

Deep Kamal Vs Punjab Urban Planning and Development Authority

26.07.2023

Present : Shri Lehmer Singh Noorpuri, Authorised Representative of
the complainant
Shri Ashish Grover, Advocate for the respondent

Vide separate order, the execution application is allowed.



(Ajay Pal Singh)
Member



(Satya Gopal)
Chairperson



(Rakesh Kumar Goyal)
Member

**Before Real Estate Regulatory Authority,
Punjab**

Execution No.75 of 2022
in
Complaint No.GC 0031 of 2021
Date of Decision : 26.07.2023

Deep Kamal w/o Shri Baljinder Sondhi, # HIG 863, Sector 70, SAS
Nagar, Mohali, Punjab, 160071

....Complainant/applicant

Versus

Punjab Urban Planning and Development Authority, PUDA Bhawan,
Sector 62, SAS Nagar, Mohali, Punjab, 160062

....Respondent

Present : Shri Lehmer Singh Noorpuri, Authorised Representative of
the complainant

Shri Ashish Grover, Advocate for the respondent

ORDER

This order will dispose of the Execution Application No.75 of 2022 filed by the complainant/applicant, seeking implementation of the order dated 10.11.2021 passed in GC No.0031 of 2021. Through that order the respondent was directed to pay interest (at the time of passing of the order the rate was of 9.30% per annum highest MCLR rate of 7.30% plus 2% i.e as on 10.11.2021) prescribed in the Rule 16 of the Rules of 2017 with effect from 29.04.2017 till a valid offer of possession was made.

2. Since that order dated 10.11.2021 was not complied with by the respondent, the present execution application has been filed by the



complainant/applicant seeking interest to the tune of Rs.30,47,906/- on principal amount of Rs.75,77,057/- for the period from 29.04.2017 upto 31.07.2022 the date of filing of the present execution application. Complainant/applicant has attached a calculation sheet from 29.04.2017 upto 31.07.2022 claiming interest of Rs.30,47,906/- at the rate of 9.50% p.a.

3. Notice was issued to the respondent. Shri Ashish Grover, Advocate has put in an appearance on behalf of the respondent and submitted his reply. In the reply it is stated that the complainant has claimed interest at the rate of 9.5% (7.5% + 2%) whereas no specific rate of interest has been mentioned by the Authority while deciding the complaint on 10.11.2021. However, in the reply the respondent has calculated the interest as on 10.11.2021 at the rate of 6.65% + 2% (Annexure R-1) attached with the reply. It is also mentioned in the reply that the respondent has filed an Appeal No.150 of 2022 titled as "PUDA Vs Deep Kamal and Anr" before the Hon'ble Real Estate Appellate Authority, Punjab impugning the order dated 10.11.2021 by depositing Rs.31,12,074/- with it and the same has partly been accepted by the Hon'ble Appellate Tribunal vide its order dated 06.03.2023. The relevant para no.30 of the said order dated 06.03.2023 is reproduced below:-

"30. In Appeal No.149 of 2022, Appeal No.150 of 2022 and Appeal No.200 of 2022 the order needs to be modified. The only plea is that if possession was envisaged in March 2018 the Authority has granted interest with effect from 2017 even prior to the stipulated date of offer of possession. We find that this contention is correct and therefore modify the impugned order in these appeals to



mean that interest would be paid to the prescribed statutory rate from March 2018 till the date of possession is given."

4. We have heard the arguments of both the learned Counsels for the parties on 31.05.2023. It is the contention of the learned Counsel for the complainant that the order dated 10.11.2021 has not been complied with till today by the respondent. On the other hand, the main plank of the argument of the learned Counsel for the respondent is that no specific rate of interest was mentioned in the order dated 10.11.2021. Learned Counsel for the respondent has also attached a copy of marginal cost lending rates as Annexure-R-1 with the reply to the effect that on the date of passing of the impugned order the rate of interest was 6.65% + 2 %. He has further added that they have preferred an Appeal No.150 of 2022 titled "PUDA Vs. Deep Kamal" before the Hon'ble Appellate Tribunal, Punjab against the order dated 10.11.2021 passed by this Authority. The Hon'ble Appellate Tribunal, Punjab vide his order dated 06.03.2023 as per para no.30 has modified the said impugned order and revised the period of payment of interest from 29.04.2017 as awarded by this Authority to March 2018.

5. From the pleadings of the parties, it is crystal clear that the respondent has not complied with the order dated 10.11.2021. As per order of the Hon'ble Appellate Tribunal, Punjab, the interest is now payable from March 2018 instead of 29.04.2017 till a valid offer of possession is made to the complainant/applicant. It is observed that the learned Counsel for the respondent has wrongly taken this figure of 6.65% + 2% (the lowest interest) instead of 7.30% (highest interest). As per Rule 16 of the Punjab State Real Estate (Regulation



and Development) Rules, 2017 the interest payable by the promoter to the allottee shall be the State Bank of India 'highest' Marginal Cost of Lending Rate plus two percent and the highest MCLR on that date was 7.30% plus 2% i.e 9.30% p.a. As such the argument raised by learned Counsel for the respondent in this context is rejected.

6. As per the calculation sheet dated 01.08.2022 already submitted by the complainant/applicant along with this execution application the interest of Rs.30,47,906/- at the rate of 9.5% p.a. (7.5% + 2%) has been claimed from 29.04.2017 to 31.07.2022. As stated above the rate of interest was 9.30% on the date of passing of order. Thus the complainant/applicant has wrongly calculated the interest at the rate of 9.5% p.a. However, the Hon'ble Appellate Tribunal, Punjab vide its order dated 06.03.2023 has revised the period of payment of interest from March 2018 instead of 29.04.2017. During the course of arguments the learned Counsel for the complainant has stated that neither the possession has been handed over nor conveyance deed has been executed. It is noted that the complainant/applicant has been waiting for possession of the unit for a long period of time and still there is no offer on behalf of the respondent about the time of delivery of possession.

7. From the above discussion, it is clear that the order dated 10.11.2021 has not been complied with by the respondent as on today. This is the reason that the present execution application has been moved by the complainant/ applicant and contested by the respondent.

8. As a sequel of the above, this Execution Application No.75 of 2022 is accordingly allowed. The respondent is directed to pay the arrears of interest from March 2018 till a valid offer of possession is made to the complainant/applicant. Recovery Certificate be issued to



the District Collector, SAS Nagar, Mohali, Punjab to affect the recovery of the arrears of interest amounting to Rs.34,89,625/- (as per calculation sheet attached as Annexure-1) from the respondent for the period March 2018 till the date of this order.

Announced
Dated: 26.07.2023



(Satya Gopal)
Chairperson



(Ajay Pal Singh)
Member



(Rakesh Kumar Goyal)
Member

Details of Interest Calculation for order dated 10.11.2021
Case Title - Deep Kamal vs PUDA

Interest payable from	Amount	Interest calculated till	SBI highest MCLR + 2% as on dated 10.11.2021	No. of Days	Interest Amount
01-03-2018	39,93,047	26-07-2023	9.30	1,974	20,08,360
21-08-2018	9,92,841	26-07-2023	9.30	1,801	4,55,600
21-08-2018	8,00,678	26-07-2023	9.30	1,801	3,67,419
21-02-2019	6,29,144	26-07-2023	9.30	1,617	2,59,209
19-08-2019	5,96,655	26-07-2023	9.30	1,438	2,18,611
19-02-2020	5,64,692	26-07-2023	9.30	1,254	1,80,426
	75,77,057				34,89,625

Interest	34,89,625
Total	34,89,625

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