

**Before Sh. J. S. Khushdil, Adjudicating Officer,
Real Estate Regulatory Authority, Punjab, First Floor, Plot No.3,
Block-B, Madhya Marg, Sector 18A, Chandigarh-160018**

Complaint No. AO/35/2018
Date of Institution:11.05.2018
Date of Order:31.10.2018

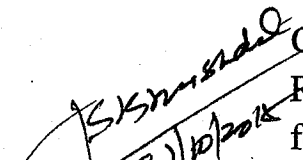
Pradeep Upadhyaya, resident of H.No.1573, Sector 49B, Pushpac
Housing Complex, Chandigarh.

Complainant

Versus

Omaxe Chadigarh Extension Developers Pvt. Ltd. Regional Office at
SCO 139-140, Sector 8C, Madhya Marg, Chandigarh-16008.
Alternate address: India Trade Tower, First Floor, Madhya Marg
Extension New Chandigarh (Mullanpur) District SAS Nagar, Mohali,
Punjab-140901.

Respondent


31/10/2018
Complaint under Section 31 read with Section 71 of the
Real Estate (Regulation and Development) Act 2016 in
form N.

Present: Shri Amitabh Tiwari representative for complainant.
Shri M.K. Singh with Shri Deepanjit Singh DGM (L)
representative for respondent.

ORDER

1. Pradeep Upadhyaya (hereinafter called as the complainant) has
filed this complaint against Omaxe Chandigarh (here-in-after
called as the respondent) alongwith documents alleging violation

of Section 18 of the Real Estate (Regulation and Development) Act 2016 (herein-after called as the Act) seeking interest etc. as per the provisions of the Act on account of delay in handing over possession of the shop/CSCO, Second Floor/39, in project clockton High Street. It is the case of the complainant that the total price of shop/CSCO was Rs.45,82,499.68 and the complainant has paid an amount of Rs.50,61,646.65 towards the price, however, the possession of the shop/CSCO has not yet been handed over to the complainant. The project in question has been registered with this Authority against registration No.PBRERA-SAS80-PC0005.

2. Upon notice of this complaint, respondent appeared and filed detailed reply opposing the claim of the complainant on various grounds and the case was at the stage of consideration on the point of violation or contravention of the Act if any. Both the parties led their respective evidence in the case and the case was pending for final arguments.

3. While exercising powers as Adjudicating Officer, I have decided several cases including *Suman Mann Vs. JLPL bearing complaint No.AO.09 of 2017 decided on 14.05.2018* and *Nikhil Kwatra Vs. JLPL bearing complaint No.AO.20/2017 decided on 14.05.2018* and other cases, wherein, several points have been

elaborated including one regarding role of the Authority and the Adjudicating Officer. Now, the Punjab State Real Estate Authority, in its 7th meeting held on 09.10.2018 at Agenda Item No. 7.4 has taken a decision in regard to the role of the Adjudicating Officer in the context of complaint in form and N. The said item No.7.4 is reproduced as under for ready reference:-

“7.4 Role of the Adjudicating Officer in the context of complaint in form ‘M’ and ‘N’.

The matter was discussed at length and it was decided that the role of the Adjudicating officer was limited only to the purpose of adjudication of compensation under Sections 12, 14, 18 and 19 of the Act. Refund of money deposited by a complainant, alongwith interest thereon, would not be treated as compensation; and hence, complaints in which the above relief was claimed were to be filed in form-M and be dealt with by the Authority or its Benches. The complainant would also be free to file a separate claim in Form-N before the Adjudicating officer for compensation in Form-M for refund of amount deposited and interest thereon.

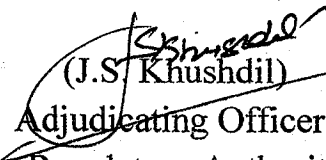
It was also seen that in a number of cases, the relief of compensation for harassment etc. was claimed in the complaint, but, was not pressed at the time of arguments. Therefore, if the relief of compensation was claimed in addition to the refund of the amount and interest thereon, the complaint would still be filed in Form-M; and if the point of compensation was actually pressed, the complainant would be advised to file a separate complaint before the Adjudicating Officer for this purpose.

The Legal Branch should scrutinize the complaints received in accordance with the above decision.”

*(S) Shrivastava
31/10/2018*

4. In view of the above decision of the Authority, the Adjudicating Officer, now cannot deal with the cases of the refund and interest and for that purpose the complaint has to be filed in Form-M before the Authority. For compensation only, the party may file complaint in Form-N. Thus, in view of these circumstances, the Adjudicating Officer lacks the jurisdiction to grant relief of refund or interest. Therefore, in the larger interest of justice, the complaint is ordered to be returned to the complainant, who is at liberty to file a fresh complaint before the Authority as per the decision of learned Authority. Copy of this order be supplied to both the parties under Rules.

Dated:31.10.2018


(J.S. Khushdil)
Adjudicating Officer, 31/10/2018
Real Estate Regulatory Authority, Punjab.

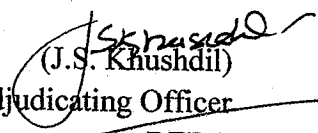
Pradeep Upadhyaya Vs. Omaxe

Dated : 31.10.2018

Present: Shri Amitabh Tiwari representative for complainant.
Shri M.K. Singh with Shri Deepanjit Singh DGM (L)
representative for respondent.

Heard. Vide my separate detailed order passed today, the complaint is ordered to be returned to the complainant with liberty to file a fresh complaint before the learned Authority. Remaining papers including the proceedings of this Bench be retained and consigned to record room.

Dated: 31.10.2018


(J.S. Khushdil)
Adjudicating Officer
RERA