



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		3
Day and Date	Thursday and 03.03.2022	
Complaint No.	E/4202/2021/5728/2019 Case titled as Gourav Manohar Negi VS Fantasy Buildwell Private Limited	
Complainant	Gourav Manohar Negi	
Represented through	Shri Rishabh Jain Advocate	
Respondent	Fantasy Buildwell Private Limited	
Respondent Represented	Ms. Stuti Sharma Advocate	
Last date of hearing	06.01.2022	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings through VC		
1. The decree holders are desirous to execute the decree in response to the order in complaint no. 5728 of 2019 decided on 31.03.2021. An application under order XXI Rule 10 read with Rule 11(2) of the Code of Civil Procedure has been made by the DH to this authority for execution of the said decree in the proforma no. 6 of appendix E "Application for execution of the decree". 2. The execution application along with a sworn affidavit have been filed by the decree holders under order XXI Rule 11 of the Code of Civil Procedure, 1908 (hereinafter in short as 'Code'). It averred in the affidavit that to the knowledge of the complainant-decree holder, the respondent/judgment debtor has not filed any appeal against the order under execution nor does any stay operate in respect of the said order. The period of ninety days from the date of decision was granted to comply the directions and as no appeal has been filed, orders of the Authority have attained finality. Office report has been obtained and as per this report, no stay order has been		

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण

भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTH
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गु

E/14202

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

received from the Appellate Authority or from any court. We have also gone through the execution file and the affidavit of the complainant-decree holders filed therewith, and the averments made thereunder were taken on record.

3. The execution application has been filed within a period of 2 years from the date of attaining finality of the order, hence, there is no need of sending notice of the execution application to the respondent-judgment debtor (as per Order XXI Rule 22 of the Code) for compliance of orders of the authority in the case before hand. It is informed that compliance of orders of authority has not been done so far.
4. The following is the operative part of decision and decree for which execution application has been made.

- i. *The respondent is directed to pay interest at the prescribed rate of 9.30% p.a. for every month of delay from the due date of possession i.e., 16.04.2017 till the date of offer of possession i.e., 19.11.2020.*
- ii. *The arrears of delayed possession charges be adjusted in the ledger account of the complainants.*
- iii. *The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.*
- iv. *It is directed to the respondent that they shall not charge any extra amount which is not mentioned in the builder buyer agreement.*
- v. *It is directed that no holding charges shall be payable to the respondent.*

Decretal Amount	Rs.1,98,47,402/-
Complaint registration fee	Rs.1065/-
Execution cost	Rs.500/-
Total	Rs.1,98,48,967 /-

5. As per the calculation given by the decree holder, the total amount to be paid by the judgement debtor to the decree holder as per the direction contained in the decree comes out to Rs.1,98,48,967/-.

6. Section 40 of the Real Estate (Regulation and Development) Act, 2016 read

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016
Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण
भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम
E/4202/2021/5128/2019

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

with Rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017 provides for enforcement of order, direction or decision of adjudicating officer, authority or appellate tribunal. Rule 27 is reproduced below:

"27. Enforcement of order, direction or decision of adjudicating officer, Authority or Appellate Tribunal. Section 40. —

Every order passed by the adjudicating officer or the Authority or the Appellate Tribunal, as the case may be, under the Act or rules and the regulation made thereunder, shall be enforced by an adjudicating officer or the Authority or Appellate Tribunal in the same manner as if it were a decree or an order made by a civil court in a suit pending therein; and it shall be lawful for the adjudicating officer or the Authority or the Appellate Tribunal, as the case may be, in the event of its inability to execute the order, send such order to the civil court, to execute such order.

7. Accordingly, the authority has taken up execution of the order/decreed of the authority in the instant case as per the provisions contained in Part-II titled 'Execution' read with Order XXI of the Code exercising powers of the civil court to enforce execution provided in section 51 of the Code.
8. The authority has decided to execute decree as per the mode provided in Order XXI Rule 30 of the Code which provides as under:

"30. Decree for payment of money

Every decree for the payment of money, including a decree for the payment of money as the alternative to some other relief, may be executed by the detention in the civil prison of the judgment debtor, or by the attachment and sale of his property, or by both".

9. The decree holders have mentioned the following modes in which the assistance of the authority is required in order to execute the said decree as under:
 - a. Attachment and sale of movable property is sought -
The decree holders have prayed that the decretal amount be realized by attachment and sale of moveable property/ attachment of bank account as detailed below.
10. The decree holders have made a written application under Order XXI Rule 11(2) of the Code. The authority is informed of the bank account of the judgment debtor as per details given below:



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

51/4202/2021/5128/2019

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

S.N.	Account No.	Name of account holder	Name of Bank	Branch	Decretal Amount (Rs.)
1.	05720330000677	Fantasy Buildwell Private Limited	HDFC Bank Limited	HDFC Bank, Vatika Atrium, Sector- 53, Golf Course Road, Gurugram- 122002	Rs.1,98,48,967/-

- While exercising powers under Order XXI Rule 30 of the Code, the authority hereby orders attachment of the above said bank account mentioned at serial no. 1 the bank manager to remit the decretal amount in favour of the decree holders by way of producing demand draft in the registry within 15 days, failing which the bank manager is directed to explain the reasons for non-compliance on the next date of hearing in the matter.
- In case, the bank account is incorrect or the balance available in the bank account is insufficient to satisfy the decretal amount, a report in this regard be sent by the concerned bank manager to this authority within 15 days from the receipt date of this notice.
- The bank manager is further directed that in case sufficient amount is not available in the above stated bank account of the judgement debtor, a lien be created to the extent of the decretal amount in the account and any amount to a third person shall not be released from the said account before satisfying this warrant of attachment. Bank Managers will also intimate the authority accordingly. Hence, necessary warrant of attachment of the bank account be issued with the intimation to the judgment debtor and decree holder.
- The bank manager is also hereby directed that if the said account attached under these order is a separate RERA account maintained under section 4 (2)(I)(D), then the authority be informed accordingly as payment of

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अर्तगत गठित प्राधिकरण

भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

E/4202/2021/5728/2019

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

amount imposed as penalty, interest or compensation paid or payable by the promoter cannot be made out of this account keeping in view Rule 21(3) of the Haryana Real Estate (Regulation and Development) Rules, 2017 although, the same can be paid out of free account of the promoter. (30% of the amount collected from the allottees is deposited after transferring 70% of the amount in the separate RERA account under section 4(2)(I)(D)).

15. The attention of the bank managers be invited to section 32 which provides as under:

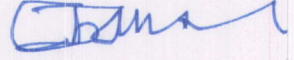
32. Penalty for default:

The court may compel the attendance of any person to whom a summons has been issued under section 30 and for that purpose may: -

- (a) Issue a warrant for his arrest.
- (b) Attach and sell his property
- (c) Impose a fine upon him (not exceeding five thousand rupees)
- (d) Order him to furnish security for his appearance and in default commit him to the civil prison.

Matter to come up on **07.04.2022**. For further proceedings.


Vijay Kumar Goyal
Member


Dr. KK Khandelwal
Chairman
03.03.2022