



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 01 of 2021

Seema Gulati

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

2. COMPLAINT NO. 180 of 2021

Susma Rani and Anr.

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

3. COMPLAINT NO. 401 of 2021

Satpal Kundal

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

4. COMPLAINT NO. 402 of 2021

Rajbir

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

5. COMPLAINT NO. 509 of 2020

Rajesh Kumar

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

6. COMPLAINT NO. 607 of 2021

Pramila Singh

...COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

7. COMPLAINT NO. 649 of 2019

Mrs. Jyoti Chopra

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

8. COMPLAINT NO. 721 of 2021

Navneet Kalia

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

9. COMPLAINT NO. 722 of 2021

Shamsher Singh Malik

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

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10. COMPLAINT NO. 981 of 2019

Ram Kishan Madaan and Anr.

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

11. COMPLAINT NO. 1115 of 2021

Ranbir Singh Rathee

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

12. COMPLAINT NO. 1230 of 2020

Pawan Kundra

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

13. COMPLAINT NO. 1420 of 2020

Reena

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

14. COMPLAINT NO. 2217 of 2019

Sajid Ali

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

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15. COMPLAINT NO. 2299 of 2019

Rakesh Sandhu

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

16. COMPLAINT NO. 2851 of 2019

Sudesh Kumari

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

17. COMPLAINT NO. 2852 of 2019

Amit Kumar Mishra and Anr.

....COMPLAINANT

VERSUS

Aegis Value Homes Ltd.

....RESPONDENT

CORAM: Rajan Gupta

Chairman

Dilbag Singh Sihag

Member

Date of Hearing: 29.03.2022

Hearing: 2nd (in complaint no. 1,2,12,13,)

3rd (in complaint no. 11)

4th (in complaint no. 5,6,8,9)

5th (in complaint no. 3,4,16,17)

6th (in complaint no. 14,15)

7th (in complaint no. 10)

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8th (in complaint no. 7)

Present: Mr Vikram Rathore, Ld. Counsel for the complainant through VC (in complaint no.1)

Mr.Amandeep, Ld. Counsel for the complainant through VC (in complaint no.3 and 4)

Mr.Ripudaman Singh, Ld. Counsel for the complainant through VC (in complaint no.5)

Mr. Gandharv Malhotra, Ld. Counsel for the complainant through VC (in complaint no.6)

Ms. Navneet Kaur, Ld. counsel for the complainant through VC (in complaint no.8)

Ms. Navneet, Ld. Counsel for the complainant through VC (in complaint no.13)

Mr.Akshat Mittal, Ld. Counsel for the complainant through VC (in complaint no.16 and 17)

None for the complainant in complaint no. 2,7,9,10,11,12,14 and 15

Mr. Manoj Vashistha, Ld. Counsel for the respondent through VC.

ORDER (RAJAN GUPTA - CHAIRMAN)

1. All the above captioned complaints are of similar nature and against the same projects. Reply is not filed in any of the complaints. Complaints have sought relief of Refund therefore all the complaints were adjourned sine die. Since all the matters are of similar nature and facts and grievances of the complainants are more or less same, facts of complaint no.1 of 2021 are taken

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as lead case. All the complainants are seeking relief of refund and therefore cases were adjourned sine die and 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.

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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 such matter on its merits. Accordingly, Authority decides to take up this matter for further adjudication.

4. Ld. counsel for the complainant in complaint no. 01 of 2021 submitted that the complainant had booked a 2 BHK apartment measuring carpet area of 377 Sq. ft. in the project of the respondent in the name of "Ananda Phase I Scheme" at sector 32 Karnal. A provisional allotment letter was signed between the parties on 10.09.2015 and as per clause 9 developer had to hand over possession of the said apartment to provisional allottee within four years i.e. from the date of draw, held on 20.06.2015. Accordingly due date of delivery was 27.12.2019. Complainant has further alleged that he has paid Rs. 6,78,117/- against Basic sale price of Rs.17,45,053/-. Complainant alleges that no structure has been built by the respondent and no construction has taken place till now. To substantiate his averment he has annexed photographs of the site which were taken by him in 2021. Grievance of other complainants are similar.

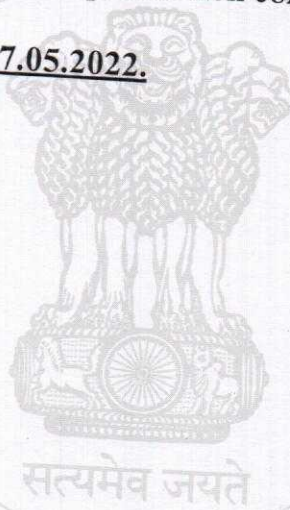
3. Ld. Counsel for respondents states that complaint no. 1133 and 898 of 2019 have been amicably settled. Settlement deed was submitted by the

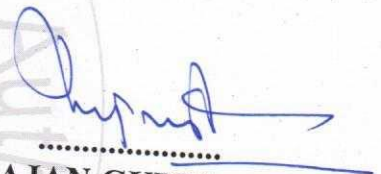
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complainant during course of proceedings. There complaints are disposed off as settled.

Ld. counsel for the respondent requested the Authority to grant some time for amicable settlement failing which he will file a detailed reply in each complaint. Authority accepts the request with the direction that if parties fails to reach settlement, respondent shall file reply, 15 days before the next date of hearing and send a copy of the same to complainants. Direction is also given to complainants to submit latest photographs and relevant documents to substantiate their averments, in respect of non construction of project.

5. Case is adjourned to 17.05.2022.




RAJAN GUPTA
[CHAIRMAN]


DILBAG SINGH SIHAG
[MEMBER]