

**BEFORE SHRI SATYA GOPAL, CHAIRPERSON,
REAL ESTATE REGULATORY AUTHORITY, PUNJAB**

Execution No. 72 of 2022
In
Complaint No.AdC 1312 of 2019
Date of Decision: 30.11.2023

1. Akash Goyal
2. Ankush Goyal

Both sons of Shri Sudarshan Goyal, House No.356, Sector 3-A,
Batan Lal Road, Mandi Gobindgarh, Fatehgarh Sahib, Punjab-
147301

.... Complainants/applicants

Versus

Manohar Infastructure and Constructions Pvt.Ltd., SCO 139-141, Sector
17-C, Chandigarh-160017

.... Respondent

Present : None for the complainant

Shri Manmohan Sharma, Advocate for Shri Dinesh Madra,
Advocate for the respondent

ORDER

This order will dispose of the Execution Application No.72 of 2022
filed by the complainants/applicants, under Sections 40 and 63 of the
Real Estate Regulatory Act, 2016 (hereinafter referred to as the Act)
against the respondent.

2. It is contended in the execution application that the complainants booked a residential plot of 200 square yards and paid a sum of Rs.18.70 lakhs for the plot which is 50% of the total price. However, despite lapse of eight years no document was executed in favour of the complainants/ applicants. Upon filing a complaint the then Chairperson of this Authority passed the final order on 03.03.2022 in AdC No.1312 of 2020 titled "*Akash Goyal and Anr. Vs Manohar Infrastructure & Constructions Pvt. Ltd.*" allowing the refund of Rs.22.50 lakhs with interest at the rate of 9.30% per annum (highest MCLR rate of 7.30% plus 2% of that date i.e. 03.03.2022) to be paid from the date of deposit till the date of actual refund. It was further directed to the respondent that the payment should be made within the time stipulated under Rule 17 of the Punjab State Real Estate (Regulation and Development) Rules, 2017. Since that order dated 03.03.2022 was not complied with by the respondent, the complainants served a legal notice dated 09.06.2022 asking for payment of Rs.22,50,000/- along with interest as noted above. However, the respondent totally ignored the legal notice and miserably failed to comply with the order dated 03.03.2022. It is further contended that the respondent and its Managing Director are liable to be proceeded with under Sections 35, 37, 38, 40 and 63 etc. of the Act for non compliance of the order of this Authority. The present execution application has been filed by the complainants/ applicants seeking refund of Rs.18,70,000/-



along with interest to the tune of Rs.14,78,235/- for the period from 03.03.2022 upto 01.08.2022, the date of filing of the present execution application. Learned Counsel for the complainants/applicants has also attached a calculation sheet in this respect. It is also mentioned in the application that since the respondent has wilfully and intentionally disobeyed the order dated 03.03.2022 strict action be taken by imposing an exemplary penalty and in the alternative respondent be directed to refund the amount along with interest @24% per annum from the date of deposit till its actual realization.

3. Upon notice Shri Manmohan Sharma, Advocate appeared on behalf of the respondent and submitted his Memo of Appearance on 12.01.2023 and the matter was adjourned to 23.02.2023 for filing of reply. On this date, learned Counsel for the respondent has submitted miscellaneous application along with Power of Attorney mentioning therein that the figure of Rs.22,50,000/- mentioned in the final order should be read as Rs.18,70,000/-. Since nobody was present on behalf of the complainants/applicants on this date notice of the miscellaneous application was issued to them for 20.04.2023 to submit reply.

4. On this date Original file of the complaint was obtained from the Registry of this Authority and perused. It revealed that the complainants had paid Rs.18,70,000/-. Learned Counsel for the complainants has



admitted this fact and stated that as per calculation sheet attached as page 6A of his execution application he had calculated the interest amount only on the amount of Rs.18,70,000/- deposited by the complainants. He further stated that he has no objection if the amount of Rs.22,50,000/- mentioned in the order dated 03.03.2022 passed in AdC No.1312 of 2020 be read as Rs.18,70,000/-. In view of this admission by learned Counsel for the complainants the miscellaneous application filed by learned Counsel for the respondent for correction of figure of amount of Rs.18,70,000/- instead Rs.22,50,000/- was allowed and the matter was adjourned to 06.07.2023.

5. On 06.07.2023 instead of filing reply to the execution application, learned Counsel for the respondent stated that they are ready to comply with the order dated 03.03.2022 and sought three weeks' time and the matter was adjourned to 03.08.2023. On this date the learned Counsel appearing for the respondent stated that the learned arguing Counsel is not available today. On the other hand learned Counsel for the complainants stated that the order has not been complied with and the matter was adjourned to 14.09.2023. On this date the learned Counsel for the respondent has handed over two cheques bearing nos.115480 and 115481 dated 14.09.2023 each of Rs.1,50,000/- totalling to Rs.3,00,000/- drawn on Bank of Maharashtra favouring Shri Akash Goyal



and Shri Ankush Goyal, complainants. It was noted in the interim order that the matter was pending before this Bench since 04.08.2022 and no compliance has been made by learned Counsel for the respondent. As per order dated 03.03.2022 the respondent was directed to refund the amount of Rs.18,70,000/- along with interest. But only Rs.3,00,000/- was released. It was also noted that the respondent has not been complying with the order of the Court on one pretext or the other which is a serious matter. This is the reason that the present execution application has been moved by the complainants/ applicants and contested by the respondent. During the proceedings held on 06.07.2023, learned Counsel for the respondent himself has stated that they are ready to comply with the above said order dated 03.03.2022, but as on date full compliance has not been made by the learned Counsel for the respondent.

6. It is a serious matter that respondent has not bothered to comply with the order dated 03.03.2022 passed by this Authority and has not even explained in his reply as to why he has not complied with the said order. The respondent has been disobeying the order of this Court and acting at his own free will. The respondent is directed to comply with the directions contained in this order in letter and spirit without fail.

7. From the above discussion, it is clear that the order dated 03.03.2022 has not been complied with in toto by the respondent as on today. It is a serious matter that respondent has not explained during the



course of proceedings about not refunding the entire principal amount along with interest.

8. As a sequel of the above, this Execution Application No.72 of 2022 is accordingly allowed. Accordingly, the respondent is directed to refund the principal amount of Rs.18,70,000/- along with interest of Rs.16,89,583/- (minus Rs.3,00,000/- given on 14.09.2023 to the complainants by way of two cheques each of Rs.1,50,000/-), totalling to Rs.32,59,583/- calculated upto 31.10.2023, within sixty days of the receipt of this order. Recovery Certificate be issued to the District Collector, SAS Nagar, Mohali, Punjab to affect the recovery of the arrears of interest amounting to Rs.32,59,583/- (as per calculation sheet attached as Annexure-1) from the respondent.

9. It is also directed that if the respondent does not comply with the order dated 03.03.2022 and with this order within a period of sixty days of the receipt of this order, the Registry of this Authority is directed to initiate the proceedings under Section 63 of the Act of 2016 against him.



(Satya Gopal)
Chairperson
Real Estate Regulatory Authority
Punjab

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Akash Goyal and Anr. Vs. Manohar Infra. & Const. Pvt.Ltd.

Present : None for the complainant

Shri Manmohan Sharma, Advocate for Shri Dinesh Madra,
Advocate for the respondent

Vide separate order, the execution application is allowed.

(Satya Gopal)
Chairperson
Real Estate Regulatory Authority
Punjab