

**BEFORE THE REAL ESTATE REGULATORY AUTHORITY,
PUNJAB AT CHANDIGARH**

**Complaint AdC No.0114 of 2021 UR BFTR-
AUTH 0159/2021**

Date of Decision: 06.05.2025

1. Ranjiv Singla son of Rachna Ram
2. Sanjiv Singla son of Rachna Ram, both residents of House No.263,
Street no.04, Ward No.04, Gopal Nagar Sunam, District Sangrur
.....Complainants

Versus

1. Punjab Urban Planning and Development Authority, through
its Additional Chief Administrator, PUDA Complex, Urban
Estate, Phase-II, Patiala
2. Estate Officer, Patiala Urban Planning and Development
Authority, PUDA Complex, Urban Estate-II, Patiala, District
Patiala.

.....Respondents

II

**Complaint AdC No.0111 of 2021 UR
BFTR-AUTH 0098/2022**

Date of Decision: 06.05.2025

1. Jasdeep Singh
 2. Jaspreet Singh
 3. Tejinder Kaur
 4. Arneet Kaur
- All residents of H. No.29, Sector 19-A Chandigarh.

.....Complainants

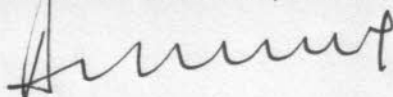
Versus

1. Estate Officer, PUDA, PUDA Bhawan, Sector 62, SAS Nagar
(Mohali), Punjab.
2. Chief Administrator, PUDA, PUDA Bhawan, Sector 62, SAS
Nagar (Mohali), Punjab.

.....Respondents

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

Present: Shri J.P. Singla, Advocate for all the complainants
Shri Ashish Grover, Advocate all for respondents.



ORDER

The above complaint(s) for the relief of refund, interest as well as compensation under the provisions of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as the 'Act') were filed before the Adjudicating Officer. However, Hon'ble Apex Court in **M/s. Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P. and others in Civil Appeal Nos. 6745-6749 of 2021** has held that the relief qua refund and interest is to be decided by the Regulatory Authority and qua relief of compensation, the matter is to be dealt by the Adjudicating Officer. Accordingly, the present complaint(s) qua the relief of refund and interest have been transferred to this bench of the Authority, while matter qua the relief of compensation, was separately pending with the Adjudicating Officer.

2. Since the above-mentioned complaint(s) are based on and contained similar facts, cause of action against same promoter, pertaining to the same project, it is considered to be expedient to dispose of these complaint(s) vide this common order. A copy of the order be placed in the connected file.

3. Both the above complaints pertain to an un-registered project, which is promoted by the respondent i.e. Estate Officer, Patiala Urban Planning and Development Authority.

4. The particulars of project, unit details, sale consideration and the amount paid by the complainants have been detailed in the following tabular form: -

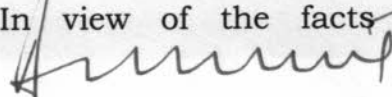
I. PROJECT DETAILS

SR. NO.	HEADS	INFORMATION
1.	Name of the Promoter	Estate Officer, Patiala Urban Development Authority
2.	Project/Scheme	PWD (Public Health) Fountain Chowk
3.	RERA Registration No.	Un-registered
4.	Nature of the Project/Scheme	Commercial

II. UNIT DETAILS OF THE ALLOTTEE

SR. NO.	HEADS	Complaint AdC No.0114 of 2021 UR BFTR-AUTH 0159/2021	Complaint AdC No.0111 of 2021 UR BFTR-AUTH 0098/2022
1.	Name of the Complainants	Ranjiv Singla and Sanjiv Singla	Jasdeep Singh, Jaspreet Singh, Tejinder Kaur and Arnit Kaur
2.	Unit details	SCO No. 3	SCO No. 04
3.	Sale consideration	Rs.2,28,00,000/-	Rs.2,14,20,000/-
4.	Letter	No.3452 Dt. 01.11.2016	No. 13451 Dt. 01.11.2016
5.	Amount paid by the complainant	Rs. 61,56,000/-	Rs.57,83,400/-
6.	Amount already refunded	Rs. 61,56,000/- without interest	Rs.57,83,400/- without interest
7.	Date of refund	22.11.2018 (As mentioned in the complaint)	22.11.2018 (As mentioned in the complaint)

5. The gist of the complaints is that the respondents launched a commercial scheme in the year 2016-17 as PWD (Public Health) Fountain Chowk site scheme without getting the project registered under RERA. Open sites were auctioned in favour of above complainants and they paid 25% payment of the total sale consideration to the respondents. The details of the same had already been mentioned in the above table. Subsequently, on 12.07.2017 the respondents informed the complainants that they were unable to give possession of the site due to certain reasons and a proposal in respect of shifting of project to some other site was under consideration. On 12th November, 2018, the respondents informed the complainants, that the site in question was declared as protected monument and the department had decided to refund the entire principal amount paid by them. Subsequently, the same was refunded to the complainants. The complainants requested the respondents number of times to pay the interest too, on the amount refunded to them, but it yielded no result. Legal notices were also served upon the respondents, but to no effect. Accordingly, they filed the instant complaints. In view of the facts mentioned above, the

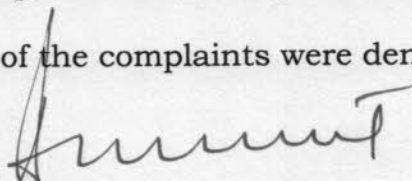


complainants have sought interest on the already refunded principal amount, for the period, the respondent retained the same.

6. Upon notice, respondents contested the complaints on the grounds that the Real Estate (Regulation and Development) Act 2016 (for short the Act) was applicable prospectively and not retrospectively. Further, the instant project had not been registered with the RERA Authority and therefore, the complaints were not maintainable as similar complaints had already been dismissed by the Authority. The complaints were not maintainable due to non-joinder of necessary parties and mis-joinder of parties as PUDA and PDA are two separate legal entities. It was further alleged that the amount deposited by the complainants had already been refunded to them, which they accepted without any objection and as such the legal notices got issued by them became meaningless. The legal notices were duly replied by the respondent stating that there was no agreement, letter of intent or allotment letter in these cases and there was only an offer of allotment, which could not materialize and as such there was no question of violating terms and conditions of any agreement. The refund of the amount, deposited by the complainants was made as per decision of the Government. The State Govt. with a view to utilize its resources for overall development of the State, framed a scheme known as Optimum Utilization of Vacant Govt. land and under this scheme, the Government transferred 8.49 acres of land belonging to PWD (Public Health) for development. Town and Country Planning Department of the Government of Punjab, prepared a master plan of the area in question, in the year 2012, after inviting objections and suggestions from the General Public and other interested parties. Use of this site had been described as public and semi-public use. PUDA Patiala, offered commercial sites at the site in question by way of auction held on 27.04.2016. The complainants being the highest bidders for SCOs No.03 and 04 deposited 25% of the bid amount and that the issuance of



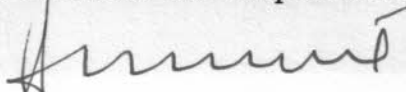
allotment letters was under consideration, when **CWP No.7956 of 2016** titled as **Subhash Kapoor and others Vs. State of Punjab and Others** was filed before the Hon'ble Punjab and Haryana High Court for quashing the transfer of the land and building situated at Fountain Chowk Patiala. On 12.05.2016, status quo was ordered to be maintained with regard to Kothi No.11-A, situated in the Erstwhile Chief Engineer, Public Health Office, near Fountain Chowk, Mall Road, Patiala. The department of Cultural Affairs Archaeology and Museums, Punjab, vide its order dated 04.05.2017 asked the office of the respondent not to carry out any type of development activity i.e. demolition, construction, reconstruction, alteration, re-alteration and cutting of trees in the Old PWD (Public Health) and all other buildings, near fountain chowk, Patiala. The Government of Punjab, Department of Tourism and Cultural affairs, vide notification dated 23.08.2018, declared the site of old Public Health Building to be a protected monument, under the Act of 1964 and consequently the Hon'ble Punjab and Haryana High Court disposed of CWP No.7956 of 0216 on 01.10.2018. The entire issue was considered by the Empowered Committee of the State of Punjab, in its 48th meeting, held on 19.06.2018, vide agenda item No.48.12. In the meeting of Additional Chief Secretary (HUD) on 24.09.2018, it was decided that the amount paid by the bidders, alongwith cancer cess, be refunded and the amount was accordingly refunded to the complainants. The respondent acted as per the above decision of the Government and as such the proceedings regarding agreement to sell and allotment letter could not materialize as it was beyond the control of the respondent. As per Section 174 of the Punjab Regional and Town Planning and Development Act 1995, the order passed by the State Government or the Competent Authority was final and could not be questioned, in any suit or other legal proceedings. Rest of the averments of the complaints were denied.



7. Complainants filed their rejoinders, wherein the averments of the written replies were denied and those of the complaints were reiterated.

8. The representatives for parties addressed arguments on the basis of their submissions made in their respective pleadings as summarised above. This bench of authority has duly considered the documents filed and submissions of the parties i.e., complainants and respondents.

9. Admittedly, in the case in hand, State Government with a view to utilize its resources for overall development of the State framed a scheme known as Optimum Utilization of Vacant Govt. land and under this scheme, the Government transferred 8.49 acres of land belonging to PWD (Public Health) for development and the Town and Country Planning Department of the Government of Punjab prepared a master plan of the area in question in the year 2012. After inviting objections and suggestions from the General Public and other interested parties, use of this site had been described as public and semi-public use. PUDA Patiala, offered commercial sites at the site in question by way of auction held on 27.04.2016 and the complainants being the highest bidders for SCOs deposited 25% of the bid amount. However, there was a subsequent development in the shape of filing of CWP No.7956 of 2016 titled as Subhash Kapoor and others Vs. State of Punjab and Others before the Hon'ble Punjab and Haryana High Court for quashing the transfer of the land and building situated at Fountain Chowk Patiala. On 12.05.2016, status quo was ordered to be maintained with regard to Kothi No.11-A, situated in the Erstwhile Chief Engineer Public Health Office near Fountain Chowk, Mall Road, Patiala. There was then another development that the department of Cultural Affairs Archaeology and Museums, Punjab, vide its order dated 04.05.2017 (Annexure R2) and (Annexure R4) asked the office of the respondent not to carry out any

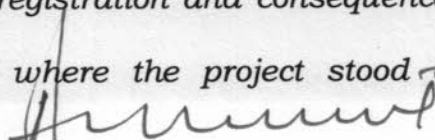


type of development activity i.e. demolition, construction, reconstruction, alteration, re-alteration and cutting of trees in the Old PWD (Public Health) all buildings near fountain chowk Patiala and the land apparent and surrounded there as the same was under consideration of protection under the Act 1964. Further, the Government of Punjab Department of Tourism and Cultural affairs vide notification dated 23.08.2018 (Annexure R3/Annexure R5) declared the site of old public health building to be a protected monument under the Act of 1964 and on the basis of said developments, the Hon'ble High Court of Punjab and Haryana disposed of the above CWP vide order dated 01.10.2018 (Annexure R4/Annexure R6). In view of the above discussion, it can be safely concluded that no mala-fide could be attributed on the part of the respondent in not completing the project of the case in hand.

10. Be that as it may, the fact remains that the amount of the complainants on the basis of successful bid in the auction for commercial site remained deposited in the account of the respondent, which were ultimately refunded. The respondent must have earned normal interest on the deposits till repayment.

11. On the question that the complaints being non-maintainable, as the project is un-registered, Punjab Real Estate Appellate Tribunal in its order dated 25.04.2022 vide **Appeal No. 60 & 61 of 2022** and **Appeal No. 64 & 65 of 2022** in Para 28 & 29 has held as follows: -

"28. We are also of the opinion and observe at the cost of repetition that the Authority wrongly interpreted the judgment of the Hon'ble Supreme Court. The retroactive operation of the Act, as observed by the Hon'ble Supreme Court and as the language of the statute also suggests would protect a developer from registration and consequences of the Act, only in a situation, where the project stood completed with a



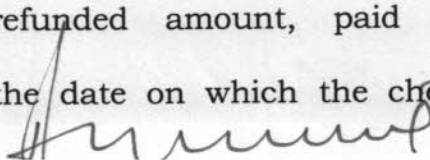
completion certificate but to establish a fact, whether a project is ongoing or complete to resultantly liberate the promoter of the consequences of the Act are matters of fact to be determined during the course of proceedings initiated by an aggrieved person. The non-applicability of the Act cannot be a presumption to be derived from a fact simplicitor of a project not being registered.

29. *The proceedings under Section 59 of the Act is a course available to the Authority in addition to the one that a determination of a complaint would warrant. It is not desirable to ask an allottee/complainant to file a separate complaint to invoke Section 59 of the Act. This is a provision empowering the Authority to penalize a defaulting promoter, once any complaint is filed on issues pointing out deficiencies and default of a promoter, the Authority after entering upon a complaint has to decide from itself, whether a course prescribed under Section 59 has to be resorted to. A separate complaint qua this aspect is not essential."*

Accordingly, the present complaints are found to be maintainable and the Authority could proceed further in the matters.

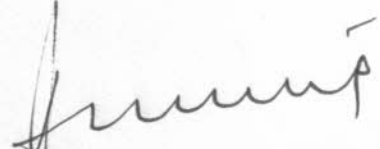
12. In view of the above, the complaints are allowed and this bench hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations upon the promoter as per the function entrusted to the authority under Section 34 (f): -

The respondent is directed to pay interest to the complainants @ 11.10% per annum (today's highest MCLR rate of 9.10% plus 2%) w.e.f. the date of receipt of the already refunded amount, paid by the complainants, till the date on which the cheque for



refund of the amount was signed, by the Competent Authority. The same shall be paid within 90 days of this order as stipulated under Rule 17 of the Rules 2017. Files be consigned to record room after due compliance.

Announced: 06.05.2025



**(Arunvir Vashista)
Member
RERA, Punjab.**