or are willing and ready to do so, constitutes fulfilment of




the developer's statutory obligation under Section 17 of the Real Estate (Regulation and Development) Act, 2016.

46. Accordingly, this Authority directs the respondent promoter to execute conveyance deeds as per law in favour of such allottees whose units were handed over prior to commencement of CIRP and who have either made full payment or have paid a substantial portion of the sale consideration and are ready and willing to pay the remaining dues. The respondent promoter shall, within a period of 60 days from the date of uploading of this order, verify the claims of the complainant RWA and individual allottees in this regard. Upon satisfaction of the conditions mentioned herein, the respondent promoter shall initiate and complete the process of execution and registration of the conveyance deeds in favour of the concerned allottees. In cases where balance payment is due, the respondent shall ensure that the conveyance deed is executed upon receipt of the remaining amount, provided the allottee expresses readiness and undertakes to make such payment. To facilitate the above finding, respondent-promoter is directed to authorise an official of the company to execute conveyance deeds in favour of allottees.
47. The complainants is also seeking compensation on account of failure to discharge their obligations in view of Section 12 of the RERA Act, 2016 and the cost of litigation. It is observed that Hon'ble Supreme Court of

India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt Ltd. V/s State of U.P. & ors.*" (supra), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

48. In view of the aforesaid observation, the case is disposed of. File be consigned to the record room after uploading of this order on the website of the Authority.


CHANDER SHEKHAR
[MEMBER]


NADIM AKHTAR
[MEMBER]


PARNEET S SACHDEV
[CHAIRMAN]