



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

Day and Date	Wednesday and 28.07.2021
Complaint No.	E/511/2021/2094/2019 Case titled as Ishwar Devi Chhabra VS Ansal Housing And Construction Limited
Complainant	Ishwar Devi Chhabra
Represented through	Shri JM Chhabra husband of the decree holder in person
Respondent	Ansal Housing And Construction Limited
Respondent Represented	None
Last date of hearing	12.05.2021
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

A complaint bearing No. 2094 of 2019 was filed by the complainant Ishwar Devi Chhabra and the authority passed the following order in favour of the complainant/decreed holder and against the respondent/JD in exercise of the powers conferred upon it under section 37 of the Real Estate (Regulation and Development) Act, 2016: -

(i) The complainant is entitled for delayed possession charges at the prescribed rate of interest i.e. 10.45% per annum w.e.f. 05.10.2017 as per the provisions of section 18(1) of the Real Estate (Regulation and Development) Act, 2016 till the actual offer of possession.

(ii) Interest on the due payments from the complainant shall be charged at the prescribed rate of interest i.e. 10.45% by the promoter which is the same as is being granted to the complainant in case of delayed possession.

(iii) The arrears of interest accrued so far shall be paid to the complainants within 90 days from the date of this order and

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



thereafter monthly payment of interest till offer of possession shall be paid before 10th of each subsequent month.

(iv) Complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.

(v) The promoter shall not charge anything from the complainant which is not the part of the flat buyer agreement.

(vi) The respondent is directed not to charge such labour cess from the complainant.

2. This order is not complied with as stated in the execution application.

3. Execution application has been filed. Office report has been obtained and as per this report no stay order has been received from the appellate authority. The Authority has also gone through the execution file and the affidavit of the complainant-decree holder/authorized representative filed therewith.

4. It is sworn 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.

5. 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 (order 21 rule 22 CPC which *inter alia* provides that where an application for execution is *made more than two* years after the date of decree, the court executing the decree shall issue a notice to the person against him execution is applied for requiring him to show cause, order date to be fixed, why the decree should not be executed against him. Thus, where an execution application has been filed within a period of two years after the date of the decree, no such notice is required to be sent to the judgment-debtor.

6. Section 40 of the Real Estate (Regulation and Development) Act, 2016 read 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. Section 40(2) of the 2016, Act reads as under: -

“40. Recovery of interest or penalty or compensation and enforcement or order, etc.-



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

(2) If any adjudicating officer or the Regulatory Authority or the Appellate Tribunal, as the case may be, issues any order or directs any person to do any act, or refrain from doing any act, which it is empowered to do under this Act or the rules or regulations made thereunder, then in case of failure by any person to comply with such order or direction, the same shall be enforced, in such manner as may be prescribed."

7. The Rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017 provides that every order passed by the Authority under the Real Estate (Regulation and Development) Act, 2016 or rules and regulations made thereunder shall be enforced by the authority in the same manner as if it were a decree or order made by a Civil Court in a suit pending therein.

8. Accordingly, execution of order of the authority in the following matter is being taken up as per provisions of Code of Civil Procedure: -

i)	Name of the complainant/decreed holder	Ishwar Devi Chhabra
ii)	Name of the respondent/judgment order	M/s Ansal Housing & Construction Limited
iii)	Complaint No.	2094 of 2019
iv)	Date of decision	04.09.2019
v)	Date of Filing of Execution Application	09.02.2021
vi)	Execution Application No.	511 of 2021

9. The decree is for recovery of delayed possession charges from the promoter-JD. Decree may be satisfied by either of the modes as given in sub clause (a) or (b) or exercising power under (c), the authority directs the JD to credit the decretal amount in the ledger account of the unit of the allottee. In case the due amount against the allottee is more than decretal amount or if due amount against the allottee is less than the decretal amount then due amount be adjusted, and rest of the money be paid as per provisions of clause (a) or (b). In case decretal amount or part thereof is credited in the ledger account of the allottee, statement of account be sent within a week and in case of dispute about account then decree holder shall be at liberty to approach the authority by filing a separate complaint/application. Hence, it is a money decree. Order XXI rule 1 CPC deals with modes of paying money under decree. It reads as under: -

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

"1. Modes of paying money under decree

(1) All money, payable under a decree shall be paid as follows, namely: -

- (a) by deposit into the court whose duty it is to execute the decree, or sent to that court by postal money order or through a bank; or
- (b) Out of court, to the decree-holder by postal money order or through a bank, or by any other mode wherein payment is evidenced in writing; or
- (c) *Otherwise, as the court, which made the decree, directs".*

Rule 30 of order 21 deals with payment of money. It reads 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".

10. Thus, a joint reading of order 21 rule 1 (c) and order 21 rule 30 CPC makes it abundantly clear that the movable/immovable property of the JD can also be attached by the Authority while executing the decree for recovery of delay possession charges from the promoter/JD.

11. As per the calculation sheet submitted by the decree holder and also as per the office report, total amount is to be paid by the JD to the decree holder as per the directions contained in the decree comes out to be Rs. 19,86,350/- till 31.03.2021

12. The Bank Manager is directed to attach the following bank account of the JD to the extent of decretal amount of Rs. 19,86,350/-

Sr. No.	Name of the Bank	Account No.	IFSC Code No.	Amount
1.	Axis bank	91400020040336228	UTIB0000007	Rs. 19,86,350/-



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

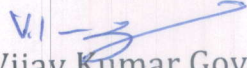
नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

13. Therefore, in exercise of the powers conferred under 41 (1), (2) CPC, the authority hereby directs that a notice for attendance be issued to the Judgment Debtor on the next date for his oral examination with regard to his assets and liabilities and whether he has any property or means of satisfying the decree and also to file an affidavit stating the particulars of the assets of the judgment debtor if decree is not the satisfied before next date of hearing.

Summons be also issued to the JD for personal appearance of the Directors of the company on the next date of hearing.

Matter to come up on **25.08.2021**.


Samir Kumar
Member


Vijay Kumar Goyal
Member
28.07.2021