



Complaint No-15,19,29,42,43/2018

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Date of Hearing: 03.04.2019
7th Hearing

1. **Complaint No.15/2018**
Virender Kapoor ...Complainant
Versus
Durga Builders Pvt. Ltd. ...Respondent
2. **Complaint No.19/2018**
Vipul Kumar Agarwal ...Complainant
Versus
Durga Builders Pvt. Ltd. ...Respondent
3. **Complaint No.29/2018**
Renu Malhotra ...Complainant
Versus
Durga Builders Pvt. Ltd. ...Respondent
4. **Complaint No. 42/2018**
Ram Maher Gupta ...Complainant
Versus
Durga Builders Pvt. Ltd. ...Respondent
5. **Complaint No. 43/2018**

Rakesh Gupta

...Complainant

Versus

Durga Builders Pvt. Ltd.

...Respondent

Coram:

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

...Chairman
...Member
...Member

Appearance:

1. Sh. Rajiv Boolchand Jain, Counsel for complainant.
2. Sh. Suraj Katyal (J.E.), appearing on behalf of DTCP Haryana.
3. None for respondent.

Order:

This matter has already been listed six times earlier. In the 5th hearing dated 20.2.2019 certain information was sought from the Town & Country Planning Department. Reply from the Director, Town & Country Planning Department has been received. Along with the reply two affidavits filed by the Town & Country Planning Department before the Hon'ble Supreme Court of India in the years 2014 & 2017 have been annexed. A gist of the dispute as can be made out from the information submitted by the Town & Country Planning Department is as follows: -

- (i) Total licensed area of the colony is 234.675 acres comprised of licenses No.1 to 3 of 1991 for area measuring 126.72 acres; and licenses Nos.65 to 68 of 1992 for area measuring 107.95 acres.

- (ii) As per approved plan, in Phase-I 1502 plots were to be carved out and in Phase-II of the project, 1424 plots were to be carved out.
- (iii) Licenses of the projects were renewed only upto 1999 and there-after the same have not been renewed.
- (iv) It can be made out from the two affidavits that greater number of plots were allotted by the developers in the colony than could be carved out as per sanctioned plans. For the reason of the claimants of plots being more in number than the plots, they started approaching various courts for getting redressal of grievances. Eventually the matter went before the Hon'ble Supreme Court in which the aforesaid affidavits were filed. Various committees have been set up from time to time to decide the inter-see claims of the allottees and to find out which allottees deserves to be allotted the plots in preference to the others. Consequently, some people have already got their plots but hundreds more are still waiting.
- (v) Today, during the hearing learned counsel for the complainants stated that Hon'ble Supreme Court had also appointed an Arbitrator in the matter who has finalised his recommendations but content of those recommendations is not known to them.



(vi) It is also made out from the affidavits that several courts including Hon'ble High Courts and Supreme Court have been seized of the matter since the year 1997. Large number of directions have been issued by the Hon'ble Courts to the Director, Town & Country Planning Department seeking various informations and resolution of the disputes from time to time.


2. In view of the aforesaid situation this Authority observes that only 5 out of nearly 3000 allottees are before this Authority. Hon'ble Supreme Court is seized of the matter. An Arbitrator was appointed by the Apex Court who has either given his findings or is in the process of submitting the same. The award of the Arbitrator will be enforceable in the court of law as a decree of the civil court. Now, this matter, at this stage, when the matter is being decided by the Hon'ble Apex Court itself and a comprehensive solution for the entire group of allottees is being found, it will not be appropriate for this Authority to pass any order with regard to a small group of five allottees. There is no reason or justification for treating the five complainants as a separate group. These complainants may also file their claims before the Arbitrator or the appropriate Court of Law as per directions of the Hon'ble Apex Court. Their claims will also be settled in accordance with similar principles. This Authority cannot lay down separate principles in this kind of complex issue in




respect of a small sub group of five allottees. Technically this matter is subjudiced before another competent Court of Law and this Authority cannot entertain these complaints otherwise it will lead to multiple judicial proceedings for the same cause of action.

3. This bunch matter of five complaints accordingly is dismissed on technical grounds without expression of any opinion on merits of the case. The complainants, however, will retain their rights to approach any court including this Authority in future as per law.

Disposed of. Files be consigned to record room and this order be uploaded on the website of the Authority.


Dilbag Singh Sihag
Member


Anil Kumar Panwar
Member


Rajan Gupta
Chairman