



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 223 OF 2019

Anita Rathee.COMPLAINANT(S)

VERSUS

M/s Umang Realtech Pvt. Ltd.RESPONDENT(S)

2. COMPLAINT NO. 224 OF 2019

Anita RatheeCOMPLAINANT(S)

VERSUS

M/s Umang Realtech Pvt. Ltd.RESPONDENT(S)

3. COMPLAINT NO. 225 OF 2019

Raj ParkashCOMPLAINANT(S)

VERSUS

M/s Umang Realtech Pvt. Ltd.RESPONDENT(S)

4. COMPLAINT NO. 226 OF 2019

Satnarain Sharma EtcCOMPLAINANT(S)

VERSUS

M/s Umang Realtech Pvt. Ltd.RESPONDENT(S)

5. COMPLAINT NO. 227 OF 2019

Sudesh ChhabraCOMPLAINANT(S)

VERSUS

M/s Umang Realtech Pvt. Ltd.RESPONDENT(S)

6. COMPLAINT NO. 228 OF 2019

Ram Niwas HoodaCOMPLAINANT(S)

VERSUS

M/s Umang Realtech Pvt. Ltd.RESPONDENT(S)

7. COMPLAINT NO. 229 OF 2019

Dr. Dilip MongaCOMPLAINANT(S)

VERSUS

M/s Umang Realtech Pvt. Ltd.RESPONDENT(S)



8. COMPLAINT NO. 240 OF 2019

Bharti Kulharia Etc

....COMPLAINANT(S)

VERSUS

M/s Umang Realtech Pvt. Ltd.

....RESPONDENT(S)

CORAM: Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag

Chairman
Member
Member

Date of Hearing: 24.09.2019

Hearing: 5th

Present: - Mr. Sudeep Singh, counsel for the complainants

Ms. Rakhi, Proxy counsel for Mr. Kamal Dahiya counsel for the respondent



ORDER (RAJAN GUPTA - CHAIRMAN)

1. The present bunch of complaints was filed for the execution of order dated 15.11.2018 passed by this Hon'ble Authority in complainant no. 339 of 2018 as lead case titled "Anita Rathee Vs M/s Umang Realtech Pvt. Ltd." The order of the Authority is reproduced below:

"The Authority directed the refund of entire amount payable at the rate prescribed in Rule 15 of HRERA Rules i.e. at the rate equivalent to SBI highest marginal cost landing rate plus 2 % applicable to the period for which compensation is payable and the interest will be calculated from the date of payment till the last payment to be made by the Promoter. The amount to be paid within 60 days in two instalments. The first will be paid in 30 days from the date of order.

The matter is disposed-off in the above-mentioned terms. File be consigned to record room."

2. Therefore, the complainant prays for execution of the captioned complainants and requested the Authority to dispose of these matters in terms of complaint No.383 of 2018 Gurbaksh and another Versus M/s ABW Infrastructures Pvt.Ltd.

3. The respondent filed a copy of the order wherein Hon'ble National Company Law Tribunal (NCLT), vide its order dated 20.08.2019 had imposed moratorium under Section 14 of the Insolvency and Bankruptcy Code 2016 (IBC). He has further pleaded that this complaint cannot be proceed with in view of the moratorium imposed by Hon'ble NCLT.



4. The Authority has gone through the matter in detail. In the interest of suitable execution of the orders, this bunch of complaints is now disposed of in same terms as complaint No.383 of 2018. While disposing of Complaint no.383 of 2019 and other connected complaints, the Authority had ruled that the Allottees of a project should be treated on different footings from rest of the financial or operational creditors. The Allottees to the extent of payments made become owner of the project. Their rights cannot be adversely affected without their consent. The Authority had also ruled that vis-à-vis the assets of the project of which they are allottees, they shall have a superior right over everyone else. Further in respect of the assets of the company other than the assets of the project concerned, the allottees shall be treated at par with the other financial creditors. The operative part of the order of this Authority in the said complaint is reproduced below:

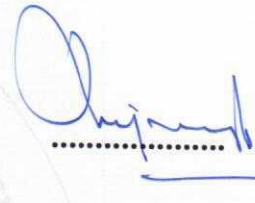
1. " The directions issued in the foregoing Paras are summarized as follows:-
 - (i) The allottees of the project in question shall be treated as deemed owners of the project. The promoters of the project and the lending financial institutions cannot alienate the ownership rights of the allottees at 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. Disposed of accordingly. File be consigned to the record room and these orders be uploaded on the website of the Authority.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]



DILBAG SINGH SIHAG
[MEMBER]