

**BEFORE SHRI BINOD KUMAR SINGH, MEMBER
REAL ESTATE REGULATORY AUTHORITY, PUNJAB**

Complaint No.0062 of 2024
Date of Institution: 12.02.2024
Date of Decision: 19.02.2026

Gora Singh, Raman Cinema Road, Near Mewa Di Chakki,
Mansa, Punjab -151505

.... Complainant

Versus

1. The Chief Administrator, Bathinda Development Authority, PUDA Complex, Bhagu Road, Tehsil Bathinda, Bathinda, Punjab, Pin Code 151001
2. Estate Officer, PUDA Complex, Bhagu Road, Tehsil Bathinda, Bathinda, Punjab, Pin Code 151001

.... Respondent

Present: Shri Jagtar Singh Dhaliwal, Advocate for the complainant
Shri Bhupinder Singh and Shri Balwinder Singh,
Advocates for the respondents

ORDER

This complaint in Form 'M' was instituted on 12.02.2024 by the complainant in his individual capacity under Section 31 of the Real Estate (Regulation and Development) Act, 2016, (hereinafter referred to as the Act of 2016) read with Rule 36 (1) of the Punjab State Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the Rules of 2017) against the respondent seeking refund of Rs.13,25,756/- deposited with respondents along with interest thereon for purchase of plot of 150 sq. yards (**Registration Number-PBRERA-MNS50-PM0031**) being developed by respondents at PUDA Enclave, Mansa.

2. For the sake of convenience, Section 31 of the Act of 2016 read with Rule 36(1) of the Rules of 2017 are reproduced as under:

"31. Filing of complaints with the Authority or the Adjudicating Officer - (1) Any aggrieved person may file a complaint with the

Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be.

Explanation —For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

(2) The form, manner and fees for filing complaint under sub-section (1) shall be such as may be specified by regulations".

"Rule 36. Filing of complaint with the Authority and inquiry by the Authority.[Section 31,71 (1) and 84(2)(zc)]-- (1) Any aggrieved person may file a complaint with the Authority for any violation under the Act or the rules and regulations made thereunder, save as those provided to be adjudicated by the adjudicating officer, in Form 'M' which shall be accompanied by a fee of one thousand in the form of a demand draft or a bankers cheque drawn on a scheduled bank in favor of the Authority and payable at the branch of that bank at the station where the seat of the Authority is situated".

3. The complainant submitted the following points in his complaint:

3.1 Respondents opened scheme (Annexure A-1) for development of free hold residential plots at Mansa @ Rs.7000/- per sq yard. The complainant had applied for a plot of 150 sq. yards vide Application no. 0040 in December, 2013 by depositing 10% earnest money of Rs.1,05,000. Letter of Intent (LOI) was issued on 24.03.2014 demanding 15% amount of Rs.1,57,500 which was deposited on 22.04.2014.

3.2 Allotment letter (Annexure A-2) was issued on 06.07.2016 allotting Plot no.213. The complainant has paid entire plot money of Rs.13,25,756/- to respondents, described in property ledger (Annexure A-4).

- 3.3 Respondents have failed to complete the project and deliver possession by the due date i.e. 05.01.2018 as promised by the respondents in the scheme, Letter of Intent and Allotment letter that possession of the plot will be delivered within 18 months from the date of Allotment letter or at the completion of the development works at the site whichever is earlier.
- 3.4 It is alleged that the project is still incomplete and not in a habitable condition even after passing about six years. Moreover, the basic amenities like drinking water, electricity and sewage are not available till date.
- 3.5 These facts have been admitted by the respondents in letters Annexure A6(Colly) before Hon'ble Real Estate Appellate Tribunal, Punjab, Punjab in Appeals no. 24 & 26 of 2018 as mentioned in the judgement.
- 3.6 Complainant was planning to construct his house in the project, had the respondents developed it in time.
- 3.7 Identical matters have been allowed by the Bench of Shri Ajay Pal Singh, Member RERA, Punjab and also by the Bench of Sh N.S.Kang, Chairperson, RERA Punjab decided solely on the basis of Annexure A6 and further upheld by Hon'ble REAT PUNJAB AT CHANDIGARH in Appeal Nos.103 to 107 and 161 of 2022 respectively decided on 06-Oct-2022 vide joint judgement Annexure A-8.
- 3.8 Complainant was visiting office of respondents for refund since long but ultimately, they flatly refused to refund anything on 16-Jan-2024 after making false excuses. The

respondents have deserted the project. There is no completion certificate issued by competent authority.

4. It is the prayer of the complainant that the respondent be directed refund Rs.13,25,756/- along with interest.

5. Upon notice, reply dated 02.01.2025 was filed by the respondents raising the following preliminary objections:

5.1 The complaint is bad for non-joinder and mis-joinder of necessary parties. Allotment has been made by PUDA and not by respondent no.1. But the complainant has failed to implead Punjab Urban Planning and Development Authority (PUDA) as party respondent. PUDA and BDA are two separate legal entities established under different sections of the Punjab Regional and Town and Development Act,1995.

5.2 It is further contended that allotment has been made under the Punjab Regional and Town Planning and Development Act, 1995, (hereinafter referred to as the Act of 1995) and there is a remedy of appeal and revision under Section 45 the Act of 1995 therefore, however the complainant failed to avail these remedies.

5.3 It is also contended that Section 174 of the Act of 1995 provided that orders passed under the Act were final and not to be questioned in any suit or other legal proceedings. Thus, this Authority has no jurisdiction to entertain and try the complaint.

5.4 The Counsel for the respondents further stated that there is an arbitration clause in the allotment letter, thereby the

matter is required to be referred to the Arbitrator under the provisions of Arbitration and Conciliation Act, 1996. However, the complainant has failed to avail this alternative remedy also.

- 5.5 The counsel of the respondent also stated that the facts regarding handing over the possession on 27.12.2017, issuance of notices on 27.07.2020 and 13.07.2022 under section 45(1) and 45(2) respectively of the Punjab Regional and Town Planning and Development Act, 1995 for non-payment of dues towards the plot allotted to him has not been mentioned in the complaint. Copy of above said letter is annexed as Annexure R/1, R/2 and R/3 respectively.

On merits it is stated that

- 5.6 Punjab Regional and Town Planning and Development Act, 1995 (hereinafter referred to Act of 1995) was enacted to develop land in a planned manner in the State of Punjab. It is further submitted that respondent authority was constituted as per Section 29 of the Act of 1995.
- 5.7 As per Section 43 of the Act of 1995 the respondents were empowered to frame schemes for the development of land owned or transferred by the Government to the respondents. Accordingly, a scheme for allotment of 200 freehold 'residential plots' at PUDA Enclave, Mansa was opened for general public from 18.11.2013 to 17.12.2013.
- 5.8 It is further contended that terms and conditions of the said scheme was detailed in the brochure for the

information of the general public. The Counsel for the respondents has also reproduced the terms and conditions (a) to (k) of the brochure to support its case. However, the same are not being reproduced here for the sake of brevity.

- 5.9 The complainant purchased the plot in question with open eyes after going through the terms and conditions of the allotment applied for a plot measuring 150 sq. yards and executed the following certificate:

"I have carefully gone through and understood the terms and conditions of the scheme applied for, as contained in the brochure and do hereby undertake to abide by the same."

"I have gone through the contents / terms and conditions of the scheme given in the brochure and I have understood the same."

- 5.10 The Counsel for the respondents admitted holding of draw of lots on 21.02.2014, and issuance of LOI for allotment of plot measuring 150 sq. yards to the complainant on 24.03.2014 subject to the conditions mentioned therein. The Counsel for the respondents further admitted the issuance of allotment letter on 06.07.2016 allotting Plot No.213(facing park) measuring 150 Sq. Yard.

- 5.11 It is stated that as per condition no.3(II) and (III) of the allotment letter the complainant was required to pay 75% of the tentative price either in lumpsum with 5% rebate without any interest within 60 days (excluding date of

issue) from allotment letter or in 6 equated half yearly installments (with first installment falling due after one year from the date of issue of allotment letter) along with interest @12% per annum as per schedule mentioned in the allotment letter

5.12 The Counsel for the respondents further stated that as per Condition No.4(1) of the allotment letter possession of the plot was to be handed over within 18 months from the issue of allotment letter i.e on or before 05.01.2018.

5.13 Possession was offered on vide letter 27.12.2017 to the complainant. The complainant was requested to take over the possession of the plot on any date mentioned in the letter failing which the possession shall be deemed to be handed over with effect from 10.01.2018. In view of above said letter, the possession of the plot in question is with the complainant.

5.14 To rebut the claim of the complainant that possession was offered without development of the site it is stated that as per meeting held on 21.12.2017 under the Chairmanship of Chief Administrator, the development works of the site had been completed. It was directed that possession be given to the allottees. It is further contended that as per letter dated 22.11.2017, the Divisional Engineer, PUDA, Bathinda, reported that development works relating to Civil, Public Health, Electricity and Horticulture had been completed. Copies of proceedings dated 21.12.2017 and photographs as Annexures A-5 and R-4 respectively.

5.15 The counsel of the respondent stated that the complainant never asked for refund prior to filing of the present complaint. Only on 02.09.2022, a letter received from complainant vide which he had deposited the amount of Rs.13,125/- due towards the plot allotted to him. (Annexure R-5).

5.16 The learned Counsel for the respondents also relied upon Section 14 (Occupation and completion certificate) of this Act that 'in the case of a colony, to obtain a completion certificate from the competent authority to the effect the 'development works have been completed'. While quoting the definition of the completion certificate given under Section 2(q) of the Act of 2016, it is stated that in the present case the development works stood completed before issuance of letter of offer of possession.

Thus, obtaining of completion certificate under PAPR Act before handing over possession of the plots in a plotted colony is not mandatory for the respondents.

5.17 Another objection regarding the non-availability of basic amenities like water and sewerage etc at the site raised by the complainant is without any substance. The complainant was required to get the building plan sanctioned and thereafter apply for water connection but the complainant never applied for sanction of building plan and water connection.

5.18 Regarding another objection of the complainant about Section 11(4)(b) of the Act of 2016, it is replied by the

respondents that though there is one of the functions of the promoter to obtain completion certificate but there is nowhere mention that it is to be obtained prior to handing over of possession.

5.19 Respondents again repeated that there is no violation of the terms and conditions of the scheme. LOI, Allotment letter, RERA Act 2016 and Punjab Rules, 2017 and prayed that the complaint be dismissed.

6. No rejoinder to the reply submitted by the respondents, has been filed by the complainant.

7. The undersigned heard arguments of both the Counsels for the parties on 19.02.2025.

8. The learned Counsel for the complainant argued that the complainant has allotted plot no. P-213 vide allotment letter dated 06.07.2016 with all rights and obligations of allotment. The complainant has paid Rs.13,25,756/- to respondents detailed in property ledger(A-4). It is further argued that the respondents failed to complete the project and deliver possession by the due date i.e. 05.01.2018 as promised by the respondents and the project is still incomplete and is not in a habitable condition even after passing of about four years and even the basic amenities like drinking water, electricity and sewage are not available till date. Learned Counsel for the complainant further argued that this Authority has allowed identical matters. The complainant sought refund and it is prayed that the respondent be directed refund Rs.13,25,756/- along with interest.

9. On the other hand, the learned Counsel for the respondents reiterated the contents of their detailed reply raising various legal

objections. They admitted the allotment of plot to complainant. The learned Counsel for the respondents relied upon letter dated 21.12.2017 of the Divisional Engineer, PUDA, Bathinda whereby he reported that the development works relating to Civil, Public Health, Electricity and Horticulture had been completed. He also emphasized on the photographs Annexure R-4 in support of his case. He further argued that the complainant has not applied for sanction of building plan and water connection and in the absence of these documents, the complainant cannot allege the basic amenities are not available at site. He further argued that the complainant failed to pay the installments as per agreed schedule so the respondents issued notice under Section 45(1) and 45(2) of the Act of 1995. Regarding the letter of request for refund submitted by the complainant, the respondents stated that the said letter was duly replied by the respondents. Lastly, it is argued that there are an arbitration clause and other legal remedies available to the complainant, however, the complainant failed to avail these remedies. There is no substance in the complaint, it be dismissed.

10. The undersigned considered the above arguments and also gone through the available record of this complaint.

11. From the pleadings of the parties, it is clear that there is no dispute about allotment of plot to the complainant.

12. At the very outset it is concluded that none of the legal issues raised by the respondents have any merit. The Hon'ble Supreme Court in the matter of '**Emaar MGF Land Ltd. Vs. Aftab Singh**' (Civil Appeals No.23512-23513 of 2017) held that mere presence of an arbitration class does not preclude the jurisdiction of this Authority.

13. Regarding the non-availability of the Completion Certificate (CC) is concerned it is true that the respondent does not have a CC for this project. The reliance placed by the respondents on Section 44 of the PAPR Act also cannot be accepted. A Completion Certificate is a requirement under the Act of 2016 which is a Central legislation and has to prevail in case of conflict with a State Law.

14. Section 31 of the Act of 2016 further provides for the filing of a complaint by an aggrieved person. Sections 88 and 89 of the Act of 2016 provide that its provisions would be in addition to those of any other law in force at the time; and also, that the Act of 2016 would have overridden effect in case of inconsistency with any other law. The Act of 2016 is a Central legislation and its working cannot be restricted by any State law. Thus, the contention that Section 174 of the Punjab Regional and Town Planning and Development Act, 1995 ousted the jurisdiction of this Authority cannot be sustained. Similarly, the Act of 2016 provides an alternative remedy to an aggrieved allottee; and this remedy cannot be denied on the ground that the remedy available in the pre-RERA days should have been pursued.

15. The bone of contention in this complaint is that there is no development work at site. Perusal of the Annexure A-5 dated 21.12.2017 along with completion/partial completion attached to it would reveal that Civil Works, public health works and electrical works had been executed to the extent of only 95%, 80% and 75% respectively issued by Divisional Engineer of respective branch. The Divisional Engineers are not authorized to issue such type of completion certificate. Even the photographs attached at Annexure R-4 does not disclose the identity of the project in question. It is the consistent case of the complainant that the development works are

not complete and the project is not in a habitable condition, accordingly he prayed for refund of his deposited amount. There is no rebuttal from the side of the respondents.

16. As a net result of the above discussion, this complaint is accordingly allowed and respondents are directed

16.1 to refund the amount of Rs.13,25,756/- along with interest @ 10.80% (i.e. 8.80% SBI's Highest MCLR Rate applicable as on 15.02.2026 + 2%) as per Rule 16 of the Punjab State Real Estate (Regulation & Development) Rules, 2017 from the respective dates of deposits till the date of actual refund.

16.2 Respondents are further directed to refund the amount of Rs.13,25,756/- along with interest thereon to the complainant within the statutory time i.e ninety days stipulated under Rule 17 of the Rules of 2017 from the date of receipt of this order and submit a compliance report to this Authority about releasing the amount along with interest as directed.

17. It may be noteworthy that in case compliance report is not submitted by the respondents after the expiry of above stated period of ninety days and further any failure to comply with or contravention of any order, or direction of this Authority may attract penalty under Section 63 of this Act of 2016.

18. The complainant is also directed to submit report to this Authority that they have received the amount along with interest as per directions issued in this order. Till then the complainant shall have the charge on the allotted plot in the project "PUDA Enclave, Mansa".

The complainant is further directed to execute a Cancellation Deed on receipt of full payment of refund and interest thereon from the respondents thereafter.

19. File be consigned to the record room after due compliance.


19/02/26

(Binod Kumar Singh)
Member, RERA, Punjab

Rera, Punjab