

**FORM 'N'****APPLICATION TO ADJUDICATING OFFICER****Claim for compensation under section 31 read with section 71 of the Act [See rule 37(1)]****For use of Adjudicating Officers office:**

Application Diary No: AdCNo13452019

Date of filing: 21-Oct-2019

RERA Number: PBRERA-SAS81-PR0231

**IN THE ADJUDICATING OFFICERS OFFICE (Name of place)****Between**

RAMA GUPTA Applicant(s)

Madan Mohan Gupta (doctormmg@hotmail.com, 9814165536)

**And**

EMAAR MGF LAND LIMITED Respondent(s)

Emaar MGF Land Limited (enquiries@emaar-india.com, 0)

**Details of claim:****(1) Particulars of the applicant(s)**

(i) Name of the applicant	RAMA GUPTA		
(ii) Address of the existing office / residence of the appellant			
Address Line 1	House No. 1412-B	Address Line 2	Sector 61
District & State	Chandigarh , Chandigarh	Pin Code	160062
Email Address	<a href="mailto:amangupta@live.in">amangupta@live.in</a>	Mobile Number	9814189230
(iii) Address for service of all notices			
Address Line 1	House No. 1412-B	Address Line 2	Sector 61
District & State	Chandigarh , Chandigarh	Pin Code	160062
(iv) Details of allottees apartment, plot or building			
Date of possession as per agreement for sale/allotment letter etc	30-Jun-2020	Actual date of possession, If delivered	--
Date of Allotment Letter	12-Mar-2019	Date of Agreement to Sale, If any	--
Total value of Flat/Plot/Apartment (INR)	6080546.00	Total Amount paid till date (INR)	200000.00
Flat/ Apartment/ Plot Number (Booked with complete Address of associated property)	Plot No. PP-339 in Mohali Hills, Sector 108, Mohali Punjab registered under RERA vide registration number PBRERA-SAS81-PR0231 of 2017		

Rama Gupta V/s M/s Emaar MGF Land Pvt. Ltd.

Complaint No AdcNo 1345 of 2019

Present None

The compliant was put up before me by the office as the complainant failed to comply with the objections raised by Legal Branch and therefore notice was issued to the complainant for this date and notice was served upon complainant on 31.12.2019 and there was sufficient time with the complainant to appear before this bench but the complainant abstained from appearance without any intimation and the matter was considered by me.


The present complaint is filed by the complainant in Form-N against the respondent in respect of plot no. PP-339 in Mohali Hills, Sector-108, Mohali, Punjab and the relief claimed is for completing of the possession of the said plot and for seeking compensation along with interest.

Though there had been considerable confusion in the scope of the jurisdiction vested in the Authority and of the Adjudicating Officer but the matter ultimately has been set at rest by the RERA Appellate Tribunal, Punjab in the authority 'Sandeep Mann V/s Real Estate Regulatory Authority, Punjab' decided on 27.12.2019. According to the ratio of this authority the present complaint falls within the scope of the proviso of Section 18 of the Act which runs as under:

18. Return of amount and compensation – (1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building.-

- (a) In accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or
- (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:



Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over the possession, at such rate as may be prescribed.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.


(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

which was further clarified as under;

***“The proviso however, does not talk of award of compensation but of interest. Thus the matter arising under the proviso cannot be placed before the Adjudicating Officer but shall be placed entirely before the authority. The aforesaid finding may appear to contradict, our earlier opinion but as the Act is loosely drafted we have no other option but to hold as above”.***

Apart from this the complainant of the case in hand does not want to opt out of the project, but he intends to seek issuance of the directions to the respondent which squarely fall under the jurisdiction of the Authority and the consequent relief of interest etc. because of the delay in non-performance of the provisions of the Act and of the terms and conditions of the written agreement between the parties would also bring the present complaint within the domain of the Authority and the entire matter has to be put before the Authority in the shape of complaint in Form-M. Resultantly the present complaint cannot be enquired into by this bench. Thus the present complaint filed by the complainant is not maintainable before this bench and is ordered to be returned to the complainant along with its annexures, after obtaining receipt in this behalf and retaining photocopy of the complaint and documents; for enabling the complainant to file fresh complaint before the Authority in Form 'M' for the same cause of action. File be consigned to record room after making due compliance of notifying the party this order well in time.

31.01.2020

  
(Balbir Singh)  
Adjudicating Officer  
RERA