



Real Estate Regulatory Authority, Punjab
 First Floor, Block-B, Plot No. 3, Sector-18 A, Madhya Marg, Chandigarh – 160018
Before the Bench of Sh. Rakesh Kumar Goyal, Member.

RERA/Execution No 88/2022
In AdC No. 1547/2020 BFTR AUTH 0051/2021
 (Record of proceedings on 03.08.2023)

1. Gurjit Singh
2. Rashpal Kaur

Vs.

1. ATS InfrabuildPvtLtd .
2. Shiwalik Greens Maintenance Pvt Ltd.
3. Shiwalik Estate

Present: 1. Sh. Pranav Goyal, Advocate for the applicant(s).
 2. Sh. J.P. Rana alongwith Sh. Hardeep Saini, Advocate for respondent No.1.
 3. None for respondents no. 2 & 3.

Perusal of the execution application reveals that on 29.05.2023, this bench had already issued directions to the Registry of this Authority for issuance of recovery certificate of the due amount, after quantification from the Accounts Section to the Deputy Commissioner-cum-District Collector, SAS Nagar. In compliance to the same, on 21.06.2023, recovery certificate for an amount of Rs.97,32,178/- (i.e., till the date of order dated 29.05.2023) was issued to the Deputy Commissioner-cum-District Collector with an endorsement of the same to the Tehsildar, RERA, Punjab. DC, SAS Nagar had also directed the Tehsildar, Mohali for initiating necessary steps in this regard vide Endst. No. 855-856 Dated 28.07.2023. For ready reference relevant extract of the order dated 29.05.2023 is reproduced hereunder:-

“Today, the matter was listed for arguments. However, during the arguments, Ld. Counsel for the respondent submitted that as per proposed schedule submitted on the last date of hearing, 1st instalment of Rs. 8,55,670/- (Rupees Eight Lakhs Fifty Five Thousand Six Hundred Seventy only) had already been paid to the applicant. Ld. Counsel for the applicant stated that the above amount has been taken by the applicant but under protest.

2. *Further, Ld. Counsel for the applicant submitted that since order dated 09.05.2022 had not been complied with, by the respondent despite affording sufficient opportunities; the applicant has filed the instant execution application for recovery of due amount for an amount of Rs.1,05,93,199/- (Annexure E-3 of the application). As per calculation sheet, an amount of Rs.70,07,511/- is the refundable principal amount and Rs.35,85,688/- is the interest accrued thereupon, till the date of filing the present execution application. He further requested to issue recovery certificates as per the provisions of the Act & Rules made thereunder.*

3. *Ld. Counsel for the respondents reiterated his arguments limited to the extent of their written replies. He submitted that the respondent is ready to comply with the orders but as per the proposed schedule submitted by him on the last date of hearing in 11 instalments, which will be cleared upto 29.02.2024. Also, 1st instalment due for this month to the tune of Rs.8,55,670/- had already been paid to the applicant.*



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4. Based on the written and oral submissions of both the applicants and respondents, I am of the view that respondent had failed to comply with order dated 09.05.2022 and had been able to refund only Rs.8,55,670/-, which had also been accepted by the applicant but under protest. Further, it is important to note here that respondents could not take a plea for refunding the amount alongwith its interest by way of different instalments of different dates upto February, 2024, rather an order u/s. 31 of the Act had already been passed by the then Member for refunding the entire amount paid by the applicant alongwith its interest (in toto) within a period of 90 days. For ready reference, the relevant extract of order dated 09.05.2022 is reproduced hereunder:-

“9. In view of the above, the complaint is allowed and following is ordered:-

I. The respondent shall refund, as per Section 18(1) of the Act, within 90 days of this order, the entire amount alongwith interest @ 9.30% per annum (today's highest MCLR rate of 7.30% plus 2%) to be calculated from the dates when the payments were received, till the date of payment.”

But, the respondents had miserably failed to do so and in these circumstances, the respondents are directed to refund the principal amount paid by the applicants alongwith arrears of interest accrued on it, till the date of this order. Further, an amount of Rs.8,55,670/- be set off, as this had been paid by the respondents in April, 2023 to the applicants.

Accordingly, the registry is directed to get the report of Finance & Accounts Branch regarding exact due amount up to the date of filing of execution application and thereafter, issue the recovery certificate.

Further, concerned D.C. be also directed to recover further interest @ 9.30% per annum (today's highest MCLR rate of 7.30% plus 2%), on the principal amount, w.e.f. the date of filing of application for execution till the actual date of recovery. Tehsildar be also asked to comply with the directions.”

In this regard the DC office had already been asked to recover the dues alongwith its calculation. The same is being followed up by this Authority. This fact is being made clear to the applicant/DH. Therefore, no further action is required to be taken up in the case.

Chandigarh
Dated: 03.08.2023

(Rakesh Kumar Goyal),
Member,
RERA, Punjab.