



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. डब्ल्यू. डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY

8

Day and Date

Tuesday and 11.03.2025

Complaint No.

CR/160/2024 Case titled as Rohit and Aradhna Patney VS SARV Realtors Private Limited & Supertech Limited

Complainant

Rohit and Aradhna Patney

Represented through

Shri Garv Malhotra Advocate

Respondent

SARV Realtors Private Limited & Supertech Limited

Respondent Represented

Shri Rohit Arora Advocate for R1
Shri Bhrigu Dhami Advocate for M/s Supertech Limited - R2

Last date of hearing

10.12.2024

Proceeding Recorded by

Naresh Kumari and HR Mehta

Proceedings

The present complaint has been received on 24.01.2024. Reply on behalf of respondent not received yet.

On the last date of hearing dated 10.12.2024, the counsel for the respondent states that the complainant had already filed a complaint bearing no. 2821 of 2019 which was decided by the Hon'ble Authority no. 26.02.2020 granting delayed possession charges. Now the complainant has filed the fresh complaint for the same relief which is not maintainable due to res judicata.

The counsel for the complainant states that respondent no.2 did not comply with the orders of the Authority within 90 days and the complainant had filed Execution Petition No.1596/2021 for enforcement of orders. During the pendency of the execution petition, the Hon'ble A.O. referred the matter to CA for assessment of account and as per calculation, Rs.18,15,699/- was to be paid by the respondent but further the respondent did not comply with the orders of Hon'ble AO as well as of the Authority. Meanwhile the Supertech Ltd was gone to Insolvency, hence, he has filed the fresh complaint before the



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Authority. Order heard on the issue of maintainability.

The Authority observes that it is not disputed that prior to filing of the present complaint before the Authority on 24.01.2024, the complainant had already filed a complaint before the authority bearing no. 2821 of 2019 in respect to the same subject unit. The said complaint was disposed of by the authority vide order dated 26.02.2020 directing the respondent to pay interest at the prescribed rate i.e., 10.15% per annum till offer of possession after obtaining of OC by the respondent on the rest of the amount which he had paid from the pocket on account of raising of loan, as per provisions of Section 18(1) of the RERA Act, 2016.

The Authority cannot re-write its own orders and lacks the jurisdiction to review its own order as the matter directly and substantially in issue between the same parties has been heard and finally decided by this Authority in the former complaint bearing CR/2821/2019. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of consumers. However, this cannot be fetched to an extent that basic principles of jurisprudence are to be ignored. Therefore, subsequent complaint on same cause of action is barred by the principle of res-judicata as provided under Section 11 of the Code of Civil Procedure, 1908 (CPC).

Matter stands disposed of. Detailed order will follow.

Ashok Sangwan
Member


Arun Kumar
Chairman
11.03.2025

V.I. 
Vijay Kumar Goyal
Member