



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 2750 OF 2019

Mange Ram Sangwan

....COMPLAINANT(S)

VERSUS

Alpha G Corp Development Pvt. Ltd

.....RESPONDENT(S)

CORAM: Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Date of Hearing: 26.04..2022

Hearing: 22nd

Present: Mr. Shevtanshu Goel, Ld. counsel for the complainant through VC.

Mr. Paritosh Vaid, Proxy Counsel for the respondent through VC.

ORDER (RAJAN GUPTA - CHAIRMAN)

1. Complainants in the present case are seeking relief of refund. This matter was kept pending awaiting decision of Hon'ble Supreme Court in SLP no. 13005 of 2020 titled as M/s Sana Realtors Pvt. Ltd. vs Union of India and others and SLP no. 13238-13256 of 2020. Complaint has been transferred by the court of the learned Adjudicating officer to the Authority for further adjudication vide order dated 02.03.2022. Authority was not hearing the matters wherein relief of refund was sought for the reasons that its jurisdiction to deal with such matters

was subjudice first before Hon'ble High Court and later before Hon'ble Supreme Court.

2. Now the position of law has changed on account of verdict of Hon'ble Supreme Court delivered in similar matters pertaining to the State of Uttar Pradesh in lead SLP Civil Appeal No. 6745-6749 titled as M/s. Newtech Promoters and Developers Pvt. Ltd. v. State of Uttar Pradesh & Ors. Etc. Thereafter, Hon'ble High Court of Punjab and Haryana has further clarified the matter in CWP No. 6688 of 2021 titled as Ramprastha Promoters and Developers Pvt. Ltd. v. Union of India and Ors. vide order dated 13. 01.2022.

4. The Authority has passed a Resolution No. 164.06 dated 31.01.2022 the operative part of which is reproduced below:

“ 4. The Authority has now further considered the matter and observes that after vacation of stay by Hon'ble High Court vide its order dated 11.09.2020 against amended Rules notified by the State Government vide notification dated 12.09.2019, there was no bar on the Authority to deal with complaints in which relief of refund was sought. No stay is operational on the Authority after that. However, on account of judgement of Hon'ble High Court passed in CWP No. 38144 of 2018, having been stayed by Hon'ble Supreme Court vide order dated 05.11.2020, Authority had decided not to exercise this jurisdiction and had decided await outcome of SLPs pending before Hon'ble Apex Court.

Authority further decided not to exercise its jurisdiction even after clear interpretation of law made by Hon'ble Apex Court in U.P. matters in appeal No(s) 6745-6749 of 2021 - M/s Newtech Promoters and Developers Pvt. Ltd. Versus State of UP and others etc. because of continuation of the stay of the judgment of Hon'ble High Court.



It was for the reasons that technically speaking, stay granted by Hon'ble Apex Court against judgment dated 16.10.2020 passed in CWP No. 38144 of 2018 and other matters was still operational. Now, the position has materially changed after judgment passed by Hon'ble High Court in CWP No. 6688 of 2021 and other connected matters, the relevant paras 23, 25 and 26 of which have been reproduced above

5. Large number of counsels and complainants have been arguing before this Authority that after clarification of law both by Hon'ble Supreme Court as well as by High Court and now in view of judgment of Hon'ble High Court in CWP No.(s) 6688 of 2021, matters pending before the Authority in which relief of refund has been sought should not adjourned any further and should be taken into consideration by the Authority.

Authority after consideration of the arguments agrees that order passed by Hon'ble High Court further clarifies that Authority would have jurisdiction to entertain complaints in which relief of refund of amount, interest on the refund amount, payment of interest on delayed delivery of possession, and penal interest thereon is sought. Jurisdiction in such matters would not be with Adjudicating Officer. This judgment has been passed after duly considering the judgment of Hon'ble Supreme Court passed in M/s Newtech Promoters and Developers Pvt. Ltd. Versus State of UP and others etc.

6. In view of above interpretation and reiteration of law by Hon'ble Supreme Court and Hon'ble High Court, Authority resolves to take up all complaints for consideration including the complaints in which relief of refund is sought as per law and pass appropriate orders. Accordingly, all such matters filed before the Authority be listed for hearing. However, no order will be passed by the Authority in those complaints as well as execution complaints in which a specific stay has been granted by Hon'ble Supreme Court or by Hon'ble High Court. Those cases will be taken into consideration after vacation of stay. Action be initiated by registry accordingly."



3. Now the issue of jurisdiction of Authority stands finally settled. Accordingly, Authority hereby proceeds to deal with the matters on this merits.

4. Complainants had booked a plot in the respondent's project by paying booking amount of Rs. 8,74,000/- on 03.05.2011, and signed plot buyer agreement on 21.10.2011 for a plot bearing no. 1430 measuring 360 sq. yards, situated at sector 29, Alpha International City, Karnal. Deemed date of possession of the plot was 28 months from the date of commencement of development works. Complainants have alleged that the development work started in 2011 itself, but when they approached the manager of respondent on 02.03.2012 about the progress of the project they were told that there is slump in the market due to which they are carrying out development work slowly. Complainants claim that respondent was liable to deliver possession of plot with all amenities by 22.05.2014. Complainants have further submitted that they have paid a sum of Rs. 70,52,651 against basic sale price of Rs. 58,32,000/-. Complaints have approached this Authority with grievance that no offer of possession has been made till date by respondent and now they are not interested in the plot, therefore their money should be refunded along with interest.

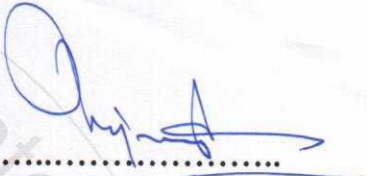
5. In light of facts put forth by the Ld. counsel for complainant Authority observes that there is an inordinate delay in the offering of possession of the



plot and is of a tentative view that in such circumstances of highly inordinate delay relief of refund could be allowed. However, Mr. Harsh Bungar, arguing counsel for respondent is not present therefore, Authority grants last opportunity to the respondent to argue their case on the next date of hearing.

6. Case is adjourned to **11.05.2022** for arguments.




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RAJAN GUPTA
(CHAIRMAN)


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DILBAG SINGH SIHAG
(MEMBER)