



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 992 OF 2024

Chandan Kumar Senapati and AnotherCOMPLAINANTS

VERSUS

Ruhil Promoters Pvt. Ltd.RESPONDENT

Date of Hearing: 09.12.2025

Hearing: 3rd

Present: - Adv. Munish Kumar Garg, Learned Counsel for the
Complainants through VC.
Adv. Kamal Dahiya, Learned counsel for the Respondent
through VC

ORDER(DR. GEETA RATHEE SINGH- MEMBER)

1. Captioned complaint was listed for hearing on 08.07.2025. However, due to the re-constitution of benches, complaint is taken up today for hearing.
2. Today, the case is fixed for filing of reply along payment of cost of Rs. 5,000/- payable to Authority and Rs. 2,000/- payable to the complainant. No reply has been filed till date. Rather, respondent has filed an application dated 04.07.2025 for dismissal of present complaint, not being maintainable, as the matter under dispute in present complaint has already been adjudicated upon and attained finality by this Hon'ble Authority in Complaint no. 203 of 2018

titled 'Chandan Kumar Senapati Vs M/s Ruhil Promoters Pvt Ltd.'

Complainant has already filed reply to the application filed by the respondent on 01.09.2025.

3. Initiating his arguments, Adv Kamal Dahiya, learned counsel for the respondent submitted that the complainant in the present complaint has had earlier filed Complaint no. 203 of 2018 before this Authority for which was decided by the Authority on 16.01.2019. Relevant para of order dated 16.01.2019 is reproduced below for reference:

"The complaint is accordingly disposed of with the direction that the respondent besides applying for occupation certificate within three months and offering possession to the complainant within six months, shall pay interest to the complainant at the rate of State Bank of India highest marginal cost of lending rate (MCLR) plus 2% from the deemed date of possession i.e. 1st July, 2017 till the delivery of actual possession. File be consigned to the record room."

As per the said order, the respondent was directed to deliver possession of the unit booked by the complainant after receipt of occupation certificate along with delay interest for the delay caused in delivery of possession. In instant complaint no. 992 of 2024, the complainant is again seeking delay interest till legal valid offer of possession along with other additional reliefs such as to restrain the respondent from raising fresh demands, from creating third party rights, from cancelling the unit and delaying in taking of possession. By filing the present complaint, the complainant is re-agitating the same issued under a different guise and seek double enrichment. Since,



the reliefs sought are identical or substantially similar, the presents complaint is barred by the principles of res judicata. Respondent's counsel further submitted that the complainant had also filed Execution Petition No. 1385 of 2019 seeking enforcement of order dated 16.01.2019 passed in Complaint no. 203 of 2018. During the course of proceedings the respondent/judgement debtor had fully complied with the directions issued in the said order and the decree was satisfied upon payment of a sum of Rs. 12,16,361/- to the complainant/decree holder.

4. Further, the construction of the project had been completed and occupation certificate received on 17.03.2022. An offer of possession had been issued to the complainant on 09.09.2022, however the complainant failed to accept the same. Since then, the complainant has been delaying taking over of possession and making payment of outstanding amounts. The complainant is now raising unjustified litigation just to harass the respondent.
5. In response, Adv Munish Kumar Garg, learned counsel for the complainants submitted that as per the order dated 16.01.2019 passed in Complaint no. 203 of 2018, the complainant was entitled to receive delay interest from deemed date of possession i.e. 1st July, 2017 till the delivery of actual possession. The sum of Rs. 12,16,361/- paid by the respondent was only a part payment for the period from 01.07.2017 till 31.12.2020. Thereafter, while deciding the execution petition no. 1385 of 2019 vide order dated 03.02.2022 the Hon'ble



Authority had granted the complainant further interest amounting to Rs 3,29,228/- from 31.12.2020 till 03.02.2022 and thereafter monthly interest of Rs 25,035/- till the actual delivery of possession after obtaining occupation certificate. Till date a valid offer of possession has not been issued to the complainant by the respondent. Rather, the respondent had issued demand letter dated 15.11.2022 to the complainant raising further demands which were not part of the builder buyer agreement. Learned counsel drew attention of the Authority towards demand of Rs 3,36,000/- raised by the respondent on account of 'Additional cost of flat(staircase)' in the said letter. This amount cannot be burdened upon the complainant. Further, the relief sought by the complainant vide present complaint no. 992 of 2024 is a fresh cause of action and thus is admissible before this Authority. Relief sought by the complainant vide Complaint no. 992 of 2024 is reproduced below for reference:

"i. Restrain the Respondent Company from raising any fresh demand with respect to the Unit/Flat purchased by the Complainants in the Project, and/or;

ii. Restrain the Respondent Company from creating 3rd Party rights in the said New Unit/Flat and from cancelling the Allotment, till the pendency of this Complaint, and/or;

iii. Restrain the Respondent Company from cancelling the Allotment till the time the entire amount paid by the Complainants is refunded with interest, and/or;



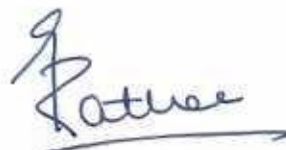
iv. To order the Respondent Company to give proper justification/Clarification regarding charging from every Allottee a sum of Rs.3,36,000/- for the Iron Staircase made later due to the decency of the Respondent, and/or;

v. To order the Respondent Company to pay interest on the entire amount paid by the Complainants till the valid and legal offer of possession at the rate as specified under The Real Estate (Regulation and Development) Act, 2016 and as per the Haryana Real Estate (Regulation and Development) Rules, 2017, and/or;

vi. To pass any other interim reliefs) which this Hon'ble Authority may think fit and proper in the peculiar facts and circumstances"

6. In rebuttal, Adv. Kamal Dahiya submitted that the demand letter dated 15.11.2022 is towards the outstanding balance amount which was remaining to be paid by the complainant which he cannot shy away from. The complainant in the present complaint was under an obligation to accept the possession and make payment of remaining amount. However, the complainant has been deliberately refusing to do so.

7. After hearing arguments of both, it is observed that the complainant in the present complaint is preferring this litigation qua unit no. H-802, 8th Floor, Block H-2 in the project of the respondent namely Ruhil Residency situated at Bahadurgarh. As per facts, the complainant had earlier filed Complaint no. 203 of 2018 for the same unit, which was disposed of by this Authority vide its order dated 16.01.2019 with a direction to respondent to apply for



occupation certificate within three months and offer possession to the complainant within six months, along with interest from the deemed date of possession i.e. 1st July, 2017 till the delivery of actual possession for the delay caused in delivery of possession.

Despite explicit directions, the respondent failed to offer possession of the booked unit to the complainant and make payment of delay interest. Therefore, to get the order dated 16.01.2019 executed, the complainant had filed Execution petition no. 1385 of 2019 wherein during the course of adjudication the complainant had received a payment of ₹ 12,16,361/- from the respondent towards payment of delay interest for the period from the deemed date of possession i.e 01.07.2017 till 31.12.2020. Since, the respondent had yet to receive occupation certificate and deliver possession, the said execution petition was disposed of vide order dated 03.02.2022 directing the respondent to pay further interest amounting to 3,29,228/- for the period from 31.12.2020 till the date of order i.e. 03.02.2022 and further monthly interest of ₹25,035/- from 03.02.2022 onwards till the delivery of actual possession after obtaining Occupation Certificate.

That thereafter, the respondent had obtained occupation certificate qua the project in question on 17.03.2022 and had then issued an offer of possession to the complainant on 09.09.2022.



8. The complainant has now again approached the Authority vide present complaint for the same unit for reliefs as elaborated in para 5 of this order. In light of all the aforementioned facts and circumstances, Authority observes as follows:

- i. With regard to relief no. i seeking refraining the respondent from raising any fresh demand, it is observed that as per law, the complainant is not entitled to make payment of any demand which is not as per the terms agreed between the party vide builder buyer agreement dated 05.09.2015. Any demand raised by the respondent is to be within the scrutiny of the terms of the builder buyer agreement and not beyond that.
- ii. With regard to relief no. ii seeking restraining the respondent from creating 3rd party rights, it is observed that no direction is required in this regard since by making an offer of possession and making payment towards interest n delayed possession to the complainant, the respondent has itself accepted the lien of the complainant upon the unit in question. The respondent is barred by principle of estoppel from creating any 3rd party right/encumbrance upon the unit in question.



- iii. With regard to relief no. iii seeking refund of paid amount, it is observed that the complainant has already been awarded relief of possession of the booked unit along with payment of interest towards delay caused in delivery of possession. Thus, the prayer of the complainant seeking refund of paid amount is unsustainable in the eyes of law.
- iv. With regard to relief no. 4 seeking proper justification regarding charging of ₹ 3,36,000/- for the iron staircase, it is observed that the charges raised under 'staircase charges' are for construction of additional staircase for emergency fire safety as per directions by Fire Safety Department in terms of the applicable laws. Authority in complaint no. 607 of 2018 titled as 'Vivek Kadyan Vs TDI Infrastructure Ltd.' has already laid down the principle for calculation of charges on account of fire exit stair case.
- v. With regard to the relief no. v pertaining to payment of interest, it is observed that as per order dated 16.01.2019, Authority had passed direction to the respondent to deliver possession to the complainant after obtaining occupation certificate and further awarded payment of interest till actual delivery of possession. As per record, the complainant has been paid an amount of ₹ 12,16,361/- from the respondent



towards payment of delay interest for the period from the deemed date of possession i.e 01.07.2017 till 31.12.2020.

The complainant is yet to receive payment of further amount of interest from 01.01.2021 till the delivery of possession.

Thus, the respondent is yet to fully satisfy the directions

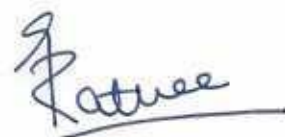
issue vide order dated 16.01.2019. To get the order dated

16.01.2019 fully executed the complainant has remedy of

executing the same through execution no. 1385 of 2019 as

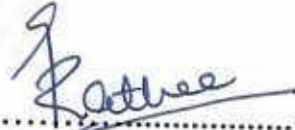
the said execution petition has not been exhausted till date.

9. After hearing both the parties, Authority observes that the matter in present complaint already stands decided by way of order 16.01.2019 passed in complaint number 203 of 2018. Since the issues involved and grievances are of the same nature and in respect of the same unit, the matter cannot be heard again. The complainants have already accrued rights in their favour for the unit in question and may accordingly pursue them as per orders passed by the Authority. The remedy available with the complainants for executing the order dated 16.01.2019 is yet to exhaust and the complainant may accordingly pursue the same seeking relief against the present respondent. Considering all the facts and circumstances, here in the principle of res-judicata applied and thus the Authority is unable to pursue the present complaint. The application dated 04.07.2025 filed by the respondent for dismissal of complaint stands allowed. The present complaint



is barred by the principle of res-judicata as the issues raised by the complainant by the present complaints have already been adjudicated and decided by the Authority.

10. Case is disposed of. File be consigned to record room after uploading of this order on the website of the Authority



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DR. GEETA RATHEE SINGH
[MEMBER]