

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

Execution No.EX/AO/07/2019

Date of Execution 20.08.2019

Date of Order: 16.02.2021

Gursimran Kaur wife of Jagtar Singh resident of village Aklia Tehsil and District Mansa c/o Jagtar Singh Advocate, Chamber No.41, District Courts, Mansa, Punjab.

Complainant/DH

Versus

Estate Officer, PUDA, PUDA Complex, Bhagu Road, Bathinda.

Respondent/JD

Present: Mr. J.S. Dhaliwal, Advocate, representative for the complainant/DH
Mr. Lakhwinder Sigh Sidhu, Advocate, representative for respondent/JD

ORDER

1. On the basis of complaint filed by Gursimran Kaur complainant/DH titled as Gursimran Kaur Vs. EO PUDA, Bathinda, the then learned Adjudicating Officer passed an order dated 25.06.2018 with the following observations:

"The complaint is, therefore, partly accepted to the following extent and heads:

01.	<i>Principal amount</i>	<i>Rs.04,49,155/-</i>
02.	<i>Simple Interest</i>	<i>At the State Bank of India highest marginal cost of lending rate plus 2% on the principal amount from the respective dates of deposit of each instalment.</i>
03.	<i>Compensation on account of mental agony and litigation expenses</i>	<i>Rs.25,000/-</i>

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The respondent is directed to pay the above-said amount on account of principal amount, interest and compensation within sixty days from the date of this order. A copy of this order be supplied to the respective parties. File of complaint be consigned to record room after due compilation."

2. Both the parties preferred two separate appeals against the above said order before the Hon'ble Real Estate Appellate Tribunal, Punjab, bearing appeals No.24 of 2018 (titled as Estate Officer PUDA Vs. Real Estate Regulatory Authority and another) and No.26 of 2018 titled as Gursimran Kaur Vs. Estate Officer, PUDA Bathinda. The said appeals were partly allowed vide order dated 26.11.2018, thereby affirming the order of refund alongwith return of Rs.29,000/- received by the Estate Officer, PUDA as penal interest for delayed payment, but, the part of the order awarding compensation to complainant/DH was set aside and the matter was remitted to the Adjudicating Officer for adjudication of compensation afresh after granting an opportunity to the parties to adduce relevant material/evidence in support of their respective pleas.
3. On remand of the complaint, the then learned Adjudicating Officer, after granting opportunity to the parties to adduce any material/evidence in support of their respective pleas, vide order dated 31.01.2019, held that the complainant was entitled for compensation i.e. compensation on account of mental agony as Rs.25,000/- and compensation on account of litigation expenses as Rs.25,000/- totaling to Rs.50,000/- with a direction to the respondent to pay the said amount of compensation within sixty days from the date of the order.



4. The respondent/JD again challenged the above said order dated 31.01.2019 before the Hon'ble Real Estate Appellate Tribunal, Punjab, in appeal bearing No.65 of 2019 and vide its order dated 01.07.2019 the appeal was partly allowed and the order dated 31.01.2019 passed by the then learned Adjudicating Officer was set aside and the compensation to the tune of Rs.25,000/- awarded on account of mental agony was quashed and the rest of order was upheld with a direction to the respondent to pay the amount of Rs.25,000/- within four weeks from the date of order failing which the appellant was to pay an amount of Rs.100/- per day of default.
5. Thereafter the complainant instituted the instant execution application on 20.08.2019 for recovery of the amount due to her. During the pendency of execution application, a cheque worth Rs.29,000/- was given by the respondent/JD to the representative for the complainant/DH on 04.11.2019 against proper receipt obtained on the order-sheet itself. Both sides submitted their respective calculation sheets. As both the calculation sheets did not tally and depicted a different picture, a report from the Finance and Accounts Branch of the Authority was sought, which showed that the calculations sheets furnished by both sides showed different amount and actually an amount of Rs.98,785/- was still due to be refunded to the complainant/DH and vide order dated 05.03.2020 the respondent/JD was directed to make the payment of the above said amount and the respondent/JD obtained certain dates for making the payment. However, the respondent/JD instead of making payment of the above amount, preferred another appeal bearing No.241 of 2020 before the Hon'ble Real Estate Appellate



Tribunal, Punjab, but, the respondent/JD pressed only on the point that the calculation sheet, which formed basis of order dated 05.03.2020 be supplied to them. Accordingly, the Hon'ble Real Estate Appellate Tribunal, Punjab, vide order dated 29.10.2020 made the following observations:

"In the circumstances, we deem it appropriate to dispose of the appeal with a direction to the Authority to look into the prayer made by the appellant in the application Annexure A-4 and supply the necessary documents/calculation sheet to him as this would be in the interest of adjudication.

The draft amounting to Rs.98,785/- D.D. No.003814 dated 13.07.2020 submitted under section 43(5) of the Real Estate (Regulation and Development) Act, 2016 be remitted to the Executing Authority, which may after giving an opportunity to the appellant and the respondent in the light of the calculation sheets disburse the amount to the rightful claimant. In case the amount is in excess, needless to say, it shall be returned to the appellant after satisfying the decree/order."

6. Copy of the calculation sheet was supplied to the representative for the respondent/JD and objections against the calculation sheet were filed on behalf of the respondent/JD. It was averred that as per the information received from the bank, the MCLR rate of interest came into force w.e.f. 01.06.2016 and prior to that, the rate of interest was 8.95% and as such the calculation sheet had been wrongly prepared by applying the interest at the rate of 16.75% (w.e.f. 16.12.2013 to 09.04.2015), at the rate of 16.60% (w.e.f. 10.04.2015 to 07.06.2015) and at the rate of 16.45% (w.e.f. 08.06.2015 to 04.10.2015); that the entire payment having already

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made upto 21.10.2019, no interest beyond that was to be paid; that interest w.e.f. 10.11.2019 to 04.03.2020 i.e. Rs.3,029/- has also been wrongly calculated; that a sum of Rs.15,285/- was deducted as income tax and another amount of Rs.1,800/- has also been wrongly calculated as delayed compensation. In this manner a total difference of Rs.80,918/- was there and that amount was liable to be paid by the complainant/DH to the respondent/JD.

7. On behalf of the respondent/JD the first objection regarding calculation had been taken that the rate of interest has been wrongly calculated on the higher side i.e. 16.75%, 16.60% and 16.45% instead of 8.95% plus 2%. However, this objection on behalf of the respondent is not tenable because admittedly, till 01.06.2016 MCLR was not available and Prime Lending Rate was prevalent in the market and the calculation has been rightly made by applying the rate of interest as per Highest Prime Lending Rate of interest and the rate of interest as claimed by the respondent/JD i.e. 8.95% plus 2% is as per MCLR rate w.e.f. 01.06.2016. So, this rate of interest could not be made applicable prior to that date.
8. As per the calculation sheet submitted by the Finance and Accounts Branch an amount of Rs.98,785/-, which also includes an amount of Rs.1800/- on account of delay in deposit of compensation and Rs.15,285/- on account of TDS. The amount of Rs.1800/- has been calculated based on the directions of the Hon'ble Appellate Tribunal as the payment of the compensation of Rs.25,000/- was made after 18 days of delay and for that lapse the respondent was required to pay a sum of Rs.100/- per day as per the order mentioned above. As far as the amount of Rs.15,285/- is concerned,

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it had been deducted at source as income tax and the record of the same has been provided by the respondent to the complainant. Therefore, the amount tendered by the respondent through demand draft to the tune of Rs.98,725/- is in excess by Rs.15,285/-, but, the said amount due to the complainant having been calculated only upto 04.03.2020 but so far the amount has not been released to the complainant and the interest as per order dated 25.06.2018 on the due amount is payable upto date of payment and if we calculate the interest on the said due amount from 04.03.2020 upto this date, this certainly exceeds the amount of Rs.15,285/-. In these circumstances, the objections filed against the calculation sheet prepared by the Finance and Accounts Branch of the Authority, are without any substance and the same are dismissed. However, the representative for the complainant has stated at bar in the course of arguments that he was prepared to accept the demand draft of Rs.98,725/- in full and final satisfaction of the claim of complainant/DH in this execution. In such a situation, the demand draft worth Rs.98,725/- be released to the complainant through her representative against proper receipt and thus the present execution application is disposed of being fully satisfied. The file be consigned to record room.

Dated:16.02.2021



(Balbir Singh)

Adjudicating Officer,

Real Estate Regulatory Authority, Punjab.