



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.

Execution Application No.105/2022
Complaint/RERA AdC No. 0066/2021BF TR
AUTH-0174 OF 2021
Date of filing: 28.10.2022
Date of decision: 19.10.2023

Ms. Bimla Devi R/o House No. 1885, Sector 80, SAS Nagar (Mohali) – 160062, Punjab.

...Applicant

Versus

1. M/s. Sunny Lovely Developers, SCO No. 49, 1st Floor, Phase-11, SAS Nagar (Mohali), Punjab - 160062
2. Sukhdev Singh Bajwa, House No. 1002, Sector 71, SAS Nagar (Mohali), Punjab – 160071
3. Baljinder Singh, R/o # 15, Near Samdhan Wala Temple, Hallo Majra, Chandigarh – 160002.

...Respondent(s)

Application U/s. 40(1) of the Real Estate (Regulation & Development) Act, 2016 for execution of order dated 31.05.2022.

- Present:-
1. Sh. Gaurav Sharma, Advocate for the applicant.
 2. Sh. Vipul Monga, Advocate for Respondent nos. 1 to 2.
 3. None for Respondent No. 3.

ORDER

The present application has been filed by the Applicant for execution of order dated 31.05.2022.

2. This Authority by way of a single order u/s. 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as the 'Act, 2016') dated 31.05.2022 has held in the case '*Mukesh Kumar Vs. M/s. Sunny Lovey Developers & Ors. and 4 other connected matters*' that the respondent shall be liable to refund the entire amount of Rs.16,62,500/- (in each case) to the applicants alongwith interest @ 9.50% per annum till the amount was paid.



For ready reference, relevant extract of order dated 31.05.2022 is reproduced hereunder:-

“H. DIRECTIONS OF THE AUTHORITY:-

12. In view of the above, the complaints are allowed and this bench hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations upon the promoter as per the function entrusted to the authority under Section 34(f):-

I. The respondent shall refund, as per Section 18(1) of the Act, within 90 days of this order, the entire amount & Rs.16,62,500/- in each case, alongwith interest to all the complainants @ 9.50% per annum (today's highest MCLR rate of 7.50% plus 2%) to be calculated from the dates when the payments were received, till the date of payment. [Emphasis supplied]

3. The Respondents i.e., M/s. Sunny Lovely Developers and 2 Ors. did not give the refund alongwith interest as directed under Para 12 of the Order dated 31.05.2022. The order was duly served on the Respondent.

4. Accordingly, on 28.10.2022 the present applicant filed the execution application No. 105 of 2022, before Real Estate Regulatory Authority, Punjab (Henceforth referred as Authority) requesting to direct the M/s. Sunny Lovely Developers and 2 Ors., to refund the principal amount of Rs.15,62,500/- alongwith interest of Rs.6,75,264/-, which in totality comes to Rs.22,37,764/-, till the filing of present execution application.

5. In consequence of filing of execution application, notices were issued to Respondents to appear and submit reply. However, despite service of notice to respondent no.3, no one joined the proceedings on its behalf, but Respondent No.1 & 2 i.e., the promoter joined the proceedings on 23.02.2023. Proceedings were held time to time. On 04.09.2023, Ld. Counsel for the applicant filed calculation sheet upto July, 2023 and following orders were passed:-

“Calculation sheet upto July, 2023 filed by the applicant. Ld. Counsel for the respondent does not want to file any calculation sheet.

During the proceedings it has been noticed that vide order dated 31.05.2022 relating to 5 connected matters, refund of Rs.16,62,500/- alongwith interest thereupon had already been awarded to each of applicant, whereby in the present execution application, the applicant is seeking refund of Rs.15,62,500/- alongwith its interest. However, this issue had not been raised by either of the parties till date and in this



regard clarification from both the parties is required. Accordingly, both the parties are directed to clarify this issue on the next date of hearing."

Today, Ld. Counsel for the applicant made it clear that he had filed the present execution application against the claim of Rs.15,62,500/- and interest thereupon, which is the actual claim. Ld. Counsel for the applicant further requested to issue recovery certificate as respondent had failed to comply with the directions of this Authority. In rebuttal, Ld. Counsel for the respondent submitted that he does not want to file any calculation sheet or objection to execution application on behalf of respondents and requested to kindly proceed the matter further as per law. It was also submitted that till date no appeal against the order dated 31.05.2022 had been preferred by it.

6. In view of the above, after hearing both the parties in detail, it is held that non-filing of the calculation or not objecting upon the amount claimed by the application in the present execution application *tantamounts* to admittance of this fact that the amount which has been claimed by the applicant i.e. Rs.15,62,500/- in this execution application is acceptable to the respondent and it has no objection in this regard. The Respondents had failed to comply with orders dated 31.05.2022 and in these circumstances, the respondents are directed to refund the principal amount i.e., Rs.15,62,500/- paid by the applicant alongwith arrears of interest accrued on it, till the date of this order i.e., Rs. 8,05,597/- (**totaling to Rs. 23,68,097/-**).The details of payment and interest accrued thereupon is given as under:-

Interest payable from	Principal Amount Paid	Interest Calculated till	Rate of Interest as per order	Tenure	Interest Amount
01.04.2018	1,00,000/-	30.09.2023	9.50%	5 years 6 months	52289.00
01.05.2018	14,62,500/-	30.09.2023	9.50%	5 years 5 months	753308.00
	15,62,500/-				805597.00

7. The total amount due upto 30.09.2023 amount to Rs. 23,68,097/- and the respondents are directed to make the payments immediately. No further time is granted since the order u/s. 31 of the RERD Act, 2016 was passed on 31.05.2022 and the respondents were legally bound to make the said payment within 90 days




of the order. The respondents have not filed any appeal against the said order passed u/s. 31 of the RERD Act, 2016.

8. Further, the respondent will make payment of Rs. 12,370/- for the whole month for the delayed period after 30.09.2023. The recovery may be effected accordingly. Accordingly, the execution application is **allowed**. Recovery Certificates be issued to the concerned District Collector.

Chandigarh
Dated: 19.10.2023




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