

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.414 of 2023

Date of Decision: July 11, 2025

Dishant Tyagi, 76, Shanti Vihar Delhi-110092

Appellant.

Versus

Forever Buildtech Pvt. Ltd., 12th Floor, Gopal Das Bhavan, 28,
Barakhamba Road, New Delhi-110001

Respondent

Argued by: Mr. Avnish Kumar Tyagi, Advocate for the appellant.
Mr. Kamaljeet Dahiya, Advocate for the respondent

CORAM:

Justice Rajan Gupta
Rakesh Manocha

Chairman
Member (Technical)
(Joined through VC)

ORDER:

RAJAN GUPTA, CHAIRMAN:

The present appeal is directed against the order dated 17.05.2023, passed by the Adjudicating Officer of the Authority¹ dismissing the complaint filed by the appellant.

2. In the year 2018, the appellant-allottee booked a residential flat in the project, namely, "Roselia-2" Sector 95-A, Gurugram floated by the respondent-promoter. He paid booking amount of Rs.1,04,852/- and was allotted a flat bearing No. J-1603 measuring 514.272 sq. ft. for a total sale consideration of Rs.20,97,050/-. The allottee paid Rs.2,29,852/- i.e., 10% of the total sale consideration. Later on, the allottee came to know that the advertisement published by

¹ Haryana Real Estate Regulatory Authority, Gurugram

the promoter on 24.10.2018 was misleading as Roselia-2 was already amalgamated in Roselia-1 having RERA registration No. 05/2017 with approved building plan dated 06.07.2018. The allottee preferred the complaint before the Adjudicating Officer seeking compensation from the respondent-promoter for mental and physical harassment and litigation cost. The said complaint was dismissed vide impugned order.

3. The promoter refuted the averments of the appellant-allottee and claimed that project of Roselia-2 was an extension of Roselia-1. The promoter amalgamated licences of both the towers and got approval from Chief Town Planner, Haryana.

4. We have heard learned counsel for the parties and given careful thought to the facts of the case.

5. The plea of the appellant is for refund of the amount of Rs.2,29,582/- along with interest and to initiate action against the respondent under relevant provision of the RERA Act². He has also claimed compensation for mental harassment and undue enrichment of the promoter. As per complainant, he was misled by the advertisement given in 'Dainik Jagran' newspaper by the promoter. In light of the advertisement, the appellant applied for a flat in "Roselia 2" and paid part of the sale consideration. He was allotted a flat No.J-1603. It was claimed that the project is nearing completion. He later found that the promoter had amalgamated licence No.63 of 2017 with licence No.13 of 2016 and got approval of the Chief Town Planner, Haryana. This fact was concealed by the promoter from HRERA Gurugram. On the

² Real Estate (Regulation and Development) Act, 2016

basis of this concealment, RERA registration was granted on 12.10.2018. As a result, advertisement was issued in the newspaper. pursuant to which, the appellant applied and succeeded. However, as the appellant was not aware of the clandestine manner in which the project had been conceived, he faced undue harassment for which he was entitled to compensation apart from the refund of the amount remitted by him. The complaint was rejected by the Adjudicating Officer on the ground that if the allegations levelled by the appellant are correct, it was for the Authority to take action for violation of the condition of registration and on this ground he was not entitled to any compensation.

6. There is no ground to interfere with the order passed by the Adjudicating Officer as jurisdiction, if any, to look into the allegation levelled by the appellant lies with the Authority.

6.1 As regards the claim for compensation, same can be granted only on the plea that the appellant was misled by the advertisement in the newspaper. However, in case, the appellant intends to claim refund of the amount of Rs.2,29,852/- remitted by him to the promoter, he is at liberty to prefer a complaint before the Authority as per law.

6.2 As regards the amalgamation of the project 'Roselia-1' and 'Roselia-2', the allegations levelled by the appellant may be examined by the Authority. If there is any substance in the same, action can be initiated as per provision of the RERA Act.

6.3 As regards the allegation of amalgamation of licence No.63 of 2017 with licence No.13 of 2016 and since the project

‘Roselia 1’ and ‘Roselia 2’ being separate towers, issue needs to be examined by the DTCP, Haryana.

6.4 So far as the issue of grant of registration pursuant to amalgamation on the basis of concealment of certain information is concerned, the Authority would look into the same.

7. With the aforesaid observation, the appeal is hereby disposed of.

8. Copy of this order be forwarded to the parties, their counsel, Chairman, HRERA at Gurugram and DTCP, Haryana. They may submit their respective reports on the administrative side in the Registry of the Tribunal within two months from today.

9. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(Joined through VC)

July 11, 2025.
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