



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 756 OF 2019

M/s Mapsko Builders Pvt. Ltd.

....COMPLAINANT

VERSUS

Rakesh

....RESPONDENT

**CORAM: Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag**

**Chairman
Member
Member**

Date of Hearing: 12.01.2021

Hearing: 9th

**Appearance: - Sh. Akshat Mittal, Counsel for the complainant
Sh. Rakesh, respondent in person**

ORDER: (RAJAN GUPTA - CHAIRMAN)

1. On the last date of hearing, the matter was adjourned for the respondent to argue on maintainability of the present complaint.
2. Today counsel for the respondent appeared before the Authority and referred to a judgement passed by Hon'ble Supreme Court of India in Civil Appeal No. 3581-3590 of 2020 titled as M/s Imperia Structures Ltd. Vs Anil Patni & Ors., the relevant portion of which is as under:

“ 31. At this stage, we may profitably refer to the decision in Pioneer Urban Land and Infrastructure and another vs. Union Of India and another, where a bench of three judges of this Court was called upon to consider the provisions of Insolvency And Bankruptcy Code, 2016 RERA Act and other legislation including the provisions of CP Act. One of the conclusions Arrived at by this Court was:

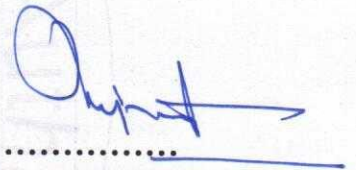
“100. RERA is to be read harmoniously with the Code, as amended by the Amendment Act. It is only in the event of conflict that the Code will prevail over RERA. Remedies that are given to allottees of flats/ apartments are therefore concurrent remedies, such allottees of flats/ apartments being in a position to avail of remedies under the Consumer Protection Act, 1986, RERA as well as the triggering of the Code.”

3. In the present complaint, the respondent-allottee has already filed a complaint for refund before the District Consumer Disputes Redressal Forum, Sonapat against the promoter i.e. M/s Mapsko Builders Pvt. Ltd. in the year 2018 which is still pending before the Ld. Consumer Forum. The present complaint has been filed before this Authority in March'2019.
4. In reference to the aforesaid orders passed by the Hon'ble Supreme Court, the Authority observes that as per the law laid down by the Hon'ble Court the complainant/consumers have a choice to choose any of the forum for redressal of his grievance. Accordingly, an aggrieved person may approach consumer forum, RERA or NCLT, whichever found convenient by him for getting redressal of grievance. The said judgement of the Hon'ble Apex Court, however, does not mean that for the same cause of action simultaneous complaints can be filed before more than one such judicial forum.
5. Admittedly, the respondent allottee has already filed a complaint before the District Consumer Forum for redressal of his grievances against the promoter,



who is a complainant in the present case. So, the promoter inasmuch as he is seeking to resist the allottee's grievance by setting up his own claim against the allottee is entitled to file a counter claim as per provisions of Order VIII, Rule 6-A of the Code of Civil Procedure before the District Consumer Forum which is already seized of the dispute between the parties.

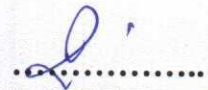
6. Viewed from the above perspective, the Authority is of the considered opinion that the present complaint is not maintainable because otherwise two parallel proceedings would continue before two different forums, which ultimately may end up with contrary findings on the same issue.
7. The complaint is thus liable to be dismissed being not maintainable and is accordingly **disposed of**.



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RAJAN GUPTA
[CHAIRMAN]



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ANIL KUMAR PANWAR
[MEMBER]



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DILBAG SINGH SIHAG
[MEMBER]