

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

Complaint No. AO.No.38 of 2018  
Date of Institution:15.05.2018  
Date of Order:27.11.2018

Harjinder Singh Kohli resident of House No.1191, Sector-42B,  
Chandigarh.

Complainant

Versus

IREO Waterfront Pvt. Ltd. Through its Managing Director, SCO 16-17,  
Fortune Chambers basement, Opposite Ludhiana Stock Exchange,  
Feroze Gandhi Market, Ferozepur Road, Ludhiana-141001.

Respondent

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

Present:

Shri Sanjeev Gupta representative for complainant.

Shri Abdul Sattar proxy for representative for the  
respondent.

**ORDER**

1. Harjinder Singh Kohli (hereinafter called as the complainant) has filed this complaint against IREO Waterfront Pvt. Ltd. (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 refund and interest etc. as per the provisions of the Act on account of delay in handing over possession of apartment No.CG-T3-02-203 in the project namely IREO Waterfront, Ludhiana. It is the case of the complainant that the total sale price of the apartment was Rs.57,47,919/- and he has paid an amount of Rs.13,36,820/- towards the sale price, but, till date, the respondent has not executed any buyers agreement nor the developmental works have been started at the spot and as such, possession has not so far been given to complainant. It is alleged by the complainant that the project in question has been registered with this Authority against registration No.PBRERA-LDH45-PR0004.

2. Upon notice, respondent appeared through its representative, but, despite of grant of a number of opportunities, no written reply was filed to the complaint and ultimately, the defence of respondent was struck-off vide order dated 17.10.2018.

3. The learned representative for the complainant has submitted that the complaint in Form-N is maintainable as the complainant is seeking refund, interest and compensation under the Act. The learned representative for the complainant has invited the attention

of this Bench towards Sections 18 and 71 of the Act and has submitted that there cannot be two complaints for same cause of action, as in the Consumer Forums the relief qua refund, interest and compensation is granted by one Forum and complainant is not asked to file two complaints as the relief of compensation is in addition and integral to any other relief available to the complainant as per Section 88 of the Act. It is also submitted that A.O. Authority has already decided a number of cases, which are available on the Website. The learned representative for complainant further submitted that the administrative orders in the shape of circulars dated 09.10.2018 and 21.11.2018 cannot override the express provisions of the Act. It is further submitted that as per settled law, compensation includes interest invariable and all the consumer forums are granting refund, interest and compensation to the consumers. It is further submitted that the complaint in any forum or commission can withdraw the same and file it before the Adjudicating Officer only. It is further submitted that in the Consumer Forum and while functioning as Adjudicating Officer, the officer has to be a District Judge and as such the complaint in form N is maintainable.

~~Disputed~~  
27/11/20

4. I have considered the above submissions made by the learned representative for the complainant and have gone through the file.
5. In view of the circulars dated 09.10.2018 and 21.11.2018 of the Authority, 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 the parties under Rules.

Dated:27.11.2018

(J.S. Khushdil)  
Adjudicating Officer,  
Real Estate Regulatory Authority, Punjab.

27/11/2018