

**BEFORE THE REAL ESTATE REGULATORY AUTHORITY,
PUNJAB
PLOT NO.3, BLOCK-B, FIRST FLOOR, SECTOR 18A,
MADHYA MARG, CHANDIGARH.**

Complaint No. GC No.0070 of 2023

Date of Decision: 05.06.2025

Damodar Datt Pathak, House No.3335, Maloya
Colony, Chandigarh.

...Complainant

Versus

1. Mona Township Private Limited through its Directors, Sector 115, Kharar Landran Road, SAS Nagar (Mohali), Punjab;
2. Tejinder Singh Setia, Director Mona Township Private Limited, Sector 115, Kharar Landran Road, SAS Nagar (Mohali), Punjab;
3. Municipal Council, Kharar through its Executive Officer, village Khanpur, SAS Nagar (Mohali), Punjab;

...Respondents

Complaint under Section 31 of the Real Estate
(Regulation and Development) Act 2016.

Present: Mr. Inderpal Singh Issar Advocate representative
for the complainants
Mr. Vipul Monga Advocate representative for the
respondent No.1

ORDER

The present complaint is one of the complaints that have been filed by the various complainants on the similar grounds against the same respondent/ promoter. But the present complaint since involved different facts and questions, is being dealt with separately vide a separate order in this regard of the Authority.

2. Complainant alleged in the complaint that ~~she~~^{he} had purchased the residential plot no.33 in the township developed by the respondent company i.e. M/s Mona Township Private Limited situated at Sector 115, Khunimajra, Kharar-Landran Road inside JLPL City, Mohali vide a registered sale deed no.6520 dated 07.02.2014. He had purchased the plot in question as per the sanctioned layout plan approved by the competent authority. And, there was a road of 35 ft. plus 4.5 ft. ramp i.e. total 39.5 ft. shown and existing in front of the house of complainant. But later the respondent had made the material alterations i.e. reducing the width of the road from 35 ft. to 24 ft., in the said approved plan and started the construction over the said road. It was thus claimed that respondent had also got the said revised plan approved from the competent authority without first obtaining any consent and giving intimation to him and other allottees. In this way, the respondent company had violated the provisions of Section 14 as well as various other provisions of the Act. Hence, the present complaint.

3. Notice of the complaint was issued to the respondent, who upon service put in appearance and contested the complaint by filing its reply. It was submitted by the respondent that the present complaint was nothing but an abuse of the process of law. The allegations levelled by the complainant were baseless and were strongly denied submitting that the project was initially got approved on

25.07.2013 from the Municipal Corporation Kharar and was subsequently got revised from it on 19.08.2019 as per the Municipal Byelaws. It was further submitted that there was absolutely no violation of Section 14 (2) in going ahead with the construction. Whatever construction has been raised by the promoter was as per the revised sanctioned plan that was duly approved by the competent authority.

It was further submitted that as per the second proviso of Rule 8 of Punjab State Real Estate (Regulation and Development) Rules 2017 the competent authority once approved the revised layout plan no consent of allottees was required. So much so, in the case in hand in the original layout plan as well as the road provided in front of the villas purchased by the complainant was only of 12 ft wide while the rest 24 ft space was left for parking meant to be used by both residents of the villas as well as multi-storied towers that were to be constructed on the other side of the road and villas. Even after the approved revised plan as well as the road that has been left for the use of both villa people as well as of allottees of the residential towers on the opposite side was even increased up to 24 ft wide. It was thus submitted that there was absolutely no violation of any provisions of the Act as the construction of towers was being raised as per the approved site plan by the competent authority. Respondent promoter thus denying rest of the averments as well of the complaint finally prayed for dismissal of the complaint.

4. Parties through their learned authorized representatives have been heard patiently by the Authority. The arguments of the authorized representatives had been on the lines of the averments contained in their respective pleadings and elaboration thereof shall be made in the course of the discussion.

5. While putting forth his arguments, learned counsel for the complainant put the main emphasis on violation of Section 14(2) of the Act by the promoter submitting that promoter/ respondent had failed to seek and obtain the consent of 2/3rd allottees before getting the original sanctioned plan revised by the competent authority. It was not only a serious violation of the mandate of provisions of above section but the defiant act of promoter had also gone to the extent that it did not even care about the restraint order/ interim injunction issued by the Authority and continued with the construction. Such defiance and its continuance when complained of was clearly endorsed by the Commission in its report that was sent to inspect the spot by the Authority. The respondent/ promoter was therefore liable to be strictly penalized first for committing the violation of the provisions of the Act provided u/S 14(2) and secondly for defying and non-compliance of the interim restraint order issued by the Authority.

6. While countering the above contentions, it was argued on behalf of the respondent/ promoter that there was

absolutely no violation whatsoever of any provisions of the Act what to talk of violation of Section 14 (2) in going ahead with the construction. Whatever construction has been raised by the promoter was as per the revised sanctioned plan that was duly approved by the competent authority which is MC, Kharar in the present case. Besides, as per the second proviso of Rule 8 of Punjab State Real Estate (Regulation and Development) Rules 2017 the competent authority once approved the revised layout plan no consent of allottees was required. So much so, in the case in hand in the original layout plan the road provided in front of the villas purchased by the complainant was only of 12 ft wide while the rest of 24 ft space was left for parking meant to be used by both residents of the villas as well as of multi-storied towers that were to be constructed on the other side of the road opposite the villas. Even after the approved revised plan as well the road that has been left for the use of both villa people as well as of allottees of the residential towers on the opposite side was even increased up to 24 ft wide. It was thus argued that there was absolutely no violation of any provisions of the Act as the construction of towers was being raised as per the approved site plan by the competent authority. The complaint being false and frivolous was liable to be dismissed.

7. Submissions and contentions of both the sides have been considered and examined after giving patient hearing to both the parties by the Authority. Upon doing so

this Authority finds that the complainant although has put much emphasis on the violation of the mandate of Section 14 (2) of the Act, but has not been able to show as to how there is a violation of the provisions of Section 14 of the Act? As it is the complainant who alleges the contravention of the provisions of the Act the burden of proof to show it to be so lies upon him at the first instance. But he has more or less failed in his that attempt especially in view of the fact that the revised plan was duly approved by the competent authority and that the second proviso of Rule 8 provided if the authority competent to issue approvals was of the view that certain changes in the project were necessary, it might on application of the promoter do so for the reasons to be recorded in writing and in that case consent of allottees was not required. In this way, the complainant has also not been able to show it to the Authority even this if competent authority while giving approval to the revised layout plan did not have reasons for doing that or that approved it without recording reasons or even that if the approval was without the consent of allottees at that very point of time.

Section 14 of the Act and second proviso to the rule 8 (3) of Punjab State Real Estate (Regulation and Development) Rules, 2017 are reproduced as under for the better understanding and discussion on the case:

14. (1) The proposed project shall be developed and completed by the promoter in accordance with the sanctioned plans, layout

any law, contract or agreement, after the sanctioned plans, layout plans and

recorded in writing and in that case consent of allottees shall not be required."

8. Reading of Section 14 above makes it clear that observance of the above provisions was mandatory. There is no doubt that the contravention of the provisions of Section 14 and non-adherence to the sanctioned plans and project specifications disclosed or furnished to the person who agreed to take one or more apartment, plot or building, as the case may be could be taken note of or could be considered by the Authority as well even if such violation was missed by the competent authority as was submitted on behalf of the complainant provided it was proved so. The mandate of Section 14 of the Act is a rule of estoppel based on principles of equity, fair play and good conscience. He who seeks equity must do equity. Thus, it is clear that it has to be shown and proved that the provisions have been contravened which in the present case have not been done so on account of lack of proof on the part of the complainant.

9. In the case in hand the original sanctioned plan has been revised and approved by the competent authority. Thus, nothing is shown to have been done by the promoter against the revised sanctioned plan. It cannot be said in these circumstances that sanctioned plan has not been adhered to. The complainant has also not been able to show if the said additions and alterations were beyond the extent of 5% in the sanctioned plan and layout as per Rule 8(3) of the Rules of

2017. Otherwise also, the vires and validity of the rules cannot be questioned before this Authority which cannot go into the question that may be raised in this behalf.

10. Above all, the relief prayed for by the complainant cannot be granted in his favour as the compensation if any on account of violation and contravention of provisions of Section 14 is to be taken care of or adjudged by the Adjudicating Officer as per the observations made by the Hon'ble Supreme Court in its landmark decision in **Civil Appeal No.6745-6749 of 2021 titled M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP and others etc.** alongwith connected appeals taken on 11.11.2021, wherein it has been held that the Adjudicating Officer was the sole authority to adjudge compensation relating to violation and contravention of Sections 12, 14, 18 and 19 conferred u/S 71 of the Act. If for argument's sake, it is presumed that complainant is able to prove her case on the question that provisions of Section 14 have been contravened, then also the compensation in that case is to be adjudicated upon or adjudged by the Adjudicating Officer who is the sole authority in the matter.

11. For all these reasons, it is found that complainant has not been able to make out his case before the Authority concerning contravention and violation of Section 14 that has been the main contention put forth on his behalf by his learned counsel. The only relief and remedy left with complainant if any is to ask for compensation.

12. Somehow, it is found by the Authority that respondent is prima facie guilty of non-compliance and violation of the orders of the Authority by defying the interim restraint order against the construction by continuing the same, as is more or less admitted and as per the report of Commission appointed. Respondent is therefore liable to be proceeded against for non-compliance and violations of the provisions of the Act U/s 59.

13. Another violation which is also apparent on the face of it in view of the report given by the Director (Project and Regulation) that the revised sanctioned plan by the competent authority was not got registered with the Authority which was although put on the website giving impression to the general public if that revised plan is registered. Respondent is therefore liable to be proceeded against for misleading the general public also by bringing unregistered revised layout in public domain and indulging in selling of the unregistered parts of the project.


14. Accordingly, as an outcome of the above Secretary of this Authority is directed to initiate proceedings U/s 59 and 63 of the Act against the respondent/ promoter. Copy of this order be also sent to the competent authority concerned for holding either an enquiry and taking action against those responsible for withholding the information sought by the Authority or issuing necessary direction in that regard in its discretion. Although complainant is not able to make out his case for the violation/contravention of Section 14 of the Act by promoter before


this Authority, yet he is kept at liberty to claim compensation on the ground if any before the Adjudicating Officer who shall not be prejudiced by the observations made by this authority on the question of violation of Section 14 of the Act if any by the violator/ promoter.

Copy of this order be sent to all the quarters concerned, for consideration and compliance. File be consigned to the record room after necessary compliance as per rules.

Announced: 05.06.2025


(Arunvir Vashista)
Member, RERA, Punjab


(Binod Kumar Singh)
Member, RERA, Punjab


(Rakesh Kumar Goyal),
Chairman, RERA, Punjab