



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, Chairman.

Phone No. 0172-5139800, email id: pschairrera@punjab.gov.in & pachairrera@punjab.gov.in

- | | | |
|--|----|---|
| 1. Execution Application No. | :- | 48/2024 In AdCNo.1314/2019BFTR-AUTH0243/2022 |
| 2. Name & Address of the complainant (s)/ Allottee | :- | 1. Babreek Sharma
2. Brij Mohan Sharma
(Both r/o H. No. 8, Village Chahlan, Tehsil Samrala, District Ludhiana – 141114. |
| 3. Name & Address of the respondent (s)/ Promoter | :- | M/s. Ever Rich Buildcon Pvt. Ltd.
Avenue 125, Near Vidya Valley School,
Sector 125, SAS Nagar, Mohali,
Punjab - 140103 |
| 4. Date of filing of Execution Application | :- | 27.05.2024 |
| 5. Name of the Project and Address | :- | Avenue - 125 |
| 6. RERA Registration No. of Project | :- | PBRERA-SAS80-PR0051 |
| 7. Name of Counsel for the complainant, if any. | :- | Sh. Mandeep Kumar Dhot, Advocate for the complainant. |
| 8. Name of Counsel for the respondent, if any. | :- | None for the respondent. |
| 9. Section and Rules under which order is passed | :- | Section 40(1) of the RERD Act, 2016 r.w. Rule 24 and 25 of Pb. State RERD Rules, 2017 for execution of order dated 05.05.2022. |
| 10. Date of Order | :- | 27.01.2025 |

Order u/s. 40(1) of Real Estate (Regulation & Development) Act, 2016 read with Rules 24 and 25 of Pb. State Real Estate (Regulation & Development) Rules, 2017.

The present application has been filed by the Applicant for execution of order dated 18.01.2024

2. This Authority by way of an order u/s. 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as the 'Act, 2016') dated 18.01.2024 has held in the case 'Babreek Sharma & Anr. Vs. Ever Rich Buildcon Pvt. Ltd.' that the respondent shall be liable to refund Rs.25,00,000/- alongwith interest at the rate of 10.85% per annum from the date of payment till the date of its realisation. For ready reference, relevant extract of order dated 18.01.2024 is reproduced hereunder:-

"23. As a sequel of the above, this complaint filed by the complainants against the respondent for refund of the amount along with interest is accepted and the respondent is directed to refund Rs.25,00,000/- at today's SBI highest marginal cost of lending rate (i.e. 8.85% plus 2%) on the above amount w.e.f. the date(s) of payment(s) till realization. The respondent is further directed to pay the above



said amount to the complainants within sixty days from the date of this order. Since the complainants had availed housing loan from the State Bank of India, it is now their own liability to repay the said housing loan to the bank. However, it is made clear that, if any amount has been paid by the respondent to the complainants on account of compensation for the delay in delivery of possession that shall be set off from the above said amount."

3. The Respondent neither paid the principal amount nor has paid its interest. The order passed u/s. 31 of the Real Estate (Regulation and Development) Act, 2016 dated 18.01.2024 was duly served on the Respondent.

4. Accordingly, on 27.05.2024 the present applicant filed the execution application No. 48 of 2024, before Real Estate Regulatory Authority, Punjab (Henceforth referred as Authority) requesting to direct M/s. Ever Rich Buildcon Pvt. Ltd. to refund the amount alongwith interest, till the filing of present execution application.

5. In consequence of filing of execution application, a notice was issued to Respondent i.e., M/s. Ever Rich Buildcon Pvt. Ltd. to appear and submit reply on 02.09.2024 and the notice was served upon it on 10.06.2024. Another opportunity also given to the respondent to appear and file its objections and the matter was adjourned to 08.10.2024. No one again attended the proceedings on 08.10.2024, and thereafter two more opportunities were given to the respondent for filing its objection, but despite service through post and intimation through email, neither anyone attended the proceedings nor has any objections been filed by it. It is pertinent to mention here that on the last date of hearing, a detailed order were passed by this bench as **last opportunity** and that order was also served upon the respondent on 11.01.2025. For ready reference, the orders passed on 16.12.2025 is reproduced hereunder:-

*"Present: Sh. Mandeep Kumar Dhot and Sh. Ankit Shama, Advocate for the complainant.
None for respondents.*

When the matter was taken up, Ld. Counsel for the complainant submitted his calculation sheet on the amount paid at different dates @ 10.85% on the amount under different 3 dates having amount of Rs.43,94,344/- (i.e. Rs.25,00,000/- as principal amount and Rs.18,94,344/- as interest accrued thereupon). The amount is calculated till 16.12.2024. The record reveals that order u/s. 31 of the RERD Act, 2016 was passed on



18.01.2024 and it's almost one year but nothing had been done by the respondent till date.

The appeal preferred by the respondent has been dismissed by the Hon'ble Real Estate Appellate Tribunal, Punjab as per its order dated 10.10.2024 due to non-compliance of 40(5) of the RERD Act, 2016. It appears that the respondent is deliberately trying to delay the matter by filing the incomplete matter. The respondent has attended the proceedings on the various dates e.g. 03.06.2024; 02.09.2024; 08.10.2024 and 16.12.2024. The respondent was asked to file the objections on or before 02.12.2024 to this Authority through registered post/speed post/reputed courier or submit at the receipt counter of this Authority and/by speed post/E-mail to the complainant. In case of non-filing of objections on or before 02.12.2024, it may be filed on the next working day and so on till the next date of hearing by explaining the reasons of delay in compliance for each day, but till date neither any reply has been filed by the respondent nor has anyone attended the proceedings on its behalf. Sufficient opportunity had already been given to the respondent to file its objections.

However, in the interest of justice, **one last opportunity** is hereby given to the respondent for file their reply/objections, if any, otherwise the matter will be proceeded further as per documents available on record. **Calculation sheet submitted by the complainant today shall be also attached with the reminder notice.** The complainant has calculated that he is entitled for an amount of Rs.25,00,000/- as principal amount and Rs.18,94,344/- as interest accrued thereupon till 16.12.2024. He also submitted that the respondent has to pay an amount of Rs.22,604/- per month till the date of actual payment.

The respondent is hereby directed to file its reply by 15.01.2025 to this Authority through registered post/speed post/reputed courier or submit by hand at the receipt counter of this Authority. Further, a copy of the reply is to be sent to the complainant by speed post and e-mail at the address given in the complaint.

The reply is to be filed on or before 15.01.2025. In case of failure to file the reply by hand/speed post/email as directed, it may be filed on the next working day and so on till the date of next hearing explaining the reasons of delay for each day. The reply being filed on the receipt counter should clearly mention the Complaint Number, Name of the Bench and full particulars of the respondents and name of case. Further, it should be duly verified as per the sample proforma given below:-

"VERIFICATION:-

I, _____ s/o _____ aged _____ r/o _____ as (in the capacity of) _____ of the respondent company, do hereby verify that the above information submitted is true & correct to the best of my knowledge & belief.

(NAME: _____)
 Authorised Signatory
 [Address:
 Mobile No.
 Email:
 Aadhar Card No. _____]"

Next date of hearing is **27.01.2025 at 12.30 pm** for filing of reply and examining other facts of the case."

In view of the above factual matrix, the respondent could not comply with the orders passed u/s. 31 of the Real Estate (Regulation and Development) Act,



2016 dated 18.01.2024. Despite availing sufficient opportunities in the present execution, no one appeared on behalf of respondent therefore its **defence is struck off** and the present execution application is **allowed** which has been claimed by the applicant in this execution application. Ld. Counsel for the applicant further stated that the respondent had not filed any appeal against the said order dated 18.01.2024 passed u/s. 31 of the RERD Act, 2016 till date.

7. Based on the written and oral submissions of the applicant and the material available on record, it is held that the respondent had failed to comply with orders passed u/s. 31 of the Real Estate (Regulation and Development) Act, 2016 dated 18.01.2024. In these circumstances, the respondent is directed to refund Rs.25,00,000/- alongwith arrears of interest accrued over it @ 10.85% per annum from the date of payment till the date of this order i.e., Rs.18,56,254/- (**totaling to Rs.43,56,254/-**). 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 in which payment has been effected by the promoter. Therefore, the calculation of refunds and interest upto 31.12.2024 is calculated as follows:-

Actual date of payment	Interest payable from	Principal Amount Paid	Interest Calculated till	Rate of Interest as per order	Tenure	Interest Amount
1	2	3	4	5	6	7
23.12.2017	01.01.2018	5,00,000.00	31.12.2024	10.85%	84 months	3,79,750/-
17.01.2018	01.02.2018	6,50,000.00	31.12.2024	10.85%	83 months	4,87,798/-
29.03.2018	01.04.2018	13,50,000.00	31.12.2024	10.85%	81 months	9,88,706/-
	TOTAL	25,00,000/-				18,56,254/-
GRAND TOTAL (PRINCIPAL AMOUNT + INTEREST AMOUNT)						43,56,254/-

9. The total amount due upto 31.12.2024 amount to Rs.43,56,254/- 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 18.01.2024 and the respondents were legally bound to make the said payment within 90 days of the order.

10. Any amount paid by the promoter will be first deducted towards the interest payable by the promoter and if amount paid is in excess of the interest payable then the balance amount (amount paid -- interest payable) will be deducted from the capital and so on.




11. Further, the respondent will make payment of Rs.22,604/- per month for the delayed period after 01.01.2025. The respondent i.e. M/s. Ever Rich Buildcon Pvt. Ltd. is therefore held liable for an amount of Rs.43,56,254/- as on 31.12.2024 and further in addition of Rs.22,604/- as interest will be added per month till the recovery is fully affected. The respondent is further directed to refund the above amount at the earliest. The recovery may be effected accordingly. In the result, the execution application is **allowed**. The Secretary of this Authority is hereby directed to further issue the Recovery Certificate and send it to the appropriate authority for necessary action.

12. The Secretary of this Authority is hereby directed to issue the recovery certificate immediately. The promoter (judgment debtor) and the complainant (decree holder) are directed to inform the Secretary of this Authority for any payment effected in compliance with the recovery certificate or call it back after it is fully satisfied and update the data of this Authority with the said transaction of payment.


Chandigarh
Dated: 27.01.2025




(Rakesh Kumar Goyal),
Chairman,
RERA, Punjab

A copy of the above order may be sent by the Registry of this Authority to the followings as well as for their further necessary action:-

1. Babreek Sharma
2. Brij Mohan Sharma
(Both r/o H. No. 8, Village Chahlan, Tehsil Samrala, District Ludhiana – 141114.
3. M/s. Ever Rich Buildcon Pvt. Ltd., Avenue 125, Near Vidya Valley School, Sector 125, SAS Nagar, Mohali, Punjab - 140103
- ✓ 4. The Complaint File.
5. The Master File.
6. The Secretary, RERA, Punjab.
7. The Director (Legal), RERA, Punjab.
8. The Dy. Director (Legal), RERA, Punjab.


(Sawan Kumar),
P.A. to Chairman
RERA, Punjab.