



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

Complaint No. RERA-PKL-260of 2018

Pawan Kumar Rana

...Complainant.

Versus

M/s Prabhu Shanti Real Estate Pvt. Ltd.

...Respondent.

**Date of hearing: - 28.02.2019 (1<sup>st</sup> Hearing)**

**Coram: -**

1. Shri Rajan Gupta, Chairman.
2. Shri Anil Kumar Panwar, Member
3. Shri Dilbag Singh Sihag, Member.

**Appearance: -**

1. Shri Sushil Malhotra, Advocate for complainant.
2. None for Respondent

**ORDER: -**

The complainant herein is seeking refund of an amount of Rs.46,08,255/- which he has paid to the respondent company for purchase of an apartment in the project named "PDM Hi Tech Homes" situated in Bahadurgarh, District Jhajjar. The claim of refund is based on the plea that the respondent has promised him to deliver possession of booked apartment by Feb 2017 as per agreement dated 21.02.2014 but he failed to deliver the same till date. However, completion of the project does not

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possibly appear in near future.. He therefore, prays for refund of the amount along with interest and compensation.

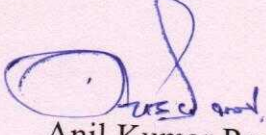
2. The respondent has neither filed his reply nor appeared before this Authority for which he is liable to pay a cost of Rs.10000/- for not filing reply. But in the complaint case no-22/2018 against the same developer, the respondent was appeared and filed his written statement that the National Company Law Tribunal (NCLT), vide its order dated 13.06.2018 had declared moratorium under Section 14 of the Insolvency and Bankruptcy Code 2016 (IBC) and therefore, the project could not be completed. He had further pleaded that the complaint could not be proceeded in view of the moratorium declared by NCLT. The issue regarding moratorium has already been decided in the said complaint. While disposing that complaint it was also emphasized that the preferential rights had been given to the complainants in Complaint no-381/2018 titled "Chetan Verma and another Versus M/S ABW Infrastructure Pvt Ltd. and others" decided on 30.10.2018. The brief of that order is as below:

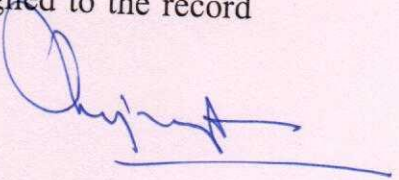
- (i) that the allottees whose claims are not satisfied fully shall be treated creditors of the promoters at par with the other creditors;
- (ii) that the rights of such allottees have to be treated superior to the rights of other financial creditors;

(iii) that such allottees will be entitled for satisfaction of their claims even from the assets of their promoters other than the assets of the project in question. So, the complainant herein is also held entitled for all such rights, for the purpose of recovery of the amount payable by the respondent in this case.

3. Today, learned counsel for the complainant has been heard and record has been perused. It was observed that the facts of the present complaint were similar to the complaint no-22/2018 titled Ashok versus Prabhu Shanti Realtech Pvt Ltd which was earlier disposed of on 30.01.2019. Therefore, the Authority **disposed of** this matter in same terms with the direction that the respondent shall refund the amount of Rs.46,08,255/- to the complainant along with interest envisaged under Rule 15 of the HRERA Rules, 2017 i.e. @ State Bank of India highest marginal cost of landing rate plus 2%. File be consigned to the record room.

  
Dilbag Singh Sihag  
Member

  
Anil Kumar Panwar  
Member

  
Rajan Gupta  
Chairman