



Real Estate Regulatory Authority, Punjab

First Floor, Block-B, Plot No. 3, Sector-18 A, Madhya Marg, Chandigarh – 160018
Phone No. 0172-5139800, email id: pschairera@punjab.gov.in & pcchairera@punjab.gov.in

Before the Bench of Sh. Rakesh Kumar Goyal, Chairman.

- | | | |
|--|----|---|
| 1. Execution Application No. | :- | 75/2024 in GC No. 0232/2021 |
| 2. Name & Address of the Complainant/ Applicant/ Decree Holder | :- | 1. M/s Fortune Multitech Pvt. Ltd.,
SCO No. 404, Sector 20,
Panchkula-134117. |
| 3. Name & Address of the Respondents/ Judgment Debtors | :- | 1. Mr. Chetan Arora S/o Sh. Ashok Arora,
Apartment No.101, Tower E,
Victoria Heights, Peer Muchalla,
Tehsil Derabassi, Punjab – 160104

2. Mrs. Dimple W/o Sh. Vinod Kumar,
Apartment No.101, Tower E,
Victoria Heights, Peer Muchalla,
Tehsil Derabassi, Punjab – 160104 |
| 4. Date of filing of Execution Application | :- | 14.10.2024 |
| 5. Name of Counsel for the complainant, if any. | :- | Sh. Shivam Grover, Advocate |
| 6. Name of Counsel for the respondent, if any. | :- | None for the respondent. |
| 7. 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 31.01.2022. |
| 8. Date of Order | :- | 01.01.2026 |

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 applicant seeks the execution of the order dated 31.01.2022 passed by the Authority in Complaint No.0232 of 2021 titled as M/s Fortuna Multitech Pvt. Ltd.. SCO 404, Sector 20, Panchkula (The Decree Holder) Vs. Sh. Chetan Arora S/o Sh. Ashok Arora & Mrs. Dimple W/o Sh. Vinod Kumar, (The Judgment Debtors), both residents of Apartment No.101, Tower E, Victoria Heights, Peer Muchalla Tehsil Derabassi, Punjab.

2. In brief, the respondents/ the judgment debtors (Refer as JD subsequently in this order) were allottees of Apartment No.101 in Tower 'E' of real estate project named Victoria Heights, Peer Muchhalla. As per facts available on the record, the possession of the flat was given to JDs' on 04.05.2019. The JDs' were liable to pay maintenance charges @ Rs.1.00 per square foot per month from date of possession with an escalation of 15% every year. The JDs' paid the

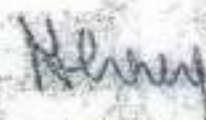


maintenance charges till April, 2020 and thereafter failed to deposit the same. After considering the entire facts on the record, the Hon'ble Authority passed an order dated 31.01.2022 (supra). The scanned copy of the operative part of the said order reads as under: -

6. As a result of the above discussion, the complaint is accepted and the respondents are directed to pay a sum of Rs.95,764/- (as per calculated sheet attached) within a period of 2 months from the date of receipt of this order.

Announced

Dated: 31.01.2022


(Navreet Singh Kang)
Chairperson

The scanned copy of calculation sheet to the said order dated 31.01.2022 is as under: -

Calculation in Complaint Number GCNo02322021					
Case Title- Fortune Multitech Private Limited vs Chetan Arora & Dimple					
Interest payable from	Interest calculated till	No. of Days	Maintenance Charges	ROI SBI highest MCLR +2%	Interest Amount
01-05-2020	31-03-2021	335	8320	9.30	710
01-06-2020	31-03-2021	304	8320	9.30	644
01-07-2020	31-03-2021	274	8320	9.30	581
01-08-2020	31-03-2021	243	8320	9.30	515
01-09-2020	31-03-2021	212	8320	9.30	449
01-10-2020	31-03-2021	182	8320	9.30	386
01-11-2020	31-03-2021	151	8320	9.30	320
01-12-2020	31-03-2021	121	8320	9.30	257
01-01-2021	31-03-2021	90	8320	9.30	191
01-02-2021	31-03-2021	59	8320	9.30	125
01-03-2021	31-03-2021	31	8320	9.30	66
			91520		4,244

Maintenance Charges to be paid by the Respondent	91,520
Interest on Maintenance Charges	4,244
Total Amount to be paid	95,764


Navreet Singh Kang
Chairperson



The JDs' 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 31.01.2022 was duly served on the Respondents.

4. Now the present execution application has been filed for execution of order dated 31.01.2022 passed in GC No. 0232/2021, in the case of M/s Fortune Multitech Pvt. Ltd., the applicant & degree holder (Referred as DH subsequently in this order) under section 40 of the Real Estate (Regulation and Development) Act, 2016 read with Rules 24 & 25 of the Real Estate (Regulation and Development) Rules 2017. This Execution Application was received in this office vide Diary No. 7597 dated 14.10.2024 and the same was marked as Execution Application No. 75 of 2024.

5. The case was fixed for hearing on 29.10.2024 for 26.11.2024. The JDs' did not respond. The case was then fixed for hearing on 29.01.2025 for 03.03.2025. The JDs' did not respond. The case was again fixed for hearing on 12.03.2025 for 01.04.2025. The JDs' did not respond. The case was once again fixed for hearing on 09.04.2025 for 26.05.2025. The JDs' did not respond. The case was again fixed for 17.06.2025. The JDs' again did not respond. The case was once again fixed for 30.06.2025. The JDs' again did not respond. The case was again fixed for hearing for 17.07.2025. The JDs' did not respond. The case was again fixed for hearing for 21.08.2025. The JDs' did not respond. Again the case was fixed for hearing on 30.10.2025. The JDs' did not respond. Once again the case was fixed for hearing on 30.12.2025. The counsel for the DH appeared. However, the JDs' neither attended the proceedings nor responded. Non-filing of the reply or non-objection by the JDs' to the contents claimed in the application by the DH in the present execution application tantamount to admittance of the fact that the amount claimed by the DH in this execution application is acceptable to the JDs'.

6. The above facts strength the belief that the JDs' have nothing to say in this regard or has no objection to the contents of this application. As a result of the order dated 31.01.2022, the JDs' were liable to pay Rs.95,764/- within two months from date of receipt of the said order.



7. It has also been observed from the application filed by the Applicant/DH that it has claimed an amount of Rs.5,43,143/- (Column No.11 along-with Annexure to the Execution Application). The perusal of the record reveals that the order dated 31.01.2022 was passed in respect of non- payment of maintenance fees, GST & interest from 01.05.2020 to 31.03.2021 by the JDs' to the DH whereas in the execution application, the DH has claimed non- payment of maintenance fees, GST & interest from 01.05.2020 to 13.10.2024. This contention can-not be accepted in view of inherent limitation to the fact that execution can-not exceed the amount of award given in the judgment. In *Topanmal Chhotamal v. Kundomal Gangaram* (AIR 1960 SC 388), a three-judge bench of the Apex Court of the country held as follows: -

"It is a well-settled principle that a Court executing a decree cannot go behind the decree: it must take the decree as it stands, for the decree is binding and conclusive between the parties to the suit".

Hence this execution application is restricted to an amount of Rs.95,764/-, as awarded in the judgment dated 31.01.2022 (supra).

8. Based on the material available on the record, it is held that the respondents / DHs' had failed to comply with orders passed u/s. 31 of the Real Estate (Regulation and Development) Act, 2016 dated 31.01.2022. In these circumstances, the respondents/ DHs' are directed to pay a sum of Rs.95,764/- along with interest of Rs.32,656/- @ 9.30% per annum (i.e. 07.30% SBI's Highest MCLR rate as applicable on date of judgment i.e.31.01.2022 plus 2%) from the date of receipt of order under section 31 dated 31.01.2022 till date of this order i.e. 31.12.2025, (totaling to Rs.1,28,420/-).The period for payment of interest will be considered from the next month in which payment was to be effected by the allottee to the previous month of the date in which payment has been effected by the allottee. Therefore, the calculation of interest up-to 31.12.2025 is as follows:-

Interest awarded upto	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
31.01.2022	01.05.2022	Rs.95,764/-	31.12.2025	09.30%	44 months	Rs.32,656/-
GRAND TOTAL (Principal Amount + Interest Payable upto 31.12.2025)						Rs.1,28,420/-



9. The total amount due up-to 31.12.2025 is Rs.1,28,420/-(i.e. principal amount of Rs.95,764/- and interest of Rs.32,656/-)and the respondents/JDs' 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 31.01.2022 and the respondents/JDs' were legally bound to make the said payment within 60 days of the order.

10. Any amount paid by the respondents/JDs' will be first deducted towards the interest payable by the respondents/JDs' and if amount paid is in excess of the interest payable then the balance amount (amount paid – interest payable) will be deducted from the amount of maintenance etc. and so on.

11. Further, the respondents/JDs' will make payment of Rs.742/- per month for the delayed period after 31.12.2025. The respondents/JDs' i.e. Sh. Chetan Arora and Mrs. Dimple are therefore held liable for an amount of Rs.1,28,420/-(i.e. principal amount of Rs.95,764/- and interest of Rs.32,656/-) as on 31.12.2025 and further in addition of Rs.742/- as interest will be added per month till the recovery is fully affected. The respondents/JDs' are further directed to pay the above amount at the earliest. In the result, the execution application is **allowed as detailed above**. The amount of Rs.1,28,420/-(i.e. principal amount of Rs.95,764/- and interest of Rs.32,656/-) as on 31.12.2025 and any further interest after 01.01.2026 @ Rs.742/- per month as provided u/s. 40 (1) of the Real Estate (Regulation and Development) Act, 2016 are held to be "Land Revenue" read with Rule 24 of Punjab State Real Estate (Regulation and Development) Rules 2017. Further it will be calculated as "Land Revenue" by the Competent Authority under the provisions of "Land Revenue Act 1887". The Secretary of this Authority will issue a Recovery Certificate accordingly.

12. Further, any amount paid by the respondents/JDs' will be considered as payment against the interest whatever is due and will be set off against principal (maintenance charges) only after payment of whole of interest. The payment by




respondents/JDs' will be considered only after whole of interest due till date has been paid. Even subsequent payment if any will be first considered towards interest payment, if any becomes due on the unpaid principle amount. It is clarified that interest @ Rs.742/- per month will keep on generating till the whole payment of Rs.1,28,420/- is paid along-with refund of amount as per agreement.

13. Both the allottees/ respondents/ JDs' are held jointly and severally liable and are hereby directed to pay the amount determined herein to the promoter/ applicant/ DH. The liability being joint and not apportioned, the allottees/ respondents/JDs' may discharge the same by taking payment in any proportion or wholly from any one of them, and such payment shall constitute valid discharge to the extent so made.

14. The Secretary of the Real Estate Regulatory Authority, Punjab is hereby directed to issue the recovery certificate immediately. The promoter/ applicant (Decree Holder) and the allottees/ respondents (Judgment Debtors) 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: 01.01.2026





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

Endst. No./CP/RERA/PB/PA/Sec.40/98

Dated:- 09/01/26

A copy of this order is hereby forwarded to the following for their information and necessary action: -

1. M/s Fortune Multitech Pvt. Ltd., SCO 404, Sector 20, Panchkula, Haryana – 134117.
2. Mr. Chetan Arora S/o Sh. Ashok Arora,
3. Mrs. Dimple W/o Sh. Vinod Kumar,
(Both Sr. No. 2 & 3 are at Apartment No. 101, Tower No. E, Victoria Heights, Peer Muchalla, Tehsil Derabassi, SAS Nagar Mohali-160104).
4. The Secretary, RERA, Punjab.
5. The Director (Legal).
6. The Complaint File.
7. The Master File.


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