



Complaint nos. 1505, 1506, 1507,
1508, 1509, 1510,
1511, 2419/19

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 1505 OF 2019

Anil Kumar

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.
(4th hearing)

...Respondent

2. COMPLAINT NO. 1506 OF 2019

Anil Kumar

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.
(4th hearing)

...Respondent

3. COMPLAINT NO. 1507 OF 2019

Sunila Bajaj

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.
(4th hearing)

...Respondent

4. COMPLAINT NO. 1508 OF 2019

Sunila Bajaj

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.
(4th hearing)

...Respondent

5. COMPLAINT NO. 1509 OF 2019

Sunila Bajaj

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.
(4th hearing)

...Respondent

6. COMPLAINT NO. 1510 OF 2019

Baldev Kumar

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.
(4th hearing)

...Respondent

7. COMPLAINT NO. 1511 OF 2019

Baldev Kumar

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.
(4th hearing)

...Respondent

8. COMPLAINT NO. 2419 OF 2019

Neelam Rani

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.

...Respondent

(2nd hearing)

CORAM:

**Anil Kumar Panwar
Dilbag Singh Sihag**

**Member
Member**

Date of Hearing: 18.12.19

Present: - Sh. Gaurav Gupta, Counsel for complainants
Sh. Alok Jain, Counsel for respondent

ORDER (ANIL KUMAR PANWAR-MEMBER)

1. Reply has been filed by respondent in all the above-captioned complaints except in complaint no. 2419 of 2019 titled as Neelam Rani V Alpha Corp. Development Pvt. Ltd. wherein no reply has been filed till date despite successful delivery of notice on 14.10.2019. Hence, the respondent in the said case has already incurred a cost of Rs. 10,000/- for not filing reply. The Authority directs the respondent to file his reply and supply its copy to complainant in the said case one week prior to the next date of hearing. He is also directed to pay the above-said cost to the Authority on the next date of hearing.



2. The respondent has filed an application requesting the Authority to recall its last order dated 06.11.2019 averring that the counsel for respondent did not show her willingness to offer delay compensation to the complainants as has been recorded in the order. Further, the maintainability of the complaints is also being challenged by the respondent through this application.

3. Copies of the applications were today supplied to the complainants' counsel and he requested the Court to grant him adjournment to file reply to the said application, which is allowed with a direction to file the reply and supply its copies to the respondent one week prior to the next date of hearing.

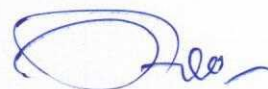
4. One of the ground pleaded against maintainability of complaints is that part completion certificate qua the area, wherein the plots of complainants are situated, has already been obtained by the respondent on 02.07.15 prior to coming into force of Real Estate (Regulation and Development) Act, 2016 (for short the Act) and therefore, his project doesn't fall under the definition of 'ongoing project' and hence, the complaints are not maintainable before this Authority. This objection is not sustainable because this Authority in **complaint case no. 144 of 2018 titled as Sanju Jain V TDI Infrastructure Ltd. ,** has ruled that it will have jurisdiction to deal with a complaint in which dispute has been raised regarding non-fulfilment of promoter's subsisting obligations qua the allottee irrespective of the fact that his project does not fall in the category of 'ongoing project' or/and is not registrable due to grant of part completion certificate . The grievances raised in the present complaints inter-alia include a grievance that the

respondent-promoter has not yet discharged his obligation for handing over possession of the purchased plot to the complainants. So, the fact that part completion certificate was granted to the project prior to coming into force of the Act does not debar this Authority to deal with the present complaints.

5. The other grounds raised against maintainability of complaints are:-

- (i) The complainants have already filed a consumer complaint no. CC/3437/2017 before the Hon'ble National Consumer Dispute Redressal Commission with respect to the same project raising identical issues and therefore, he is precluded from filing the present complaint on the same issues.
- (ii) The agreement entered between the parties provides that dispute arising out of the terms of the agreement between the respondent-promoter and allottee shall be settled either amicably or through an Arbitrator appointed by the respondent-company and therefore, the complainant is debarred from filing the present complaint.

6. The Authority will take its final decision on these grounds as also on the scope of recalling its previous order after going through the complainants' reply and copies of petitions filed by the complainants before the Consumer Forum. Therefore, the Authority directs the complainants to place on record the copies of petitions filed before the Consumer Forum on the next date of hearing.

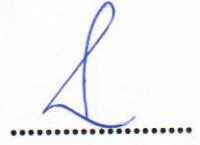


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Adjourned to 11.02.20.



ANIL KUMAR PANWAR
[MEMBER]



DILBAG SINGH SIHAG
[MEMBER]

