



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 833 OF 2021

Vinita

....COMPLAINANT

VERSUS

M/s Gnex Realtech Pvt. Ltd.

....RESPONDENT

2. COMPLAINT NO. 2042 OF 2022

Arvind Kumar Tyagi and Anr.

....COMPLAINANTS

VERSUS

M/s Gnex Realtech Pvt. Ltd.

....RESPONDENT

3. COMPLAINT NO. 2043 OF 2022

Anand Rohilla and Anr.

....COMPLAINANTS

Sathee

VERSUS

M/s Gnex Realtech Pvt. Ltd.

....RESPONDENT

4. COMPLAINT NO. 2108 OF 2022

Mrs. Sangeeta Sharma

....COMPLAINANT

VERSUS

M/s Gnex Realtech Pvt. Ltd.

....RESPONDENT

5. COMPLAINT NO. 2155 OF 2022

Rajender Kumar and Anr.

....COMPLAINANTS

VERSUS

M/s Gnex Realtech Pvt. Ltd.

....RESPONDENT

6. COMPLAINT NO. 2104 OF 2022

Mrs. Neeraj and Anr.

....COMPLAINANTS

VERSUS

S. Kattree

M/s Gnex Realtech Pvt. Ltd.

....RESPONDENT

7. COMPLAINT NO. 2231 OF 2022

Saroj Bala

....COMPLAINANT

VERSUS

M/s Gnex Realtech Pvt. Ltd.

....RESPONDENT

8. COMPLAINT NO. 834 OF 2021

Sarvjeet Singh

....COMPLAINANT

VERSUS

M/s Gnex Realtech Pvt. Ltd.

....RESPONDENT

**CORAM: Dr. Geeta Rathee Singh
Nadim Akhtar**

**Member
Member**

Date of Hearing: 15.11.2023

Hearing: 8th (in complaint no. 833 , 834 of 2021)

4th (in complaint no. 2042,2043,2104,2108,2155 of 2022)



5th (in complaint no. 2231 of 2022)

Present: - Mr. Kamal Dahiya, Advocate, counsel for complainant in complaint no. 833 , 834 of 2021; 2042,2043,2104,2108,2155 of 2022)

None for complainant (in complaint no. 2231 of 2022)

Mr. Vivek Sheron, Advocate, counsel for respondent (in all complaints)

ORDER (DR. GEETA RATHEE SINGH- MEMBER)

1. Learned counsel for respondent sent an email on 14.11.2023, requesting the Authority for an adjournment in all above-mentioned complaints. Learned counsel for respondent also appeared during hearing and sought an adjournment on the ground that he is unwell and is not ready for arguments.
2. Sh. Kamal Dahiya, learned counsel for complainant requested the Authority to hear his submissions as there has already been a long delay in these captioned complaints. Request is accepted.
3. Learned counsel for complainant, stated that certain directions were issued to the respondent, as per order dated 27.04.2023 in complaint no.


Geeta Rathee

833 and 834 of 2021, same directions were reiterated on order dated 12.07.2023 and further submitted that these directions have not been complied with by the respondent and earlier imposed cost of ₹5000 payable to the Authority and ₹2000/- payable to the complainant in all above mentioned complaints have also not been paid. Relevant part of the order dated 12.07.2023 is reproduced below:

"1. "The Authority, vide its earlier order dated 27.04.2023 in complaint no. 833 and 834 of 2021 had directed the respondent to place on record requisite documents. Relevant part of the said order is reproduced below:

1. On the last date of hearing, respondent was directed to place on record requisite documents as mentioned in Para 6 of the order dated 07.02.2023. Relevant portion of the said order is reproduced below:

"6. In view of above, Authority deems appropriate to call certain records from the respondent-promoter which are as follows:

(I) Copies of agreement for sale executed for allotment of Villas and plots in the respondent's, project from "year 2017 till date i.e. 07.02.2023".

(II) Detailed sheet of circle rate of the alternative plot offered to the complainants by the respondent promoter from 2017 till 07.02.2023



(III) Respondent is directed to submit layout plan of the project in question marking the exact villas booked by the complainants and the revised plans vide which promoter had converted project into plotted colony under DDJAY scheme."

2. Today, learned counsel for the respondent sought more time to file the above said documents as these are voluminous in nature and typical to compile.

3. On the other hand, Sh. Kamal Dahiya, learned counsel for the complainant argued that, case was last listed for hearing on 07.02.2023, already more than two months time have been availed by the respondent for filing the above stated documents, however, respondent has miserably failed to comply with the directions passed by the Authority. Therefore, heavy penalty be imposed respondent-promoter. Further, learned counsel for the complainant requested the Authority to put a stay on the sale and purchase of the land where booked villa of the complainant was marked in the layout plan."

4. Learned counsel for complainant apprised the Court that in compliance of order dated 12.07.2023, respondent has filed certain documents in the registry. However, those documents are not pursuant to directions given by the Authority to the respondent on 12.07.2023. Firstly, respondent was directed to provide copies of agreements for sale executed for allotment of villas and plots in the respondent's project from the year 2017 till date, i.e., 07.02.2023.

Jatue

However, respondent has only submitted the documents pertaining to agreement for sale executed for allotment of plots in the year 2023 only. Secondly, respondent was directed to provide detailed sheet of circle rate of the alternative plot offered to the complainants by the respondent promoter from 2017 till 07.02.2023. However, respondent has annexed collector rate of plots from 01.01.2023 to 31.12.2023 only. Thirdly, respondent was directed to submit layout plan of the project in question marking the exact villas booked by the complainant and revised plans vide which promoter had converted project into plotted colony under DDJAY scheme. Respondent failed to comply with this direction also as respondent failed to place on record revised plan vide which promoter had converted project of villas into plotted colony under DDJAY scheme. Moreover, respondent has failed to state the reasons for selling the Villas in the year 2017, 2018, 2019, 2020 and got registered the Agreement of villas under India Registration Act, without having approval of such villas or license of such villas.

5. Learned counsel for complainant further referred to Para 5 page no. 5 of order dated 12.07.2023 relevant part of which is reproduced below:



“Learned counsel for respondent stated that respondent was issued license in 2016 by the competent authority for development of 53 acres project. However, when DDJAY was launched by the government, four additional licenses were issued to the respondent for the same project, which was to be developed in 4 phases. However, respondent could not complete the construction of villas due to financial constraints/debts. As the respondent could not complete construction of the villas, offered a onetime offer to all allottees in July, 2021 to convert their villas into residential plots at discounted price or take refund of the amount paid by the allottees. Subsequent thereupon, seventy-one out of eighty-three allottees have already converted their villa into residential plots at different rates whereas complainants never opted for the said offer.”

6. With reference to Para 5 of order dated 12.07.2023, learned counsel for complainants apprised the Authority that respondent himself stated that license was issued for 53 acres project in the Year 2016, and when DDJAY was launched, four additional licenses were issued to the respondent under DDJAY. He put emphasis on the word “four additional” which means, that 53 acres was for plotted colony and if the additional licenses under DDJAY have been issued



to the respondent, then it implies that four additional licenses were also given for plotted colony and not for villas. Therefore, it can be concluded that respondent never had any intention to construct villas. Further, respondent made another statement during hearing on 12.07.2023 that he could not complete the construction of villas due to financial constraints, so he offered a onetime offer to all allottees in July 2021 to convert their villas into residential plots at discounted price or take refund of the amount paid by the allottees. The averments of learned counsel of respondent as recorded in order dated 12.07.2023, clearly brings out the fact that he contradicted his own statement when, he stated that respondent is not in a position to refund the amount paid by the allottees. Relevant part of order dated 12.07.2023, Para 6 page no. 6 is reproduced below:

“7.Ld. Counsel for respondent submitted that the respondent is ready to settle these matters through compromise as due to enormous financial debts, respondent is neither in position to construct the villa or to refund the amount paid”

7. Learned counsel for complainant further submitted that, respondent only applied for registration of plots and never applied for registration of villas. However, respondent per se promised complainants to deliver the possession



of villas. Learned counsel for complainant referred to his written submissions dated 26.09.2023, Page no. 3, Para 4, wherein it is stated that respondent failed to place on record the consent of the allottees taken before conversion of villas into plots, which again construes the malicious intent of the respondent. Though, list of allottees who have converted their villas into plots has been supplied by respondent but respondent has not placed on record the dates of consent given by such allottees. Dates of consent are important factor in this complaint as it will prove whether respondent has taken consent of the allottees after getting license of plotted colony or earlier, when respondent claimed that they are not in a position to construct the villas. If consents have been taken before allottees were aware that construction of villas will not be possible by the respondent then, that consent taken by respondent will not preface a free consent which again shows that respondent has violated section 14 of RERA Act. Learned counsel for complainant further referred Para 7, page no. 7 of written submissions filed by the complainant in the registry on 26.09.2023, wherein it is stated that respondent committed fraud not only with the allottees but also with the RERA Authority as respondent obtained Registration no. 365 of 2017 dated 22.11.2017 from RERA for plots and with



the same registration, respondent sold villas to the allottees without obtaining permission from Department of Town and Country Planning and as well as RERA, Panchkula. He further referred to page no. 9 of said written submission wherein it is mentioned that in the year 2020, corrigendum application dated 15.07.2020 was filed by the respondent, seeking permission from Hon'ble Authority to construct villas on 13 plots. Respondent made an agreement with the complainants to sell villas in the year 2017, respondent received entire amount from the allottees (in case allottees would have opted for plots) in the Year 2018 and 50 percent of the amount of villas in the year 2020. Respondent intended to construct villas by the end of year 2020 and in the same year they took permission from the Hon'ble Authority to construct villas. In the year July 2021, respondent claimed that they are not in a position to construct villas due to financial debts. It implies the malicious intent of respondent throughout the journey.

8. Learned counsel for complainants requested the Authority for forensic audit of the respondent promoter, as respondent has committed a big scam with the allottees which can be inferred from the above mentioned actions of the respondent. In addition, respondent never deposited the fees for registration of


Ramesh

villas in the RERA which implies that they never had any intention to construct villas on their part. Secondly, respondent got their builder buyer agreement registered before Tehsildar, which can only be cancelled by following only the due process of law. Therefore, respondent has canceled the agreement made by him with the allottees without following the due process of law and such cancellation has no meaning in the eyes of law.

9. Learned counsel for complainants submitted that respondent should be liable for penal consequences and their registration should be revoked/ cancelled and sale of the entire project should be stopped with immediate effect u/s 60 of RERA Act, 2016. As respondent promoter failed to register his project for villas, which was promised as per agreement to sale therefore, respondent is also liable u/s 59 of RERA Act, 2016. Learned counsel for complainant also requested the Authority to initiate action u/s 38 of RERA Act, 2016 and to conduct detailed enquiry of respondent promoter.
10. Learned counsel for respondent sought some more time to prepare for the arguments. Request is accepted. Authority grants last opportunity to respondent to file his written submissions, before next date of hearing and



make his submissions on the next date of hearing. No further opportunity will
be granted to the respondent for the same.

11. Adjourned to 30.01.2024.



.....
NADIM AKHTAR
[MEMBER]



.....
DR. GEETA RATHEE SINGH
[MEMBER]