



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 589 OF 2021

Jyotsna Leekha

....COMPLAINANT

VERSUS

Samar Estates Pvt. Ltd.

....RESPONDENT

CORAM:

Rajan Gupta
Anil Kumar Panwar
Dilbag Singh Sihag

Chairman
Member
Member

Date of Hearing: 15.07.2021

Hearing: 1st

Present: - Mr. Vishal Madaan, Ld. Counsel for the complainant

Mr. Tarun Gupta, Ld. Counsel for the respondent through
VC

ORDER (DILBAG SINGH SIHAG-MEMBER)

1. Present complaint has been filed by the complainant to review order dated 06.01.2021 passed by the Authority in bunch of complaints with lead complaint case no.839 of 2019 titled as Jyotsna Leekha Versus M/s Samar

Estates Pvt Ltd. along with 34 other similar matters. It has been pointed out by learned counsel for complainant that office has inadvertently calculated interest @ 9.30% per annum, whereas the same was required to be calculated @ 10.35% per annum i.e. rate of interest as per SBI MCLR at the time of passing of refund order dated 09.10.2019 by Haryana Real Estate Regulatory Authority, Panchkula. List of execution complaints based on order dated 09.10.2019 are placed on record at page no.15,16 of complaint book. Further, it has been pointed out that out of 35 execution complaints of refund orders, 8 complaints, the details of which is placed on record at page no.12 of complaint book, were based on mutual settlement agreed between both the parties whereby respondent was under obligation to refund the entire paid amount along with interest @12 to 15% per annum. Another grievance of the complainant is that complaint no.467 of 2018 was disposed of vide order dated 08.01.2019 whereby refund along with penal interest of 18% was granted to the complainant on failure of respondent to offer possession. Complainant is now praying of review of order dated 06.01.2021 to the extent to award rate of interests as mentioned above.

2. After hearing learned counsel for complainant and going through the record, Authority finds that the interest was to be awarded to the complainants in terms of Rule 15 of HRERA Rules, 2017 which categorically provides the interest at State Bank of India (SBI) Highest Marginal Cost Lending Rate (MCLR) + 2% payable by the respondent to the allottees. The

highest MCLR rate of SBI on the day when refund order was passed in favour of complainant was 8.35% and therefore by adding 2% further rate as contemplated in Rule 15, net interest payable by respondent promoter to complainant ought to be @10.35% per annum (8.35%+2%). Authority however vide order dated 06.01.2021 had inadvertently calculated interest @9.30% per annum. So, correct rate of interest and its amounts @10.35% per annum is prayed. Authority finds merit in the review petition and the same is accordingly allowed. The interest be calculated afresh @10.35% per annum for reckoning the respondent's liability towards the complainants in complaint nos. 133, 146, 167, 446, 434, 431, 432, 435, 445, 444 of 2020. It is pertinent to mention here that in complaint nos.1086, 1089, 1091, 1092, 1093, 1106, 1111, 1133, 1151, 1192 of 2020, recovery certificates have already been issued at the rate of interest which the complainants are claiming i.e. @10.35% per annum.

3. Out of aforesaid bunch, eight cases were disposed of on basis of settlement whereby refund along with interest @12 to 15 % per annum was agreed between the parties. There are five complaints bearing nos. 809, 840, 842, 829, 923 of 2019 wherein interest applicable on refund amount is 15% per annum and on remaining three complaints bearing nos. 839, 889, 1395 of 2019, interest applicable on refund amount is 12% per annum.

In bunch of these eight cases after perusing the relevant record, it has been observed by the Authority that interest has to be awarded to the

complainants in terms of mutual settlements placed on record by the respective allottees. Accordingly, interest be calculated afresh as per details incorporated in para 3 for reckoning the respondent's liability towards the complainants in each case.

4. Besides this, the complainant has apprised the Authority that complaint no. 467 of 2018 was disposed of vide order dated 08.01.2019 granting refund of paid amount along with penal interest of 18% per annum on failure of respondent to offer possession. Perusal of order dated 08.01.2019 passed by Authority shows that interest @18% per annum has been awarded, whereas the office has inadvertently calculated interest @10.35% per annum. So, review application has been filed to recalculate the interest @18 % instead of SBI MCLR + 2%.

Factual position reveals that respondent has not complied with the aforesaid orders of the Authority and now he has become liable to pay refund along with interest @ 18% per annum. For this reason, the review petition is allowed to recalculate the interest @18% per annum in complaint no.1112 of 2020 for reckoning the respondent's liability towards the complainant.

5. Accordingly review application is allowed in the aforesaid terms. After calculating interest afresh in above terms in all cases in which review has been filed. The total recoverable amounts in all these cases have been recalculated afresh and given in following table:



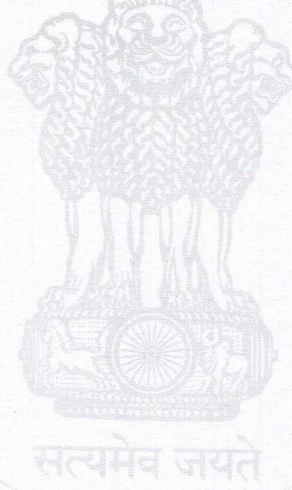
S.No.	Complaint no.	Principal Amount	Interest Accrued	Total Amount
1.	839 of 2019	₹61,39,755/-	₹62,05,857/-	₹1,23,45,612/-
2.	809 of 2019	₹61,49,131/-	₹70,35,095/-	₹1,31,84,226/-
3.	840 of 2019	₹44,85,350/-	₹72,13,746/-	₹1,16,99,096/-
4.	889 of 2019	₹53,96,971/-	₹54,83,325/-	₹1,08,80,296/-
5.	842 of 2019	₹32,63,033/-	₹1,15,57,641/-	₹1,48,20,674/-
6.	829 of 2019	₹62,59,746/-	₹65,79,843/-	₹1,28,39,589/-
7.	923 of 2019	₹35,91,700/-	₹56,48,581/-	₹92,40,281/-
8.	1395 of 2019	₹32,97,248/-	₹47,88,674/-	₹80,85,922/-
9.	2803 of 2019	₹16,92,500/-	₹16,51,382/-	₹33,43,882/-
10.	133 of 2020	₹50,27,000/-	₹54,94,981/-	₹1,05,21,981/-
11.	146 of 2020	₹36,55,000/-	₹46,17,561/-	₹82,72,561/-
12.	167 of 2020	₹36,68,000/-	₹45,52,899/-	₹82,20,899/-
13.	579 of 2020	₹48,14,233/-	₹40,10,132/-	₹88,24,365/-
14.	446 of 2020	₹24,92,500/-	₹22,69,655/-	₹47,62,155/-
15.	434 of 2020	₹32,42,500/-	₹22,51,386/-	₹54,93,886/-
16.	431 of 2020	₹30,42,500/-	₹27,40,076/-	₹57,82,576/-
17.	432 of 2020	₹40,71,868/-	₹37,70,013/-	₹78,41,881/-
18.	435 of 2020	₹48,86,834/-	₹44,20,157/-	₹93,06,991/-
19.	445 of 2020	₹39,42,500/-	₹34,62,774/-	₹74,05,274/-



20.	444 of 2020	₹39,42,500/-	₹34,61,814/-	₹74,04,314/-
21.	1112 of 2020	₹56,02,916/-	₹84,56,844/-	₹1,40,59,760/-

6. Now recovery certificates be issued afresh and intimation be given to District Collector, Panchkula for issuing necessary directions to the concerned officer for recovery of outstanding amounts as arears of land revenue. The District Collector shall send a compliance report to the Authority.

7. **Disposed of.** File be consigned to the record room and order be uploaded on the website.



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RAJAN GUPTA
[CHAIRMAN]

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ANIL KUMAR PANWAR
[MEMBER]

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DILBAG SINGH SIHAG
[MEMBER]