



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

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Complaint no.:	2640 of 2023
Date of filing:	06.12.2023
First date of hearing:	20.02.2024
Date of decision:	09.03.2026

Mrs. Kanta Malhotra
W/o, Sh. Badrinath Malhotra
R/o House no. 58, Old Housing Board Colony,
Rohtak-124001

....COMPLAINANT

VERSUS

Sh. Sunil Rajan
S/o Sh. Sant Rajan
M/s Rajan properties Real Estate Agent
Address- House no. 20, Omaxe City Near Delhi By-pass
Rohtak- 124001
Second address- House No. 1778,
Sector-2, Rohtak – 124001

...RESPONDENT

Present: - Adv. Sushil K. Malhotra, counsel for the complainant through VC.

Adv. Iqbal Singh, proxy counsel for Adv. Dixit Garg, counsel for the
respondent through VC.

ORDER:(NADIM AKHTAR –MEMBER)

A. FACTS OF THE PRESENT CASE AS STATED BY THE COMPLAINANT IN THE COMPLAINT:

1. That the present complaint is filed by the complainant against the respondent, who in a pre-planned manner deceived and defrauded the complainant of her hard-earned money and rendered deficient and flawed services. The allottee of Unit No. B-278 was Smt. Kanta Malhotra, who is the present complainant.
2. As per Section 2(d) of the Real Estate (Regulation and Development) Act, 2016, the complainant falls within the definition of an “*allottee.*”
3. The respondent Sh. Sunil Rajan S/o Sh. Sant Rajan, M/s Rajan Properties, having address as House No. 20, Omaxe City, Near Delhi Bypass, Rohtak – 124001 and House No. 1778, Sector-2, Rohtak – 124001 is a registered Real Estate Agent under Section 2(m) of the Act. He negotiated the payment deal, facilitated the transfer between the complainant, the previous buyer, and the builder—Parsvnath Developers Ltd.—and acted on behalf of the previous buyer. He also received commission from the complainant and additionally charged marginal money over and above the builder's ledger amount. Thus, the respondent falls squarely under the definition of “*real estate agent.*”



4. The project in question is "Parsvnath City," Rohtak (Haryana), a plotted colony developed under Licence No. 36 of 2010 issued by the Town and Country Planning, Department of Government of Haryana.
5. As per Section 2(zm) of the Act, the respondent-agent is bound by the duties, responsibilities and obligations of a real estate agent and is under the territorial jurisdiction of this Hon'ble Authority.
6. In 2009, the first buyer, Mr. Bhupinder Kadian, applied for the plotted scheme by remitting ₹2,85,000/- on 22.09.2009. Copy of the builder's customer ledger (dated 01.09.2018) is attached as Annexure C-1.
7. In 2013, the respondent approached the complainant for purchase of Plot No. B-278. The complainant purchased the said plot on 17.05.2013, having an area measuring 402 sq. yards (336.12 sq. mtrs), which was later converted to Plot No. B-50 vide builder's letter dated 05.12.2019.
8. The complainant paid all amounts of the builder's ledger to the previous buyer through the respondent. Additionally, the complainant paid ₹19,60,027/- directly to the respondent/agent as part of the sale consideration (marginal money + commission), for which respondent issued receipts. Details of payment of ₹19,60,027/- are attached as Annexure C-3 (Colly).



9. Complainant also paid an administrative charge of ₹40,200/- vide cheque no. 248185 dated 12.04.2013 for transfer of unit, attached as Annexure C-7.
10. The refund of ₹30,83,024/- (the amount paid to the builder) has already been ordered by this Hon'ble Authority vide order dated 04.10.2018, rectified on 22.08.2019, in Complaint No. 77 of 2018 titled *Kanta Malhotra vs. Parsvnath Developers Ltd.* However, the amount of ₹19,60,027/- fraudulently taken by the respondent/real estate agent from the complainant has not yet been adjudicated and is liable to be refunded by the respondent.
11. The respondent got executed numerous blank documents from the complainant including blank builder-buyer agreement, agreement to sell, affidavit and transfer forms attached as Annexure C-10 (Colly). The executed Agreement to Sell between complainant and previous allottee witnessed by respondent is attached as Annexures C-11 to C-13.
12. The Plot-buyer agreement dated 16.05.2013 (Annexure C-9) states at Clause 8(a) that internal development and possession shall be completed within 24 months, i.e., by May 2014. However, even after four years beyond the stipulated date, no development or possession was offered.
13. Respondent never disclosed the *title dispute, administrative issues and complexity of the project*, which were in existence even prior to the signing of

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the BBA. These facts were concealed from the complainant, amounting to *unfair trade practice* under Section 7(c) of RERA.

14. The project suffers from lack of basic amenities like water and electricity. Local Commissioner's report (in Complaint No. 1253 of 2020) records non-availability of drinking water supply and non-functional sewer/electricity system. Hon'ble Punjab & Haryana High Court has upheld electricity as a basic right under Article 21 (CR-1153/2022).
15. The complainant, a senior citizen, funded this purchase through sale of family property, life savings and loans availed by her son. Loan records totalling ₹31,07,899/- including interest are attached as Annexures C-15 to C-17.
16. For the last 10 years, the respondent misled the complainant by repeatedly assuring that possession would be delivered within 2-3 months, which never happened.
17. Respondent has violated Sections 7, 10, 12 & 14 of the RERA Act by making false representations, suppressing material information, misguiding the complainant, and charging unlawful consideration beyond the builder's ledger.
18. The complainant, having already surrendered the plot in 2018 by order of this Authority, is deprived of land use and is entitled to refund of all amounts



unlawfully taken by the respondent, along with interest at the rate of 24% per annum (equivalent to the rate charged by builder under BBA for any delay by allottee).

B. RELIEFS SOUGHT

19. That the complainant seeks following relief and directions to the respondent:-

- i. Pass an order in favour of complainant and against the respondent to refund the amount of ₹19,60,027/- to complainant with current market price along with 24 % rate of interest from the respective date of payment. Complainant relies on the section 2 subsection z a (ii) of RERA Act 2016 that the promoter is liable to repay the interest from the start of taking payment.
- ii. Complainant also deserve compensation of Rs. 2,00,00,000/- (₹ two crore) for wrongful loss to complainant, loss off opportunity, violation of section 7,10,11,12,14,18,19 of RERA Act, also for mental torture agony, financial loss and unfair practice by respondent. Complainant is legally entitled to take this claim from the respondent within the frame of RERA 2016 passed by the Parliament of India and request the Ld. Authority to give her liberty to pursue her case before the Ld. Adjudicating officer of RERA Panchkula.



- iii. That the Authority is requested to decide the cost of litigation in favor of Complainant. Cost of litigation is ₹1,50,000/- Pass an award of Rs. 1,50,000/- in favour complainant as the cost of litigation. (Reference Nalin Bhargava vs Parsvnath Developers Ltd CA 6662/2018 @SLP® 7596/2016 and others related civil appeal on 13th July 2018, Hon 'ble supreme court held :- Having heard the Ld. Council of Parties, we are of the considered opinion that the cause of justice would be best sub served if each of the appellant in the present appeals are given ₹1,50,000/- (Rupees one lakh fifty thousand only) per flat, towards cost. When we say "Cost " , we mean costs alone and nothing else.
- iv. That complainant request the Ld. Authority to pass an order to impose penalty U/S 65 of Rera act 2016 on the respondent / real Estate agent which can be accumulated up to 5% of Real estate project.
- v. That Complainant also request the Authority to pass any other order in favors of complainant as it is necessary in interest of Justice to the complainant.

C. APPLICATION DATED 24.11.2025, FILED BY THE COMPLAINANT

20. The complainant has submitted that the present complaint is filed under Section 31 read with Sections 7, 10(b), 10(c), 12, 18, 19 and 65 of the Real



Estate (Regulation and Development) Act, 2016, seeking refund of marginal money/amount collected by the respondent over and above the ledger amount maintained by the promoter. The said amount was illegally received by the respondent real estate agent from the complainant in relation to the purchase of Residential Plot No. B-278, Parsvnath City, Rohtak. The booking amount for the said plot was originally paid in October 2009 and the plot was transferred in favour of the complainant on 17.05.2013.

21. The respondent, who is a registered real estate agent, projected himself as the promoter's assignee and even acted as the owner of the unit. He facilitated the entire transaction, negotiated the sale terms, and collected the sale consideration from the complainant on behalf of the promoter, thereby exceeding his statutory capacity under the Act.
22. The respondent, Mr. Sunil Rajan, first contacted the complainant on 08.03.2013 with the intention of selling Plot No. B-278. During this interaction, he expressly represented himself as the promoter and as the authorised person for the said plot. Acting in that capacity, he negotiated the sale terms directly with the complainant and subsequently executed a payment receipt and a sale agreement/receipt in favour of the complainant. These



documents, being crucial evidentiary material, form part of the record at pages 44 to 46 of the complaint file.

23. The conduct of the respondent, as reflected in the above documents, clearly establishes that he assumed the role and responsibilities of a promoter within the meaning of the Real Estate (Regulation and Development) Act, 2016. By issuing payment receipts and executing sale documents in his own name, without any authorization from the registered promoter, the respondent misrepresented facts, acted beyond his authority, and performed functions reserved exclusively for a promoter under the Act.
24. The record further reveals that the respondent not only received consideration directly from the complainant but also accepted and acknowledged the payment made to the previous buyer. This is evidenced through the endorsement/receipt given by the respondent on the photocopy of the cheque (at page 69 of the complaint book). This act further proves that the respondent was actively involved in property dealings, exercised complete control over the financial transactions, and functioned as a de facto promoter.
25. Thus, it is clear that the respondent did not act merely as a facilitator or intermediary, but as the principal actor who conducted, negotiated and



finalised the sale transaction. He therefore attracts the obligations and liabilities applicable to a promoter under the RERA framework

26. Details of the payments (Sr. No. 1 to 4) made by the complainant to the previous buyer, Mr. Dharampal, and received by the respondent, which were later substituted in the name of the complainant, are already on record. Payments at Sr. Nos. 5 and 6 were made directly to the promoter by the complainant. Payment at Sr. No. 5, vide cheque no. 248185 dated 12.04.2013, represents administrative charges for transfer of the unit in favour of the complainant.
27. Refund of an amount of ₹30,83,024/- already paid to the promoter, has been ordered by this Hon'ble Authority vide order dated 04.10.2018, subsequently rectified on 22.08.2019, in Complaint No. 77 of 2018 titled *Kanta Malhotra vs. Parsvnath Developers Ltd.* Apart from the promoter's amount, the respondent also collected a further sum of ₹19,60,027/- from the complainant for the purchase of Plot No. B-278. The respondent claimed himself to be the promoter/assignee/coloniser falling under the definition of promoter in Section 2(zk)(i) & (v), and the said amount has not yet been adjudicated.
28. As per the promoter's cost sheet and demand note, the total sale consideration for the unit was ₹30,37,024/-, as reflected at page 145 of the complaint book.



However, the respondent demanded and collected an additional amount of ₹19,60,027/-, which was never reflected in the promoter's ledger nor supported by any official receipt issued by the promoter.

29. A conjoint reading of the documents—payment receipts at page 44, receipt/agreement at pages 45–46, the receipt endorsed on the cheque photocopy at pages 47–48, and payment acknowledgments at pages 51–55—combined with the complainant's bank statement conclusively establishes that payment of ₹19,60,027/- was made by the complainant to the respondent towards Plot No. B-278. The respondent has failed to deny these documents or dispute the transaction, thereby deeming the transaction to be admitted.
30. Upon verification with the promoter, it was discovered that the above additional amount of ₹19,60,027/- was never deposited with the promoter and therefore constitutes unauthorised and illegal collection by the respondent.
31. The present complaint is therefore directed against the respondent, who though registered as a real estate agent, has acted far beyond his statutory capacity and assumed the role of promoter's assignee and builder/coloniser. His conduct squarely attracts the definition of *promoter* under Sections 2(zk)(i) and 2(zk)(v) of the RERA Act. Section 2(zk)(i) defines a promoter to include his *assignees*. Section 2(zk)(v) extends the meaning of promoter to



any person who acts himself as a builder, coloniser, developer or estate developer. In contrast, Section 2(zm) defines a real estate agent merely as a facilitator.

32. From a plain reading of the record, it becomes evident that the respondent acted far beyond the scope of a real estate agent. By executing agreements, issuing receipts, collecting consideration, and projecting himself as owner/authorised promoter, the respondent assumed full control over the transaction and stepped into the shoes of a promoter. Such conduct is a serious breach of the statutory mechanism of RERA, which is enacted to ensure transparency, accountability, and protection of allottees. The respondent's actions amount to misrepresentation, fraudulent inducement, and unauthorised collection of money.
33. The objective of the RERA Act is to safeguard the rights of allottees and impose accountability on promoters and real estate agents for misconduct. Accordingly, the complainant is legally entitled to refund of the amount of ₹19,60,027/- wrongfully collected by the respondent.
34. The legal position is clear that a real estate agent's role is limited to facilitating the sale or purchase of property on behalf of another, without assuming ownership rights or executing documents in his own capacity.



However, in the present case, the respondent executed an agreement for the unit, issued receipts, collected substantial consideration, and even described himself as the owner, thereby exceeding his statutory authority. Therefore, by virtue of issuing receipts, executing documents and collecting consideration, the respondent's conduct squarely falls within the definition of promoter under Sections 2(zk)(i) and 2(zk)(v) of the Act. The complaint has been filed under Section 31 of the RERA Act, which confers jurisdiction upon this Hon'ble Authority to entertain complaints by *any aggrieved person* for any *violation or contravention* of the Act, rules or regulations, against any promoter, allottee or real estate agent.

35. The complainant alleges clear contraventions of Sections 7, 9, 10, 12, 13, 15, 18, 19 and 65 of the Act, which constitute statutory violations. Hence, the complaint is maintainable under Section 31. When a complaint is filed against a channel partner/real estate agent, Section 31 is the enabling provision giving jurisdiction to this Hon'ble Authority to entertain the complaint.
36. The conduct of the respondent amounts to unauthorised collection of money in violation of Section 9(2) and Section 10(b) & (c) of the Act, which mandate that an agent cannot indulge in unfair trade practice and can only facilitate lawful transactions. Under Section 31, the complainant is entitled to



seek redressal including refund of the excess/illegal amount collected by the respondent along with interest and compensation. There exists a clear and legally enforceable nexus between the complainant, the respondent, the promoter, the unit, and the payments made.

37. The cause of action arose on various dates when the respondent received payments from the complainant and continued when no possession was offered and the complainant was cheated. The cause of action is continuing even today as the project is still ongoing and no completion certificate has been issued. Therefore, this Hon'ble Authority has complete jurisdiction to adjudicate the present claim for refund.

D. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT.

38. On the last date of hearing, i.e., 29.09.2025, complainant was directed to file an application along with supporting submissions, demonstrating as to how the present complaint is maintainable against the respondent in his capacity as a real estate agent. Today, learned counsel for the complainant appeared and submitted that, in compliance with the last order of this Authority, the complainant has filed an application dated 24.11.2025 in the registry, wherein complete details and submissions explaining how the present complaint is



maintainable before this Authority have been furnished. He further stated that earlier imposed cost of ₹15000/- payable to the Authority and ₹5000/- payable to the complainant, still not paid by respondent till date.

39. On the other hand, Adv. Iqbal Singh, proxy counsel for the respondent, submitted that the aforesaid cost will be paid by the respondent today itself. Accordingly, the respondent is directed to ensure payment of the said cost today.

E. ISSUES FOR ADJUDICATION

40. Whether the complainant is entitled for relief sought by her or not?

F. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

41. The Authority has perused the entire record and all documents annexed by the complainant in the captioned complaint. From the documents placed on file, it is evident that the original allottee, namely Sh. Dharampal Kularia, had booked a unit in the project of the builder, *Parsvnath Developers Ltd.*, in their project titled "Parsvnath City", Rohtak wherein Plot No. B-278 was allotted to the said original allottee for a basic sale price of ₹21,25,173/- vide allotment dated 16.05.2013. As per the complainant's pleadings, the Plot Buyer Agreement was subsequently endorsed in favour of the complainant on 23.05.2013.



42. As per office record notice was issued to respondent on 08.12.2023 which was delivered to the respondent on 09.12.2023. Thereafter, case was listed for hearing on 28.05.2024, 01.10.2024, 11.02.2025, 01.07.2025 and 29.09.2025, but no reply is filed by the respondent. Even today, i.e., on 15.12.2025, respondent neither appeared nor filed reply. Authority is of the view that proceedings before this Authority are summary proceedings and sufficient opportunities have already been granted to the respondent to file reply, any further delay shall defeat the ends of justice. Thus, matter is proceeded based on the documents available on file.
43. The first issue that arises for consideration before the Authority is whether the present complaint is maintainable before this Authority or not.
44. Authority observes that complainant has filed this present complaint against the Real Estate Agent namely Sunil Rajan, claiming that he has already received an amount of ₹19,60,027/- against the unit in question. She is seeking refund of the amount which he has paid.
45. The Authority observes that the complainant has filed the present complaint against the alleged Real Estate Agent, Sh. Sunil Rajan, claiming that the said respondent had received an amount of ₹19,60,027/- in relation to the unit in



question. The complainant is, therefore, seeking refund of the amount purportedly paid towards the said transaction.

46. Before proceeding further, the Authority considers it appropriate to first examine the definition of a “*Real Estate Agent*” as provided under the Real Estate (Regulation and Development) Act, 2016, in order to determine whether the present respondent falls within the ambit of the said definition.

47. As per Section 2(zm) of the Real Estate (Regulation and Development) Act, 2016, a “Real Estate Agent” means

“any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person and receives remuneration or commission for the services rendered, and includes a person who introduces, through any medium, prospective buyers and sellers to each other for sale or purchase of any plot, apartment or building.”

Thus, two essential components emerge from the statutory definition: (i) the person must have acted or negotiated on behalf of either party in the transaction, and (ii) the person must have received remuneration or commission for such services.



48. Applying the statutory definition under Section 2(zm) of the RERA Act to the present facts, the Authority observes that the complainant has failed placed on record any documentary evidence to demonstrate that the respondent, Sh. Sunil Rajan, performed any activity that would bring him within the ambit of a “*real estate agent*”.

- a. Firstly, the Agreement annexed at page no. 139 of the complaint, through which the unit was transferred by the original allottee, Sh. Dharam Pal Kularia, in favour of the complainant, Smt. Kanta Malhotra, and which is heavily relied upon by the complainant, does not record anywhere that the respondent was engaged as an agent, intermediary, or facilitator in the said transaction. The respondent’s name appears only in the capacity of a *witness*, which is a routine procedural formality and does not confer upon him any contractual, fiduciary, or statutory obligations under the RERA Act or otherwise. A bare reading of the entire contents of the abovesaid document shows that there is not even a single reference to the respondent acting as a “real estate agent,” nor is there any clause assigning him any role, duty, or commission that would attribute such status to him..



- b. Secondly, the statutory requirement mandates that a real estate agent must have acted or negotiated on behalf of either party in the sale or transfer of the unit. However, the complainant has neither produced any correspondence, negotiation trail, emails, messages, nor any communication showing that the respondent conducted or facilitated any negotiations between the complainant and the builder. There is a complete absence of material to show that the respondent represented either party in finalizing the terms of allotment, execution of the buyer agreement, payment schedule, or any other aspect of the transaction. In this regard, the Authority also draws support from the principle laid down by the Hon'ble Supreme Court in "*Haryana Urban Development Authority vs. Raje Ram*", (2008), wherein the Court categorically held that liability can arise only from a statutory duty or a contractual obligation, and no person can be burdened with obligations in the absence of such a statutory or contractual nexus.
- c. Thirdly, the essential ingredient of the statutory definition a receipt of remuneration or commission is missing in the present case. While the complainant has annexed certain receipts showing that an amount was allegedly transferred to Sh. Sunil Rajan, nowhere in these receipts or



any other document is it indicated in what capacity the respondent received the payment. There is no mention that he was acting as a real estate agent, intermediary, broker, or representative of the promoter. The receipts merely acknowledge the receipt of money without any clarification regarding the purpose, terms, or legal basis of the payment. Specifically, at page no. 45 of the complaint, a receipt is attached wherein an amount of ₹8,00,000/- was allegedly transferred to the respondent in cash. However, the document does not clarify whether this amount was paid as commission to a real estate agent or for any other purpose. At the end of the receipt, there is only a handwritten note stating, "Note: Commission ₹30,000/- लेना है". The Authority also notes with concern that, if the commission was intended to be only ₹30,000/-, it is unclear why the complainant paid a total amount of ₹19,60,027/- to the respondent. Furthermore, even on this receipt, where the signature of Sunil Rajan appears, it is only described as "Signature of agreement holder/payment receiver", with no mention whatsoever of the word "agent" or any formal capacity in which he received the payment. In view of the above, there is no clear documentary or contractual proof establishing that the respondent



acted as a real estate agent, and therefore, he cannot be treated as such merely on the basis that he received a sum of money.

49. The Authority further observes that the RERA Act, 2016 focuses on the terms and conditions mentioned in the agreement and provides relief to the allottee or complainant based on those terms. The respondent is obligated to perform only those duties explicitly mentioned in the agreement. Even assuming, for argument's sake, that the respondent is treated as a real estate agent, there is no clause, provision, or term in any document which specifies the manner or quantum of money that was to be paid to the alleged agent. The complainant has failed to produce or point out any term or clause clarifying the exact amount the complainant was required to pay to the respondent, the purpose for which the payment was made, whether the amount received by the respondent was refundable, or the obligations of the respondent regarding the amount received. Furthermore, the complainant has not produced any separate agreement or arrangement to establish the existence of a service relationship between herself and the respondent. In a typical real estate agency transaction, the agent's role is clearly documented through written terms specifying service obligations, commission structure, refund conditions, and responsibilities in case of disputes. No such document exists in the present



case. In absence of such contractual clarity, the respondent cannot be deemed to have acted as a real estate agent or to have any obligations arising therefrom.

50. Authority further observes that the cause of action for the present complaint arose in the year 2013, when the complainant allegedly made payments to the respondent. However, at that time, the complainant did not file any complaint against the respondent and remained silent for several years. The first complaint filed by the complainant before this Authority was Complaint No. 77 of 2018 titled as “Kanta Malhotra versus Parsvnath Developers Ltd., which sought refund only from the promoter, Parsvnath Developers Ltd., and made no mention of any claim against the respondent in captioned complaint. The present complaint has been filed more than a decade after the alleged payments were made, and only after the complainant had already obtained relief from the promoter. Such inordinate delay indicates that the complainant failed to exercise due diligence and has raised the present claim long after the relevant cause of action arose. Further, the Authority notes that the complainant has failed to annex any documentary evidence showing that she ever communicated with the respondent for the purpose of seeking refund of the amount allegedly paid. There is no correspondence, email, message, letter,



or any record on file to prove that any communication occurred between the parties in respect of the refund. Similarly, there is no evidence that the respondent ever sent any communication to the complainant acknowledging receipt of the amount as commission or remuneration, or clarifying the purpose for which such payment was received. In absence of any such communication, the complainant has not established a continuous or ongoing cause of action. The delay, coupled with the absence of any documented interaction between the parties regarding the alleged payment, weighs heavily against the maintainability of the present complaint and indicates that it is filed belatedly, possibly as an afterthought. This also renders the present complaint not maintainable, being barred by the principles of finality of litigation and constructive res judicata.

51. The Authority further observes that the complainant has approached multiple forums and authorities in the past in relation to the same project, unit, or transaction. Complainant herself in her pleadings has stated that she has filed complaints before this Authority, consumer forums, and other quasi-judicial bodies regarding the unit in question. Such repeated filings, seeking similar or overlapping reliefs, suggest a clear pattern of forum shopping. The complainant appears to be attempting to obtain additional relief from different



forums, even after having already received refund or remedies from the promoter. This conduct not only indicates abuse of process of law but also undermines the credibility of the present complaint.

52. The Authority observes that the entire claim of the complainant relates solely to the recovery of an alleged private monetary transaction between the complainant and the respondent, amounting to ₹19,60,027/- described as “marginal money + commission.” These payments, as alleged, arise from a purported agreement between the buyer and the respondent, which is a private commercial arrangement, and do not pertain to the promoter–allottee relationship. Under the RERA framework, particularly Section 31, which is reproduced below:

Section-31- Filing of complaints with the Authority or the adjudicating officer

(1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be. Explanation.-For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

(2) The form, manner and fees for filing complaint under sub-section (1) shall be such as may be specified by regulations.



A plain reading of the above provision makes it clear that the Authority's jurisdiction under Section 31 extends only to complaints arising from violations, contraventions, or deficiencies by a promoter, allottee, or real estate agent in relation to the sale, development, or allotment of a real estate project. In the present case, there is no contractual or statutory nexus connecting the alleged payment to the respondent with the promoter or the promoter's ledger obligations. The complainant has not shown that the amount paid to the respondent was mandated, authorized, or collected on behalf of the promoter, nor that the promoter sanctioned or recognized such payments as part of the transaction. Consequently, the dispute constitutes a purely private monetary matter between the complainant and the respondent, which falls outside the scope of Section 31 and is not maintainable before this Authority. The Authority further relies on the judgment of the Hon'ble Allahabad High Court in *M/s AGC Realty Pvt. Ltd. vs. Smt. Raj Rani*, decided on 30.08.2023, wherein the Court categorically held that proceedings under the RERA Act can be initiated only against a promoter, allottee or real estate agent as defined under Sections 2(zk), 2(d) and 2(zm) of the Act. The Court further clarified that no liability can be fastened upon a person who does not fall within any of these statutory categories, nor can the RERA Authority



adjudicate any dispute that does not arise from a statutory obligation under the Act or from a contractual obligation between the parties. The High Court specifically held that private monetary disputes or transactions between individuals, which have no nexus with the promoter–allottee relationship or the regulatory framework of the Act, fall outside the jurisdiction of the Authority.

53. Further, complainant in her application dated 24.11.2015 attempts to re-categorize the respondent (a registered real estate agent) as a “promoter” by invoking Section 2(zk)(i) & (v), merely because the respondent issued receipts. However, the law is clear that a real estate agent cannot become a promoter unless he develops, constructs, markets in his own name, or is assigned development rights, No document on record shows that the respondent is a developer/coloniser or was assigned promoter rights
54. The Authority also observes that the complainant has sought refund of the amount allegedly paid to a real estate agent. In this regard, the Authority has examined the scope and ambit of its powers under Section 18 of the Real Estate (Regulation and Development) Act, 2016, which is reproduced hereinbelow:

“18. Return of amount and compensation.—



(1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building—

*(a) in accordance with the terms of the agreement for sale; or
(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,*

he shall be liable, on demand, to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

***Provided that** where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.*

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed in the manner as provided under this Act, and the claim for such compensation shall not be barred by limitation provided under any law for the time being in force.”

Authority, after careful perusal of the aforesaid provision, observes that the statutory liability to refund the amount, along with interest and compensation, is specifically and exclusively cast upon the promoter. The language of Section 18 nowhere empowers the Authority to direct a real estate agent or any intermediary to refund the amount to an allottee. Therefore, in the absence of any statutory provision enabling such a direction, the Authority holds that it has no power or jurisdiction under the Act to grant the relief of



refund against a real estate agent, and the claim of the complainant to that extent is not maintainable.

55. Further, complainant is seeking compensation amounting to compensation of ₹2,00,00,000/- for wrongful loss to complainant, loss off opportunity, violation of section 7,10,11,12,14,18,19 of RERA ACT, also for mental torture agony, financial loss and unfair practice by respondents, cost of litigation in favor of Complainant and an award of ₹1,50,000/- as the cost of litigation. 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 complaint in respect of compensation & legal expenses. Therefore, the complainant is advised to approach the Adjudicating Officer for seeking the relief of litigation expenses



56. After thorough consideration, Authority concludes that the present complaint lacks merit and appears to be an attempt to misuse of legal proceedings for personal gain. This case is an example of litigation pursued in bad faith, aimed at exerting undue pressure on the respondent rather than addressing genuine grievances. Furthermore, under the Real Estate (Regulation and Development) Act, 2016, the legislation is intended to protect allottees who suffer due to the unfair practices of real estate promoters, not to facilitate unjust enrichment at the expense of developers who have acted in accordance with the law. Given that the complainant received a discount and compensation as per the terms of the agreement, the reliefs sought are not maintainable under HRERA Act, 2016.
57. Hence, the captioned complaint is accordingly **disposed of** in view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.


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NADIM AKHTAR
[MEMBER]