

PROCEEDINGS OF THE DAY

Day and Date	Tuesday and 14.05.2019
Complaint No.	1809/2018 Case Titled As Abha Sharma V/S BPTP Limited
Complainant	Abha Sharma
Represented through	Ms. Vridhi Sharma proxy counsel for Shri Pawan Kumar Advocate
Respondent	BPTP Limited
Respondent Represented through	Shri Shashank Bhushan Advocate for the respondent
Last date of hearing	02.04.2019
Proceeding Recorded by	Naresh Kumari & S.L. Chanana

Proceedings

Keeping in view the decision dated 2.5.19 in appeal No. 6 of 2018 titled as Sameer Mahawar versus MG Housing Pvt Ltd clubbed alongwith appeal No. 11 of 2018 Manish Kumar versus MG Housing Pvt. Ltd., appeal No. 12 of 2018 Neeraj Jain vs. MG Housing Pvt Ltd, appeal No. 13 of 2018 Sharat Yadav Vs. MG Housing Pvt Ltd appeal No. 14 of 2018 Anita Mahawar Vs. MG Housing Pvt Ltd appeal No. 15 of 2018 Nitin Kumar Chauhan Vs. MG Housing Pvt Ltd, appeal No. 16 of 2018 Mohd. Shaquib Vs. MG Housing Pvt Ltd appeal no. 17 of 2018 Rudra Pratap Ojha Vs. MG Housing Pvt Ltd, appeal No. 18 of 2018 Sandeep Chopra Vs. MG Housing Pvt Ltd,. appeal no. 53 of 2018 Roshni and Sangeeta Vs. Jindal Reality Pvt. Ltd. appeal no. 68 of 2018 Smt. Mira Madhubani Vs.M/ IREO Grace Pvt. Ltd., appeal No. 80 of 2018

Rashmi Malviya Vs. M/s Varali Properties Ltd, appeal no. 9 of 2019 Ramesh Kumar and others Vs. M/s Parshavnath Developers appeal no. 37 of 2019 Pushpa Gupta and others Vs. Ms. VSR Infratech Pvt. Ltd. appeal no. 72 of 2019 Om Parkash Kapoor and others vs. Parshavnath Developers Ltd., appeal no. 104 of 2019 Rajkumar Chawla and others vs. M/s parshavnath Developers, appeal no. 133 of 2019 Ram Parkash Sharma and others Vs. Ramprastha Developers Pvt. Ltd., appeal no. 159 of 2019 Ramparkash Sharma and others Vs. BPTP Ltd. appeal no. 174 of 2019 Harish Gupta and others vs. Landmark Pvt. Ltd, the learned Haryana Real Estate Appellate Tribunal, Chandigarh has decided as under in para 48 of judgment which is reproduced here in below :

Thus, as a result of our aforesaid discussion, we conclude and sum up our considered view in following manner :-

- i) That violations and causes of action arising out of the same bundle of facts/rights giving rise to the multiple reliefs shall be placed before one and the same forum for adjudication in order to avoid the conflicting findings.*
- ii) The complaints for the grant of relief of compensation can only be adjudicated by the adjudicating officer as per the provisions of section 71 of the Act and Rule 29 of the Rules.*
- iii) Similarly, if compensation is provided as a part of the multiple reliefs alongwith refund/return of investment with interest flowing from the same violation/violations and causes of action, the complaints have to be placed before the adjudicating officer exercising the powers under section 31, 71(1) read with rule 29 of the rules as only the adjudicating officer is competent to deal with the relief of compensation.*

The matters where compensation is provided as a part of the multiple relief alongwith refund/return of investment with interest flowing from the same violation/violations and causes of action the complaints have to be placed before the adjudicating officer exercising the powers under section 31, 71(1) read with rule 29 of the rules as only the adjudicating officer is competent to deal with the relief of compensation. The complaints filed by the complainants stand transferred to the adjudicating officer of the Authority for adjudication in accordance with law. The Adjudicating Officer will allow the complainant to amend their complaints in order to bring it in the parameter of form CAO as provided in rule 29 of the rules.

Where the allottee does not intend to withdraw from the project as per proviso to section 18(1) he shall be paid by the promoter interest for every month of delay till handing over of the possession at such rate as may be prescribed. Here compensation is not part of the multiple reliefs and it does not fall in direction no. 3 of para 48 of the decision of the learned Appellate Tribunal. Accordingly this complaint be persuaded by the complainant before the Authority .

Ordered accordingly.

Matter is adjourned to 7.8.2019.

Samir Kumar
(Member)
14.05.2019

Dr. K.K. Khandelwal
(Chairman)
14.05.2019

Subhash Chander Kush
(Member)