

**BEFORE THE CHAIRPERSON, REAL ESTATE REGULATORY
AUTHORITY, PUNJAB**

Execution Application No.2 of 2018

Date of Decision 29.01.2019

1. Rajan Gupta S/o Shri Baldev Raj Gupta
 2. Aparna w/o Shri Rajan Gupta
- Residents of No. 2483, Sector 71, Mohali, Punjab

....Decree Holders

Versus

1. RKM Housing Limited, SCO 1-4, Adjoining Chandigarh Group of Colleges, Sector 112, Landran, SAS Nagar - 140307.

.... Judgement Debtor

Present : Shri Rajan Gupta, decree holder in person.
Shri JPS Sidhu, Advocate for judgement debtors

ORDER

This is an Execution Application filed by Shri Rajan Gupta and Ms. Aparna, Decree Holders (DHs for short) against the respondent for recovery of the amount awarded to them vide order dated 20.03.2018 of this Authority.

2. Briefly, it may be noted that vide order dated 20.03.2018 the respondent/JD (JD for short) was ordered to refund an amount of Rs.9.20 lakhs, along with interest thereon within 2 months to the DHs on account of the former's failure to deliver possession of the plot booked by the latter. Since the order has not been complied with, the current execution application has been filed for recovery of the amount due. The respondent/JD did not appear in response to the notice and were ordered to be proceeded against exparte on 25.09.2018. Subsequently, however, they were allowed to join

proceedings and submit a reply. During the pendency of these proceedings, they submitted an application that they had filed an appeal against the order dated 20.03.2018 before the Real Estate Appellate Tribunal, and its decision in the matter should be awaited. This plea was accepted, and the matter was taken after the JD's appeal was dismissed by the Tribunal vide its order dated 19.11.2018.

3. During the proceedings on 11.12.2018, Shri JPS Sidhu, counsel for respondent/JD submitted that he had instructions from his client that the due amount would be paid to the DHs, and sought time to do so. It was there upon directed that 2 separate demand drafts should be submitted, one for principal amount of Rs.9.20 lakhs, and the other for the interest, due on the next date of hearing i.e 15.01.2019. On this date Shri Sidhu did not bring the demand drafts but again sought a few days time to comply with the directions. On the next date of hearing 22.01.2019 also no demand draft was submitted but Counsel instead presented a cheque for Rs.4.00 lakhs. It there upon became clear that JD was not interested in making payment; and the matter was taken up on merits.

4. Shri Rajan Gupta reiterated the contents of his execution application, and submitted that after the order dated 20.03.2018 he had regularly sent the reminders to the respondent/ JD to make the payment. However, there had been no response compelling them to file present execution application.

5. On the other hand, Shri Sidhu submitted that the contents of the reply filed by him may be taken as his submissions. These have been considered, and the main contentions therein are to the effect that the original complaint had been wrongly decided since:

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- i. the reply thereto had not been filed by a authorised representative,
- ii. the Real Estate (Regulation and Development) Act, 2016, was not applicable to the present case since the transaction had been finalised before its enactment.
- iii. the complainant was a speculative investor and not a genuine consumer, and
- i. there was no default since the complainant willingly accepted paper possession of an alternate plot in another sector.

A bare glance at these contentions would reveal that they basically are a challenge to the order dated 20.03.2018, which however, has come final since the JD's appeal against this has been dismissed. No other argument has been pressed by respondent's counsel. As such there is no explanation in the reply why the execution application should not be allowed.

6. As a result of above discussion, the objections to the execution application are dismissed and the application is allowed. Recovery Certificate be issued to the Collector, SAS Nagar (Mohali). File be put up on 16.04.2019 at 2.30 p.m. to await execution of the Recovery Certificate.

Announced.


Chairperson
Real Estate Regulatory Authority
Punjab