

PROCEEDINGS OF THE DAY
17

Day and Date	Tuesday and 22.04.2025
Complaint No.	CR/2409/2024 Case titled as Sakshi Maggon and Raj Kumar Maggon VS Vatika Limited
Complainant	Sakshi Maggon and Raj Kumar Maggon
Represented through	Shri Abhay Jain Advocate
Respondent	Vatika Limited
Respondent Represented	Ms. Anjalika Sharma proxy counsel
Last date of hearing	18.03.2025
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings-cum-order

The present complaint was filed on 27.05.2024 and the complainant is seeking imposition of a penalty on respondent under Section 63 of the Act, 2016 for non-compliance of the directions of the authority issued vide order dated 26.09.2023. The complainants have also filed an application dated 30.09.2024 under Section 36 and 37 of the Act, 2016 for stopping construction by the third party which has been allotted the unit which stood allotted to the complainant.

It is pertinent to mention here that **complaint no. 2989 of 2021 titled as "Sakshi Maggon & Raj Kumar Maggon versus Vatika Limited"** has already been decided by the Authority on 26.09.2023 wherein the relief of delay possession charges was allowed to the complainants at the rate of 10.75% per annum as per Rules 15 and 16 of the HRERA Rules, 2017 from the due date of possession, i.e., 14.11.2014 till actual handover of possession or offer of possession plus two months, whichever is earlier, as per Section 18(1) of the RERA Act, 2016 read with Rule 15 of the HRERA Rules, 2017. The respondent was further directed to offer the possession of the allotted unit within 30 days after obtaining completion certificate or occupation certificate from the competent authorities. The Hon'ble Authority also directed the respondent not to charge anything from the complainants which is not part of the agreement.



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/2409/2024

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. डब्ल्यू. डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

In the said order the Authority also declared the transaction in favor of third party w.r.t. the subject unit as null and void. Para 28 (page 28 of 35) of the order dated 26.09.2023 is produced below for ready reference:

"....the complainants have preferential rights on the said plot, therefore, to prevent the misuse of dominant position of the respondent and to protect the right of bonafide purchasers i.e., the complainants herein and applicability of lis pendens, the transaction in respect of M/s Felisa Developers Pvt. Ltd is declared null and void. Thus, the re-allotment/new allotment of the subject unit vide BBA dated 17.10.2022 and any transaction effectuated thereafter, is ordered to be set-aside and the unit is ordered to be restored to its original position in favor of the complainants."

Due to non-compliance of the directions of the Authority by respondent vide order dated 26.09.2023, the complainants filed an **execution petition bearing no. 5949 of 2023 titled as "Sakshi Maggon & Raj Kumar Maggon versus Vatika Limited"** before the HARERA, Gurugram on 09.01.2024 for the compliance of the said order dated 26.09.2023. At present, the said execution petition is pending.

The respondent has also filed an **appeal bearing no.104 of 2024 before the Haryana Real Estate Appellate Tribunal, Chandigarh**, which is pending for further hearing on 13.05.2025. The Hon'ble appellate tribunal vide order dated 27.05.2024 have observed as under:

"It appears that third party rights have been created in the plot/unit in question first in favor of M/s Felisa Developers Pvt. Ltd and then in the name of some other person. It is directed that no further rights in the property in question shall be created during the pendency of this appeal. Same shall be subject to outcome of this appeal and doctrine of lis pendens shall apply. Gist of this order shall be prominently displayed by the appellant on its website"

The respondent in its **application for dismissal of complaint** has mentioned that the present matter is liable to be dismissed on the ground that the complainants have already filed a complaint seeking similar relief and the same was being disposed of by the authority vide order dated 26.09.2023. The respondents have gone in appeal against the said order vide appeal no. 104/2024 which is listed on 23.01.2025.

Order:

The Authority observes that the present matter stands decided by the Authority in CR/2989/2021. The orders passed by the Authority are enforceable under the provisions of Section 40 of the Act, 2016 read with Rule 27 of the Rules, 2017. The complainant has filed the execution before the



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM


हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/2409/2024

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. डब्ल्यू. डी. विन्धम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

Adjudicating Officer under Section 40 of the Act, 2016 for the non-compliance of the order of the Authority. Further, an appeal has been filed in the Hon'ble Appellate tribunal wherein the orders dated 26.09.2023 passed by this Authority have been assailed by the respondent. Interim orders have already been passed in the said appeal No. 104/2024. In view of the above, the present complaint is not maintainable. The subsequent application under Section 36 and 37 of the Act, 2016 also do not survive as the main complaint is not maintainable and is hereby dismissed.


Ashok Sangwan
Member


Arun Kumar
Chairman
22.04.2025


Vijay Kumar Goyal
Member