



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Date of Decision

28.04.2025

Name of the Builder		M/s Green Space Infraheights Private Limited		
Project Name		Shree Vardhman Green Space		
Sr. no.	Complaint no.	Title of the case	Appearance on behalf of complainant	Appearance on behalf respondent
1.	597 of 2023	Sandeep Kadiyan, S/o Sh. Balwan Singh House no.77, Block no.4, Village Siwah, Disrict Panipat, Haryana. Vs. Green Space Infraheights Pvt. Ltd. 306, 3 rd floor, Indraprakash Building, 21-Barakhamba Road, New Delhi-110001.	None present for the complainant.	Adv. Utkarsh, proxy counsel for Adv. Dharamveer Singh, counsel for the respondent through VC.
2.	876 of 2024	Sunita, W/o Sh. Ranbir Singh H.bo.2000, Maruti Kunj Bhondsi, Sohna Road, Gurugram 122102. Vs. Green Space	Adv. Neeraj Gupta, counsel or the complainant through VC.	Adv. Utkarsh, proxy counsel for Adv. Dharamveer Singh, counsel for the respondent through VC.

		Infraheights Pvt. Ltd. 306, 3 rd floor, Indraprakash Building, 21- Barakhamba Road, New Delhi-110001.		
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CORAM: Nadim Akhtar
Chander Shekhar

Member
Member

ORDER (NADIM AKHTAR-MEMBER)

1. This order shall dispose off both the above captioned complaints filed by the complainants before this Authority under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as RERA, Act of 2016) read with Rule 28 of 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.
2. The core issues emanating from the above captioned complaints are similar in nature. The complainants in the above referred complaints are allottees of the project namely; Shree Vardhman Green Space; being developed by the same respondent/ promoter, i.e., M/s Green Space Infraheights Private Limited in the revenue estate of Village Billah,



Sector-14, Panchkula Extension II, District Panchkula, Haryana governed in terms of the provisions of Affordable Group Housing Policy, 2013 issued by the Government of Haryana. The fulcrum of the issue involved in both the above captioned cases pertains to failure on the part of the respondent/promoter to deliver timely possession of the unit in question and the complainant(s) are now seeking refund of their paid amount along with the interest. Despite giving opportunities, respondent failed to file replies in all the above captioned matters.

3. The details of the above said complaints, unit no., date of allotment letter, date of builder buyer agreement, total sale consideration and amount paid by the complainant, offer of possession and relief sought are given in the table below:

Shree Vardhman Green Space

(Affordable Group Housing Policy, 2013)

Possession Clause 8(a) in Flat Buyer's Agreement:

"Subject to the force majeure circumstances, intervention of statutory authorities, receipt of occupation certificate and Allottee having timely complied with all its obligations, formalities or documentation, as prescribed by Developer and not being in default under any part hereof, including but not limited to the timely payment of instalments of the other charges as per the payment plan, Stamp Duty and registration charges, the Developer proposes to offer possession of the Said Flat to the Allottee within a period of 4 (four) years from the date of approval of building plan or grant of environment clearance, whichever is later (hereinafter referred to as the "Commencement Date")



Sr. no.	Complaint no./Title/Date of filing	Reply Status	Flat no. and area	Date of execution of flat buyer agreement	Total sale consideration (TSC) and amount paid by the complainant (Paid amount)	Offer of possession given or not given	Relief sought
1.	597 of 2023 Sandeep Kadiyan Vs. Green Space Infraheights Pvt. Ltd. 28.03.2023	Not filed	1005, 10 th floor, Tower G with carpet area of 478 sq.ft.	02.07.2016	TSC: ₹19,62,000/- Claimed Paid amount: ₹20,47,435/- As per receipts on record paid amount is ₹18,02,185/-.	Not given	Refund of paid amount along with interest.
2.	876 of 2024 Sunita Vs. Green Space Infraheights Pvt. Ltd. 03.07.2024	Not filed	0607, 6 th floor, Tower C, with carpet area of 511sq.ft.	18.01.2018	TSC: ₹20,94,000/- Paid amount: ₹15,56,408/-	Not given	Refund of paid amount along with interest.

A. COMPLAINT NO. 597 OF 2023 IS TAKEN AS A LEAD CASE AND

BRIEF FACTS OF THIS COMPLAINT ARE AS UNDER:

- (i) Complainant booked a residential flat in the project of the respondent namely, "Shree Vardhman Green Space" at village Billah, sector-14 , Panchkula, Haryana and submitted an application form for allotment of residential flat by paying an initial amount. In pursuance of same, the respondent allotted flat no. 1005, Tower G, 10th floor having carpet area of 478 sq.ft and balcony area of 100 sq.ft in favour of complainant.

- (ii) Flat buyer's agreement dated 02.07.2016 was executed between the parties against the basic sale price of ₹19,62,000/-. As per clause 8(a) of flat buyer agreement, respondent undertakes that possession of the said flat will be given within 4 years from the date of approval of building plans or grant of environment clearance, whichever is later. A copy of flat buyer agreement is attached at page no.33 of complaint book.
- (iii) Complainant had made total payment of ₹20,47,435/- towards his booked flat in favour of the respondent. However, even after paying substantial amount, possession of the said flat has not been delivered by the respondent till date to the complainant.
- (iv) The project's timely delivery was the essence of the contract and the respondent has made false commitments to the complainant and the respondent has resorted to misrepresentation. That the respondent has neither handed over the possession of the flat nor refunded the amount deposited by him along with interest to the complainant which is against the law, equity and fair play. Therefore, complainant being an aggrieved person, is filing the present complaint before this Hon'ble Authority for seeking certain directions cast upon the respondent.

B. RELIEFS SOUGHT

4. Complainant has sought following reliefs :

- (i) To give necessary directions to the respondent for refund of the payment made in lieu of flat till date along with prescribed rate of



interest as per the provisions of section 18 and section 19(4) of RE(R&D)Act.

- (ii) To impose penalty upon the respondent as per the provisions of Section 60 of RE(R&D) Act for wilful default committed by them.
- (iii) To impose penalty upon the respondent as per the provisions of Section 61 of RE(R&D) Act for contravention of Section 12, 13, 14 and 16 of RERA Act.
- (iv) To direct the respondent to provide the detailed account statement against the amount collected from the complainant in lieu of interest, penalty for delayed payments under Rule 21(3)(c) of HRERA Rules, 2017.
- (v) To issue directions to make liable every officer concerned, i.e, Director, Manager, Secretary or any other office of the respondent company at whose instance, connivance, acquiescence, neglect any of the offences has been committed as mentioned in section 69 of RERA Act, 2016 to be read with HRERA Rules, 2017.
- (vi) To recommend criminal action against the respondent for the criminal offence of cheating, fraud and criminal breach of trust under section 420, 406, and 409 of IPC.
- (vii) To issue direction to pay the cost of litigation.
- (viii) Any other relief which this Hon'ble Authority deem fit and appropriate in view of the facts and circumstances of the complaint.



C. REPLY ON BEHALF OF RESPONDENT

5. Notice was served to the respondent on 31.03.2023 which got successfully delivered on 03.04.2023. The first hearing was held on 10.05.2023, during which the respondent requested time to file a reply. Despite giving six opportunities, i.e, approximately 719 days (1 year 11 months) from first hearing and imposition of cost, the respondent failed to submit the reply till date. The Real Estate (Regulation and Development) Act, 2016, is a beneficial legislation aimed at providing speedy and efficacious redressal to grievances of allottees and other stakeholders. In furtherance of this objective, the proceedings before the Authority have been made summary in nature. Such expeditious adjudication is achievable only if the parties involved, both the complainant and the respondent, submit their pleadings in a time-bound manner. In light of the respondent's repeated non-compliance despite availing opportunities and keeping in consideration the summary procedure, the Authority deems it appropriate to strike off the respondent's defence and proceed to decide the present complaint ex-parte, as per record available on the file.

D. ARGUMENTS OF LEARNED COUNSEL FOR RESPONDENT

6. Today, no one has put in appearance on behalf of complainant. Counsel for respondent requested for some more time to file reply.



E. ISSUE FOR ADJUDICATION

7. Whether the complainant in the above captioned complaints are entitled to refund of the amount deposited by them along with interest in terms of Section 18 of RERA Act of 2016?

F. OBSERVATIONS AND DECISION OF AUTHORITY

8. The Authority has gone through the facts of the complaints as submitted by the complainant. In light of the background of the matter, Authority observes that complainant booked a flat in the project "Shree Vardhman Green Space" which is an Affordable Housing Scheme being developed by the respondent/promoter namely; M/s Green Space Infraheights Private Limited and complainant was allotted flat no.1005, 10th floor, Tower G, in the said project at Sector-14, Panchkula, Haryana. The Flat Buyer Agreement (FBA) was executed between the parties on 02.07.2016. Complainant had paid a total sum of ₹20,47,435/- (as per receipts on record ₹18,02,185/-) against the basic sale consideration price of ₹19,62,000/- .
9. As per clause 8(a) of the agreement respondent/developer was under an obligation to hand over the possession to the complainant within 4 years from the date of approval of building plans or grant of environment clearance whichever is later. It came to the knowledge of the Authority while dealing with other cases against the same respondent namely; Green Space Infraheights Pvt. Ltd, respondent/ developer received



approval of building plans on 09.12.2014 and got the environment clearance on 15.03.2016. That means, as per possession clause, a period of 4 years is to be taken from 15.03.2016 and therefore, date of handing over of possession comes to 15.03.2020.

10. Period of 4 years is a reasonable time to complete development works in the project and handover possession to the allottee, however, respondent failed to hand over possession to the complainant. After paying his hard earned money, legitimate expectations of the complainant(s) would be that possession of the flat will be delivered within a reasonable period of time. However, respondent has failed to fulfill its obligations as promised to the complainant(s). Thus, complainant(s) are at liberty to exercise their right to withdraw from the project on account of default on the part of respondent to offer legally valid possession and seek refund of the paid amount along with interest as per section 18 of RERA Act.

11. Further, Hon'ble Supreme Court in the matter of "*Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others*" in Civil Appeal no. 6745-6749 of 2021 has highlighted that the allottee has an unqualified right to seek refund of the deposited amount if delivery of possession is not done as per terms agreed between them. Para 25 of this judgement is reproduced below:

"25. The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is



not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."

The decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of delayed delivery of possession. The complainant wishes to withdraw from the project of the respondent, therefore, Authority finds it fit cases for allowing refund in favour of complainant.

12. The definition of term 'interest' is defined under Section 2(z) of the Act which is as under:

(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation.-For the purpose of this clause-



(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

13. Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

"Rule 15. Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12; section 18, and sub sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%. Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public".

14. Consequently, as per website of the State Bank of India, i.e., <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date, i.e., 28.04.2025 is 9.10%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 11.10%.

15. From above discussion, it is amply proved on record that the respondent has not fulfilled its obligations cast upon him under RERA Act, 2016 and the complainant(s) are entitled for refund of deposited amount along with

interest. Thus, respondent is liable to pay the interest to the complainant from the dates when the amounts were paid by the complainants till the actual date of realization of the amount. Therefore, Authority allows refund of paid amount along with interest to the complainants at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017, i.e., at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which as on date works out to 11.10% (9.10% + 2.00%) from the date amounts were paid till the actual realization of the amount. Authority has got calculated the total amounts along with interest as per detail given in the table below:

Sr. no.	Complaint no.	Amount paid	Interest	Total amount to be given to complainant
1.	597 of 2023	₹18,02,185/-	₹16,41,127/-	₹ 34,43,312/-
2.	876 of 2024	₹15,56,408/-	₹11,62,255/-	₹ 27,18,663/-

16. It is pertinent to mention that in complaint no.597 of 2023, complainant is seeking refund of ₹20,47,435/- along with interest, however, as per receipts available on record, total amount comes to ₹18,02,185/-. Despite giving four opportunities to the complainant to file receipts or an affidavit mentioning the paid amount, complainant fails to file the same. Therefore, Authority deems it fit to adjudicate on the amount of ₹18,02,185/- as per receipts on record.

17. Reliefs under clauses (ii), (iii), (iv), (v) and (vi) in complaint no. 597 of 2023 were neither argued nor pressed upon as no one appeared on behalf of complainant during the course of hearing. Therefore, no direction is required to be passed on these issues.

18. Further, complainants in both the complaints are seeking compensation on account of mental agony, financial and physical harassment caused to the complainants. 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.

G. DIRECTIONS OF THE AUTHORITY

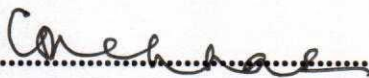
19. Hence, the Authority hereby passes this order and issue following directions under Section 37 of the Act to ensure compliance of obligation



cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- (i) Respondent is directed to refund the amount to the complainants as specified in the table provided in para (15) of this order. It is further clarified that respondent will remain liable to pay the interest to the complainants till the actual date of realization of the amount.
- (ii) Respondent is directed to deposit the costs of ₹15000/- payable to the Authority and ₹6000/- payable to the complainant in complaint no. 597 of 2023.
- (iii) Further, in complaint no. 876 of 2024, respondent is directed to deposit cost of ₹5000/- payable to the Authority and ₹2000/- payable to the complainant.
- (iv) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017, failing which, appropriate legal actions would be taken against the respondent.

Disposed off. Files be consigned to the record room after uploading of the order on the website of the Authority.


CHANDER SHEKHAR
[MEMBER]


NADIM AKHTAR
[MEMBER]