

**HARYANA REAL ESTATE REGULATORY AUTHORITY,  
PANCHKULA.**

**Complaint. No.** 1287/2018- Amit Goel

Versus

SRS Real Infrastructure Limited

**Date of Hearing:** 29.01.2019 (1<sup>st</sup> hearing)

**Coram:** - Shri Rajan Gupta, Chairman.  
Shri Anil Kumar Panwar, Member.  
Shri Dilbag Singh Sihag, Member.

**Appearance:** - Sh. Amit Goel, Complainant in person  
None for Respondent

**ORDER:**

As per tracking report of the courier, notice and copy of complaint was delivered to the respondent on 24.12.18 and the respondent was required to file reply by 17.01.19, however, no reply has been filed yet. Today is the first date of hearing and no one is present on behalf of respondent. The Authority has already disposed of two matters of the same respondent and in none of the matters the respondent had appeared. Also, the Complainant stated in the Court today that the principle Directors of the respondent company are in jail. In the circumstances, the Authority decides to proceed with this matter ex-parte.



2. The complainant was allotted a residential flat no. C-PWL05-05-507, 5<sup>th</sup> floor, Tower C with super area of 1200 sq. ft. In "SRS Pearl", Sector 5, Palwal, Haryana vide an application dated 24.04.12. As per application, possession was supposed to be offered within 4 and a half years from the date of execution of the agreement i.e. by March, 2016. Builder buyer's agreement has not been executed by the respondent, however, all the conditions have been laid down in the application for allotment. The respondent has not offered possession of the unit to the complainant till date. The complainant has already paid an amount of Rs 21,75,080/- to the respondent company which is 95% of the total consideration. The complainant had opted for construction linked plan and he has alleged that despite payment of substantial amount, the project is still far from complete. The construction has been stopped by the respondent since 2016.

Hence, the complainant prays for refund of the money paid, imposition of penalty and compensation for delay in handing over the possession.

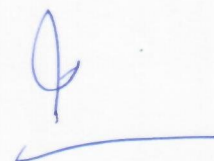
3. The Authority observes that the construction on project has been stopped since 2016 and even existing structure is deteriorating. There is a little likelihood that it will be completed in the near future as the Directors of respondent company are in jail. In these circumstances, this is a stuck project and there appears little hope of its completion in foreseeable future. Despite having received 95% of the payment from the complainant, the



respondent company has not carried out any construction work since 2016. The Directors of the company being in judicial custody, the chances of completion of project are very less and the Authority cannot keep the complainant waiting endlessly and compel him to wait for release of Directors from jail custody.

4. Taking into account the above facts and circumstances, the Authority observes and orders as follows:

- (i) The complainant deserves refund of the amount paid by him. Hence, the respondent company is directed to refund the entire amount paid to the complainant along with interest at the rate stipulated under Rule 15 of the HRERA Rules, 2017. Respondent company shall pay the entire amount within 60 days in two equal instalments of which first instalment will be paid within 30 days and the next within 30 days thereafter. The period of paying such instalments will start from the day the order is uploaded on the website of the Authority.
- (ii) It is understood that in the circumstances that the whole time Executive Directors of the respondent company are in Jail and they are facing multiple criminal proceedings, there will be a challenge in getting these orders executed. It is ordered that the appropriate mode of execution of the orders as prescribed in the RERA Act, 2016 shall be available to the complainant.

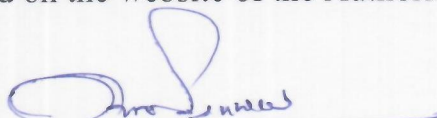


(iii) The Authority in another bunch matter with lead case **Complaint No. 383 of 2018 Gurbaksh Singh & Another Versus ABW Infrastructure Pvt. Ltd.** has passed a detailed order for protecting the interests of allottees in real estate projects which get stuck due to misdeeds of the promoters and face serious financial difficulties. The Authority has ordered that if there are multiple claims against the assets of respondent company, the claims of the allottees shall be served first of all in preference to any other claim including the claims of the lending financial institutions or other financial creditors in respect of the assets of the Project in question. The reasons for laying down this principle are contained in the aforesaid bunch matter with lead case **Complaint No. 383 of 2018**. The reasoning and logic cited in that complaint shall be applicable as it is in this case as well. Accordingly, the complainant may present this order before any appropriate Authority dealing with disposal of the assets of the respondent company for serving their claims first of all on priority.

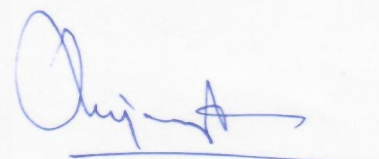
**Disposed of.** The file be consigned to the record room and the order be uploaded on the website of the Authority.



**Dilbag Singh Sihag**  
Member



**Anil Kumar Panwar**  
Member



**Rajan Gupta**  
Chairman