



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Date: 04.04.2019

1. **Complaint No. 765 /2018**

Samir Singh and Sukhwinder Singh

Versus

M/s IREO Fiveriver Pvt Ltd.

Hearing: 5th
...Complainant

...Respondent

2. **Complaint No. 1334 /2018**

Sushil Lega and Sunita Lega

Versus

M/s IREO Fiveriver Pvt Ltd.

Hearing: 2nd
...Complainant

...Respondent

CORAM :

Sh. Rajan Gupta, **Chairman**
Sh. Dilbag Singh Sihag, **Member**
Sh. Anil Kumar Panwar, **Member**

APPEARANCE:

1. Ms. Narinder Kaur, Counsel for Complainant in Complaint No. 765 of 2018
2. Mr. Sartaj Singh present Counsel for Complainant in Complaint No. 1334
3. None present on behalf of Respondent

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ORDER:

Both the above captioned complaints are being disposed of by this common order because the facts of both the complaints are similar and related to same project of the respondent.

2. Brief facts of the case are that this is fifth hearing of complaint no. 765 and in case of complaint no. 1334 it is a second hearing. In both the above captioned complaints, notices were issued however the same could not be delivered for the want of correct address. Since, the complainants could not trace the respondent, a publication dated 22.02.2019 was made in the newspaper, Hindustan Times, in the name of respondent directing the respondent to appear today. Despite sufficient notice, the respondent has neither appeared, nor filed his reply. Keeping in view the conduct of respondent in these as well as other matters, it has been decided to proceed ex-parte. The facts of complaint no. 765 of 2018, titled as "Samir Singh & Anr. vs M/s M/s Ireo Fiveriver Pvt. Ltd." are being taken into consideration for final disposal of the above captioned complaints.


3. The case of the complainants is that (hereinafter referred to as the complainant) in complaint no. 765 that the complainant booked a residential plot of 370 sq. yards. on 21.10.2010 in residential colony

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any attention to the requests of complainant. Hence the complainant was compelled to pray for the relief of refund along with interest.

5. It is observed that the respondent has neither appeared before this Authority on any previous instance, nor has taken the pain to file a reply. This Authority after hearing the grievance of the complainant and in view of the fact that the project is neither complete nor is likely to be completed in near future, is convinced to order refund of the paid sum to the respondent along with interest in accordance with Rule 15 of HRERA Rules, 2017. The Authority additionally observes that these cases of complainants deserve exactly similar relief as ordered in complaint no. 491 of 2018 titled as, "Ritu Rana vs M/s IREO Fiveriver Private Limited". The Authority hence decides to dispose of this bunch of complaints in similar terms as complaint no. 491 of 2018. The logic and reasoning cited in the said order will be applicable in the present case as well.


D.S. Sihag
Member


Anil Kumar Panwar
Member

Rajan Gupta
Chairman

I agree with the conclusions arrived at by my learned friends that the project has not been completed by the respondents and inordinate delay has been caused by them in commencing its development works, the complainants deserve their money to be refunded along with the interest calculated at the rate provided for in rule 15 of the HRERA Rules, 2017.

Large number of orders have been directed against the respondent company but they have failed to comply with those orders. Hon'ble NCLT has initiated proceedings against the respondent company in one of the complaints filed before them. Accordingly, a moratorium has been issued against the respondent company by the NCLT. This Authority in complaint case No.491 of 2018-Ritu Rana Versus IREO Fiveriver Pvt.Ltd. has inter:-alia passed the following orders:-

- (i) Allottees of the project in question shall be treated as deemed owners of the project. The promoters of the project and the lending financial institutions cannot alienate the ownership rights of the allottees at their own level without their consent. Therefore, the claim of the allottees against the assets of the project shall be treated superior to any other right of any other person or entity including the financial institutions and / or other creditors.
- (ii) If claims of the allottees are not satisfied fully from the assets of the project in question, they shall be treated creditors of the promoters at par with other creditors for satisfaction of their claims from the assets of the promoters other than the assets of the project in question.
- (iii) The Director, Town & Country Planning Department, Haryana is duty bound to protect interest of the allottees and to ensure that the project on the licenced land is completed in accordance with sanctioned plans. The Director shall immediately take steps to take over the project and

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get it completed in the manner considered appropriate. The Director shall take over the project regardless of any other proceedings pending against the project assets including under the SARFAESI Act, 2002 or the "Haryana Protection of Interest of Depositors in the Financial Establishment Act, 2013".

- (iv) While all the captioned complaints are being disposed of by this final order, Executive Director shall file a suo-moto complaint against respondents No.1 & 2 and also implead Director, Town & Country Planning Department, Haryana as a respondent for monitoring of follow up actions taken on these directions.
- (v) The complainants and other similarly placed allottees may present this order before any authority dealing with liquidation of assets of the Project, or the respondents and seek satisfaction of their claims on priority. It is, however made clear that the claims of the allottees shall be restricted to the refund of the money paid by them to the respondents along with interest as provided for in rule 15 of the HRERA Rules, 2017."

The aforesaid directions shall be applicable in this case also. Now the respondents are directed to refund the amount paid by the complainants alongwith interest at the rate provided for in Rule 15 of the HRERA, Rules from the date of payment upto the date of actual refund. I order accordingly.



Rajan Gupta
Chairman