

**BEFORE SHRI BINOD KUMAR SINGH, MEMBER
REAL ESTATE REGULATORY AUTHORITY, PUNJAB**

Execution No.35 of 2024 in
Complaint No.0014 of 2022
Date of Decision: 13.11.2024

1. Vanita Sharma
2. Ravinder Kumar Sharma
Both residents of House No.310, Kidwai Nagar, Ludhiana,
Punjab-141008

....Complainants/Decree Holders

1. IREO Waterfront Pvt. Ltd., C-14, Ist Floor, Malviya Nagar,
South Delhi-110017
2. Advance India Projects Ltd. The Masterpiece, Golf Course
Road, Sector 54, Gurugram, Haryana-122002
3. Deewan Housing Finance Corporation Limited, SCO No.16 and
17, 2nd loor, Feroze Gandhi Market, Ludhiana-141001

.... Respondents/Judgement Debtors

Present : Ms. Rabia Devgan, Advocate for Shri Vipul Monga,
Advocate for the complainants
None for the respondents

ORDER

This is an application under Section 40(2) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act of 2016) read with Rule 25 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the Rules) for execution of order passed under Section 31 of the Act read with Rule 36 of the Rules, 2017 dated 30.11.2023 passed by the learned Bench of Member (RKG) vide which the respondents were directed as under:-

"25. In view of the above, the complaint is partly allowed and respondent no.1 and 2 shall refund the entire amount of Rs.3,41,82,353/- paid by the complainants (by its own resources as well as through availing loan from respondent

no.3) as per Section 18(1) of the Act along with interest calculated @ 10.75% per annum (today's highest MCLR rate of 8.75% plus 2%). However, it is again made clear that the first charge on the refund amount shall be that of respondent no.3 i.e Deewan Housing Finance Corporation Ltd. (DHFL) (now known as Piramal Capital & Housing Finance Ltd.). The period for payment of interest will be considered from the next month in which payment was effected by the allottee to the previous month of the date on which payment has been effected by the promoter. The calculation of interest is as follows:

| Interest payable from | Principal Amount (A) | Interest calculated till | Rate of interest as per order | Tenure | Interest amount (B) |
|--|----------------------|--------------------------|-------------------------------|-------------------|---------------------|
| 1 Aug 2014 | 46,00,000 | 30-Nov-2023 | 10.75% | 9 years, 4 months | 46,18,495 |
| -- | -- | -- | -- | -- | -- |
| -- | -- | -- | -- | -- | -- |
| -- | -- | -- | -- | -- | -- |
| -- | -- | -- | -- | -- | -- |
| -- | -- | -- | -- | -- | -- |
| -- | -- | -- | -- | -- | -- |
| -- | -- | -- | -- | -- | -- |
| 1 Oct 2016 | 3,40,632 | 30-Nov-2023 | 10.75% | 7 years, 2 months | 2,62,546 |
| Total | 3,41,82,353 | | | | 3,14,47,450 |
| Grant Total (A+B) Principal Amount + Interest amount upto 31.11.2023 – 6,56,29,803 | | | | | |

26. The total amount of Rs.6,56,29,803/- calculated upto 30.11.2023 as per the period calculated mentioned in Para 25. This amount shall be paid within a period of 90 days, from the date of this order. Further, in case, the respondents no.1 and 2 fails to refund the amount along with its interest within the prescribed timeframe, interest amounting to Rs.3,06,217/- will continue on the principal amount of Rs.3,41,82,353/- till the date of receipt of total amount in favour of the complainants and respondent no.3..."

2. The brief history of the original Complaint bearing GC No.0014 of 2022 is that the complainants booked a Villa Type E2, Villa no. 268, 2nd floor, measuring 718.28 Square Yards for Basic Sale Price of Rs.4,29,22,683.96/- in the Project "IREO Waterfront" at Village Devatwal, Dakha-I and II, Eisewal, Gahour and Birmi, Sub Tehsil

Mullanpur Dakha, Tehsil and District Ludhiana, with the respondent in the year 2014. Allotment Letter was issued and thereafter agreement for sale was executed between respondent no.1 and complainants on 30.09.2014. Out of total sale consideration, complainants have paid Rs.3,41,82,353/- towards construction linked payment and possession was to be handed over within 18 months from the date of agreement to sale with 6 months' grace period. As per Clause 11.4 of agreement if company fails to submit the notice of completion by the end of the grace period, respondent was liable to pay to the allottee compensation calculated at the rate of Rs.7.50 per sq. ft. of Built-up Area for every month of delay. Respondent no. 2 had executed an agreement with respondent no.1 for acquisition of whole project.

3. The relief sought by the complainants in the original complaint was that since there was delay of more than 5 year in handing over possession of the Villa in question, accordingly, respondent/promoter, be directed to refund the entire amount of Rs.3,41,82,353/- paid by the complainants along with interest for delay in possession, as per Section 18 of the Act of 2016 and also to issue notice u/s 59 of the Act and penalty may be imposed u/s 61 of the Act (supra) for contravening of the other provisions of the Act.

4. Notice of execution application was issued to the respondents on 25.04.2024 for their appearance and filing reply/objection on 06.06.2024. On this date i.e 06.06.2024, Shri Sumit Arora, Advocate appeared for respondents no.1 and 2 and Shri Bhanu Chaudhary, Advocate appeared for respondent no.3 and sought time to submit

the reply and the matter was adjourned to 17.07.2024 for the said purpose. It is noted in the interim order dated 20.08.2024 that the respondents have not submitted their reply and on their request the matter was adjourned to 16.09.2024 for filing of replies by the respondents. However, thereafter till 07.11.2024 neither any reply was filed on behalf of all the respondents nor anybody represented the respondents and the matter was reserved for orders on 07.11.2024 itself.

5. It is the case of the complainants that since the respondents have not complied with the order dated 30.11.2023 they have filed the present execution application and prayed that the respondents be directed to refund the amount plus interest to the tune of Rs.6,71,60,888.00 as per calculation sheet attached with the execution application. On the other hand, it is worth to mention here that there was no representation on behalf of the respondents and even no reply to the execution application was filed by them on the date of hearing.

6. The undersigned has considered the arguments of the learned Counsel for the complainants and also gone through the available record of this case.

7. It is the case of the complainants that possession of the Villa was not handed over to them as per the terms of the agreement to sale till date by the respondent nos. 1 and 2. As per agreement dated 30.09.2014 executed between the complainants as well as respondents, possession was to be delivered within 24 months with a grace period of 180 days i.e. on 29.03.2017. However, possession of the Villa was not delivered so they were within their right under

Section 18(1) of the Act of 2016 to request for refund of their deposited amount along with interest thereon. Learned Counsel for the complainants further submitted that respondents no.1 and 2 have not refunded the entire amount of Rs.3,41,82,353/- along with interest thereon to the tune of Rs.3,14,47,450/- calculated upto 30.11.2023 totalling to Rs.6,56,29,803. Accordingly, this execution application was filed by them claiming Rs.6,56,29,803/- (principal + interest upto 30.11.2023) the figure arrived at by the learned Bench vide his order dated 30.11.2023 + Rs.3,06,217/- per month interest from 30.11.2023 to 30.04.2024 totalling to Rs.6,71,60,888/-.

8. On the other hand, nobody was present on behalf of the respondents on the date of hearing the arguments. It is noted that there is no explanation from the respondents to rebut the claim put forth by the complainants/deGREE-holders, why this execution application should not be allowed.

9. Thus, it is established on record that no payment or part payment for this period has been released by the respondents to the complainants till date and they are entitled to the interest for this period also.

10. In view of the above discussion, this execution application bearing no.35 of 2024 is accordingly accepted and a decree for a sum of Rs.6,71,60,888/- (as per attached calculation sheet) is passed in favour of the complainants and against the respondents.

11. However, it is made clear that the first charge on the refund amount would be towards clearing the liability arising out of the Loan availed by the complainants from respondent no.3/Deewan

Housing Finance Corporation Limited (now known as Piramal Capital & Housing Finance Limited) in terms of Tripartite Agreement entered into between the complainants, and respondents and then refund the balance amount to the complainants.

12. It is also further directed that the refund due along with interest should be made by the concerned respondents within the statutory time i.e ninety days stipulated under Rule 17 of the Rules, 2017 from the date of receipt of this order. In case of non-compliance of this order by the respondents the Registry of this Authority is directed to issue a Recovery Certificate to the concerned District Collector.

13. It may be noteworthy that any failure to comply with or contravention of any order, or direction of Authority may attract penalty under Section 63 of this Act of 2016.

Announced



(Binod Kumar Singh)
Member, RERA, Punjab

Execution No.35 of 2024 in
Complaint No.0014 of 2022

13.11.2024


Vanita Sharma and Anr

Vs

IREO Waterfront Pvt. Ltd. and ors

Present : Ms. Rabia Devgan, Advocate for Shri Vipul Monga,
Advocate for the complainants
None for the respondents

Vide separate order, this execution application is
allowed.


(Binod Kumar Singh)
Member, RERA, Punjab