



Complaint no. 28 of 2018 &
1424 of 2020

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 28 OF 2018

Kanta Sharma & ors

....COMPLAINANT(S)

VERSUS

Shalimar Estates Pvt Ltd.

....RESPONDENT(S)

2. COMPLAINT NO. 1424 OF 2020

Rajinder Pal Pasricha & Anr

....COMPLAINANT(S)

VERSUS

Shalimar Estates Pvt Ltd.

....RESPONDENT(S)

CORAM:

Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Date of Hearing:

04.05.2022

Hearing:

17th

Present:

Mr Keshav Gupta, Counsel for the complainants

Mr. R. K Aggarwal, Director of respondent company

ORDER (DILBAG SINGH SIHAG-MEMBER)

Captioned complaints have been taken up together as grievances and facts involved are identical and against the same project of the respondent. Complainants herein are seeking relief of refund of amount paid in lieu of booked unit to respondent. Initially said complaints had been adjourned sine die

by this Authority awaiting orders of the Hon'ble Supreme Court of India with regard to jurisdiction of the Authority for adjudicating upon the complaints where in relief of refund has been sought.

2. For adjudication of such like issues of the parties, Authority has passed its resolution no. 6705-6709 dated 14.01.2022 which is also available on website of the Authority. Relevant part of aforesaid resolution is reproduced as below:

“ 4. The Authority has now further considered the matter and observes that after vacation of stay by Hon'ble High Court vide its order dated 11.09.2020 against amended Rules notified by the State Government vide notification dated 12.09.2019, there was no bar on the Authority to deal with complaints in which relief of refund was sought. No stay is operational on the Authority after that. However, on account of judgment of Hon'ble High Court passed in CWP No. 38144 of 2018, having been stayed by Hon'ble Supreme Court vide order dated 05.11.2020, Authority had decided not to exercise this jurisdiction and had decided await outcome of SLPs pending before Hon'ble Apex Court. Authority further decided not to exercise its jurisdiction even after clear interpretation of law made by Hon'ble Apex Court in U.P. matters in appeal No(s) 6745-6749 of 2021 - M/s Newtech Promoters and Developers Pvt. Ltd. Versus State of UP and others etc. because of continuation of the stay of the judgment of Hon'ble High Court.

It was for the reasons that technically speaking, stay granted by Hon'ble Apex Court against judgment dated 16.10.2020 passed in CWP No. 38144 of 2018 and other matters was still operational. Now, the position has materially changed after judgment passed by Hon'ble High Court in CWP No. 6688 of 2021 and other connected matters, the relevant paras 23, 25 and 26 of which have been reproduced above

5. Large number of counsels and complainants have been arguing before this Authority that after clarification of law both by Hon'ble Supreme Court as well as by High Court and now in view of judgment of Hon'ble High Court in CWP No.(s) 6688 of 2021, matters pending before the Authority in which relief of refund has been sought should not adjourned any further and should be taken into consideration by the Authority.

Authority after consideration of the arguments agrees that order passed by Hon'ble High Court further clarifies that Authority would have jurisdiction to entertain complaints in which relief of refund of amount, interest on the refund amount, payment of interest on delayed delivery of possession, and penal interest thereon is sought. Jurisdiction in such matters would not be with Adjudicating Officer. This judgment has been passed after duly considering the judgment of Hon'ble Supreme Court passed in M/s Newtech Promoters and Developers Pvt. Ltd. Versus State of UP and others etc.


6. In view of above interpretation and reiteration of law by Hon'ble Supreme Court and Hon'ble High Court, Authority resolves to take up all complaints for consideration including the complaints in which relief of refund is sought as per law and pass appropriate orders. Accordingly, all such matters filed before the Authority be listed for hearing. However, no order will be passed by the Authority in those complaints as well as execution complaints in which a specific stay has been granted by Hon'ble Supreme Court or by Hon'ble High Court. Those cases will be taken into consideration after vacation of stay. Action be initiated by registry accordingly."

3. Shri R K Aggarwal, Managing director of respondent company submitted that he was not aware of listing of the matters and sought time to prepare the case and file reply..

Further, he accepted notice in complaint no. 1424 of 2020 and requested a copy of complaint book.

4. Respondent is directed to collect copy of complaint book from office of Authority and will reply in both matters within 30 days with a copy supplied to complainant.

5. Adjourned to 14.07.2022.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]

