

**Before Shri Binod Kumar Singh, Member,
Real Estate Regulatory Authority, Punjab**

Execution No. 41 of 2023
Complaint AdC No.0060/2021
Date of Order: 14.10.2024

1. Ms.Preeti Arya
2. Nirdosh Arya
Both residents of House No.81, Sector 21-A, Chandigarh-Pin Code
- 160022

....Complainants/Decree Holders

Versus

1. Citi Centre Developers, Site Office, VIP Road, Zirakpur, (Near Metro Cash `n` Carry) District Sahibzada Ajit Singh Nagar, Mohali, Punjab, Pin Code 140603
2. Mr. Pankaj Gupta, House No.234, Sector 21, Panchkula, District Panchkula, Haryana Pin Code 134112
3. ICICI Bank, Plot No.149, Industrial Area, Phase-1, Chandigarh, Pin Code 160002

....Respondents

Present : Complainant no.1 in person
Ms. Aanchal and Ms. Ravneet Kaur, Advocates for
respondents no.1 and 2
Respondent no.3 exparte in the main case.

ORDER

This is an application under Section 40 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) for execution of order dated 22.12.2022 passed by the then learned Bench of Member (APS) vide which the respondents were directed as under:

"...Hence, the contravention of the Act on the part of the answering respondents is squarely made out under the provisions of Section 18(1), read with Section 19(4), of the Act. As such, the respondent no. 1 and 2 are directed to refund the amount of Rs.24,80,000/- to the complainants along with interest as per State Bank of India's highest marginal cost of

lending rate (as of today) plus 2% in view of the provisions of Section 18(1) of the Act, read with Rule 16 of the Punjab State (Regulation and Development) Rules, 2017, with effect from the respective dates of payments till the refund is made and this amount shall be refunded within 60 days from the date of this order. However, it is made clear that there being a loan of the ICICI bank against the impugned apartment, respondent no.3 which is exparte in this case, shall have the first charge on the refund amount and it should be released only after obtaining NOC from the said bank”.

2. Brief facts of the complaint bearing GC No.0060 of 2021, against the order of which this execution application has been filed, are that the complainants were allotted one unit (Cloud SOHO) bearing No.1014 on the 10th Floor of Block D and E in Chandigarh Citi Centre for a sum of Rs.26,80,000/- for which allotment letter was issued and buyer's agreement were entered into between the complainants and respondents. However, respondents no.1 and 2 failed to deliver possession of the unit resultantly the complainants sought refund of Rs.26,80,000/- with interest. After considering the pleadings of the parties, the then learned Bench of Member (APS) vide order 22.12.2022 directed the respondents no.1 and 2 to refund of Rs.24,80,000/- along with interest from the respective dates of payments till the refund from the date of order within sixty days.

3. It is noted that the Registry of this Authority vide Memo No.RERA/Pb/Legal/2022/19 dated 02.01.2021 despatched a copy of the order dated 22.12.2022 to the complainants as well as to all the respondents for information and record.

4. Thereafter, the complainants filed Execution Application No.41 on 17.07.2023 attaching calculation sheet claiming a sum of

Rs.40,30,001/- with interest for the period from 01.03.2017 till 15.07.2023, the date of filing the present execution application. It is the prayer of the complainants that the above said amount be recovered by attachment of bank accounts/properties and by sale/auction of attached properties of the respondents/judgement debtors.

5. Notice was issued to the respondents on 21.07.2023 for appearance on 31.08.2023. On this date Shri Nanak Singh, Advocate appeared for respondents no.1 and 2 and another opportunity was granted to him to submit reply/objections. However, perusal of the records available revealed that the respondents have not submitted reply/objections despite availing various opportunities and even did not bother to submit fresh calculation sheet upto 31.03.2024 as ordered on 22.02.2024 by this Authority. Perusal of interim order dated 15.04.2024 revealed that the Counsel for the respondents sought time to submit his calculation sheet on that day itself i.e. on 15.04.2024. Although, Counsel for the respondents has not submitted his calculation sheet. But Counsel for the complainants submitted his calculation sheet claiming an amount of Rs.42,36,667/- (Rs.24,80,000/- principal amount + Rs.17,56,667/- as interest from 01.03.2017 to 31.03.2024.


6. There were frequent changes of the incumbents in the Authority and eventually the case was entrusted to undersigned on 02.08.2024.

7. During the course of the arguments, learned Counsel for the complainants stated that the respondents have not complied with the order dated 22.12.2022 as amount has not been paid. It is the prayer of the complainants that the recovery certificate be issued for the above stated amount of Rs.42,36,667/-.

8. The undersigned has gone through the record of this execution application and considered the arguments raised by Counsels for the parties.

9. It is a matter of grave concern that the respondents have brazenly flouted the order dated 22.12.2022 and have shown no regard towards making compliance of the said order of the Authority. It is noted that there was no explanation from the respondents seeking to rebut the claim put forth by the complainants/deed-holders, and to put forth why this execution application should not be allowed.

10. From the above discussion, it is clear that the order dated 22.12.2022 has not been complied with by the respondents as on date. It is already held that the complainants are entitled for the principal amount and interest from the respective dates of payment till the refund is made at the rate of SBI MCLR + 2%. Accordingly, computation has been made from the office of this Authority whereby a total sum of Rs.43,43,927/- (Rs.24,80,000/- principal amount + Rs.18,63,927/- as interest for the period from 01.03.2017 till 31.03.2024) is payable by the respondents to the complainants.

 11. This Execution Application is accordingly accepted and the respondents are directed to pay a sum of Rs.43,43,927/- to the complainants within sixty days of the receipt of this order.

12. However, it is made clear that since the complainants availed loan from ICICI Bank, Plot No.149, Industrial Area, Phase-1, Chandigarh-160002, the first charge on the refund amount will be of the lender bank to the extent of amount outstanding in the loan account of the

complainants. Thereafter the remaining amount be released to the complainants.

13. It is also made clear that if the order dated 22.12.2022 and this order is not complied with by the respondents within a period of sixty days of the receipt of this order, Registry is directed to issue Recovery Certificate to the District Collector, SAS Nagar, Mohali, Punjab to affect the recovery of the arrears of interest amounting to Rs.43,43,927/- (as per calculation sheet attached as Annexure-1) from the respondents and also to initiate proceedings under Section 63 of the Act against the respondents.

Announced



(Binod Kumar Singh)
Member, RERA, Punjab