



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

### COMPLAINT NO. 1009 OF 2021

Narendra Pal Gupta Deceased through LRs

....COMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.

....RESPONDENT(S)

**CORAM:**

**Rajan Gupta  
Dilbag Singh Sihag**

**Chairman  
Member**

**Date of Hearing:** 30.03.2022

**Hearing:** 2<sup>nd</sup>

**Present: -**

Mr. Akshat Mittal, counsel for the complainant through video conference

Ms. Rupali S. Verma, counsel for the respondent through video conference

### **ORDER (RAJAN GUPTA - CHAIRMAN)**

1. Facts of complainant's case are that Mr. Prabhit Kumar Das (original applicant) booked a plot measuring 300 sq. yards @ ₹3,500/- per sq. yard in respondent's project under 'Present and Future Scheme' in the

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year 2004 by paying booking amount of ₹1,60,000/-. Mr. Prabhit Kumar sold his booking rights to Sh. Navneet Nasa in 2006 from whom the booking rights were purchased by Late Sh. Narendra Pal Gupta and the same was endorsed by respondent in his favour vide letter dated 25.10.2007 . Copy of said letter has been annexed as Annexure C-1. Till date a sum of ₹5,62,500/- stands paid to the respondent against basic sale consideration of ₹10,50,000/- . Complainant has annexed copies of payment receipts as Annexure-C-2 colly. It has been contended that at the time of endorsement in October 2007, respondent assured that plot would be allotted to Late Sh. Narendra Pal Gupta within six months i.e latest by 25.04.2008 but respondent failed to allot any plot till date. Several letters were sent to respondent asking for allotment but in vain. Respondent neither replied to letters nor allotted any plot. Evenmore, no builder buyer agreement has been executed between the parties. Due to act of the respondent, Late Sh. Narendra Pal suffered from prolonged stress, anxiety and grave ailments ultimately resulting into his death. After death of Late Sh. Narendra Pal Gupta, his legal representatives have neither been offered refund and compensation of the amount paid nor possession of the plot. So, present complaint has been filed by Smt. Neelam Gupta (wife), Sh. Karan Gupta (son) and Smt. Bhavya Gupta (daughter) being legal representatives/heirs of Late Sh. Narendra Pal Gupta, seeking allotment and possession of the plot booked by complainant or in alternative

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refund of the amount deposited with the respondent along with interest @18%, compensation and litigation expenses.

2. Respondent in its reply has contended that complaint is not maintainable for the reason that complainants are not allottees of respondent company. However, he has admitted the fact of booking of the plot by Mr. Prabit Kumar and payment of ₹5,62,500/- received against the expression of interest. Further it has been stated that booking was made in 'Present and Future project' by original applicant and Late Sh. Narendra Pal Gupta bought the receipts from Mr. Navneet Nasa and executed an Affidavit cum Undertaking and Indemnity. Respondent has contended that in absence of any agreement executed between the parties, complainants/legal representatives are bound by terms of said affidavit and as per clause 7 of said affidavit, in case no plot is allotted to him in present and future project, then he would accept refund of deposited money along with simple interest at the rate 9% p.a. It has further been stated that no demand was ever raised by the respondent after endorsement on 12.10.2007 in favour of Late Sh. Narendra Pal. Also, advance registration is still in the name of Late. Sh. Narendra Pal Gupta and has not been endorsed in favour of his legal representatives.

3. During oral arguments both parties reiterated their arguments as were submitted in writing. Learned counsel for the respondent also argued that respondent does not have any plot to be offered to the

complainants/legal representatives but is ready to refund the amount in terms of Affidavit cum Undertaking and Indemnity executed by Late Sh. Narendra Pal Gupta from date when endorsement was made in his favour and not from the date of payments since Late Sh. Narendra Pal Gupta purchased the booking rights being fully aware of the fact that no allotment had been made in favour of his predecessor in interest. Therefore, she argued that complainants are entitled to interest from the date of endorsement in favour of Late Sh. Narendra Pal Gupta.

4. After hearing the arguments of both the parties and going through the documents on record, it is observed that that in the captioned complaint booking was made in present and future scheme, no agreement has been executed till date, complainants/legal representatives interested to withdraw from the project and want refund of the amount deposited, respondent has expressed its inability to offer plot to the complainant/legal representatives and is interested to refund the amount deposited. For these reasons, a case is clearly made out to allow relief of refund as sought by complainant/legal representatives. Therefore, as per provisions of Section 18 of the Act, relief of refund as sought by the complainant/legal representatives deserves to be granted.

5. Further, respondent's contention that complainants shall be awarded refund from the date of endorsement in favour of Late Sh. Narendra Pal Gupta does not hold any merit for the reason that from the moment he

purchased the booking rights from Sh. Navneet Nasa, he stepped into the shoes of his predecessors-in-interest and all rights and liabilities of his predecessors will accrue to him. Respondent can't be allowed to take this benefit that since endorsement in favour of Late Sh. Narendra Pal Gupta was made in 2007, interest should be given from 2007 and not from 2004 (when original applicant booked the plot). Respondent has retained the money of the complainants/legal representatives from 2004 and mere fact that Late Sh. Narendra Pal Gupta purchased the booking rights in 2007 will not affect his rights accruing from 2004. For said reasons, respondent's contention is rejected and Authority holds that the complainants/legal representatives are entitled for refund of the amounts deposited by them along with interest at the rate prescribed in Rule 15 of RERA Rules, 2017 i.e. SBI MCLR+2% which as on date works out to 9.30% (7.30% + 2.00%) from the date amounts were paid till today.

6. During hearing this case was announced to be disposed of allowing refund in favour of complainants/legal heirs. However, after examining the case file it has been revealed that complaint has been filed by legal representatives of Late Sh. Narendra Pal Gupta but no death certificate of Late Sh. Narendra Pal Gupta has been placed on record by the complainants/legal representatives. Even the complaint is silent about the date of death of Late Sh. Narendra Pal Gupta. Also, it has been contended in the complaint that since, Smt. Bhavya Gupta resides in United States of



America, Smt. Neelam Gupta will be the signing authority and General/Special Power of Attorney in name of Smt. Neelam Gupta has been annexed as Annexure C-5. On perusing Annexure C-5, Authority finds that Annexure C-5 is a copy of No Objection Certificate of Smt. Bhavya Gupta issued in favour of her mother Smt. Neelam Gupta and no General/Special Power of Attorney in name of Smt. Neelam Gupta has been annexed with the complaint. Further, neither any legal heir certificate/succession certificate nor any affidavit has been placed on record stating therein that complainants are the only legal heirs/representatives of Late. Sh. Narendra Pal Gupta.

Hence, Authority observes that present case can't be disposed of in absence of above said documents. It orders that relief of refund is admissible and respondent will return the amount of ₹5,62,500/- along with interest of ₹8,68,663/-, total amounting to ₹14,31,163/- to the complainants/legal representatives. However, this matter is being fixed for rehearing only for determining the rightful legal heirs who would be entitled to receive the money ordered to be refunded by the Authority.

7. Adjourned to 26.07.2022.

  
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**RAJAN GUPTA**  
[CHAIRMAN]

  
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**DILBAG SINGH SIHAG**  
[MEMBER]