



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, Member.

- | | | | |
|-----|------------------------------------------------------------|----|----------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Execution Application No. | :- | 117/2022 in AdC No. 15522020BFTR-AUTH01582022 |
| 2. | Name & Address of the complainant (s)/ Allottee | :- | 1. Sh. Naveen Mehta
2. Ms. Sonal Sharma

Both r/o H. No. 121, Silver City Extension, Zirakpur, SAS Nagar (Mohali) – 140603, Punjab. |
| 3. | Name & Address of the respondent (s)/ Promoter | :- | M/s. Ansal Properties & Infrastructure Ltd., #115, Ansal Bhawan, 16 K.G. Marg – 110001, New Delhi. |
| 4. | Date of filing of complaint | :- | 29.11.2022 |
| 5. | Name of the Project and Address | :- | Golflink – II, Sector 116, Mohali, Distt. SAS Nagar. |
| 6. | RERA Registration No. of Project | :- | PBRERA-SAS80-PR0271 |
| 7. | Name of Counsel for the complainant, if any. | :- | Sh. Ravinder Pal Singh, Advocate |
| 8. | Name of Counsel for the respondent, if any. | :- | 1. Sh. Prateek Garg, Advocate.
2. Sh. Jatin Bansal, Advocate |
| 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. |
| 10. | Date of Order | :- | 22.02.2024 |

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 execution application was filed on 29.11.2023 for implementing/executing the order dated 09.05.2022 passed by the then Member in in AdC No. 15522020BFTR-AUTH01582022 titled as Naveen Mehta & Anr. Vs. Ansal Properties & Infrastructure Ltd., to which notice upon respondent was served on 09.02.2023 and matter got listed on 27.02.2023. On 27.02.2023, the respondent sought an adjournment to file its objection to the execution application and matter got adjourned for 21.03.2023. For ready reference, order passed on 27.02.2023 is reproduced hereunder:-

"Sh. Prateek Garg, Advocate for the respondent seeks an adjournment to file objections/reply to the execution application. This is allowed and he is directed to file his objections/reply on or before 21.03.2023 at 3.00 P.M. and further proceedings.

*It is also noted that National Company Law Tribunal (NCLT) has passed an order dated 16.11.2022 in the case of **Bibhuti Bhushan Biswas & 125 Others Vs. M/s. Ansal Properties and Infrastructure Ltd.**, creating moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016, to which Ld. Counsel for the respondent submitted that there is a progress in respect to moratorium proceedings in the above case and NCLAT (Appellate Tribunal) has ordered that other projects of Ansal Properties and Infrastructure Ltd, could not be effected by this moratorium, but*



the project in question in the case of Bibhuti Bhushan Biswas (supra) is only liable. He further sought time to produce evidence in this regard, to which he is directed to submit on or before the next date of hearing."

2. Subsequently, on 21.03.2023, the respondent again did not file its objections/reply to the execution application and requested for some more time, to which this bench passed the following detailed order:-

*Present:-Sh. Ravinder Pal Singh, Advocate the applicants.
Sh. Prateek Garg, Advocate for the respondent.*

Sh. Prateek Garg, Advocate of the respondent did not file the objections/reply to the execution application and requested some more time to file the same. However, Ld. Counsel for the applicants objected upon the same and stated that on the earlier date of hearing the Ld. Counsel for the respondent also sought an adjournment while he was directed to file his objection/reply on or before 21.03.2023 i.e. today.

Sh. Ravinder Pal Singh, Ld. Counsel for the applicants further submitted that the applicants booked the Dwelling Unit No. 268SF at Tower Victoria Floors, Golf Link-2, Mohali and subsequently entered into agreement to sell on 05.08.2011 at basic sale consideration of Rs.40,59,000/- excluding other charges. As per Clause 5.1 of the agreement, the possession was to be handed over within 30 months with an extended period of 6 months i.e. 04.08.2014 and the same had already been recorded in order dated 09.05.2022. Till the time of execution of the present agreement, an amount of Rs.6,41,000/- were paid to the respondent and balance payment was to be funded by HDFC by way of a tripartite agreement executed between the applicants, respondent and HDFC, which has also been fully paid by the applicants. In support to his contention as regards payment of loan amount, he invited attention of this Bench towards NOC issued by HDFC Bank in favour of applicants on 17.03.2022 vide Annexure EA-3 of the present execution application.

He further submitted that the respondent failed to offer possession as per stipulation i.e. 04.08.2014 and accordingly refund along with its interest was ordered by the then Member of this Authority vide order dated 09.05.2022. The applicants have also submitted that as per the above stated order, the respondent had neither tried to comply with the above order passed by this Authority nor had refunded the amount till date. Ld. Counsel for the applicants further alleged that as per execution application, the said interest till the filing of present execution application amounts Rs.30,75,864/- and, therefore, a total sum of due amount would be Rs.71,37,808/-. The respondent has not filed any appeal against the above-referred order dated 09.05.2022 under consideration for execution.

I have perused the execution file and as per records this bench of RERA vide order dated 09.05.2022, had held as under:-

- I. The respondent shall refund, as per Section 18(1) of the Act, within 3 months of this order, the entire amount paid directly by the complainant to the Respondent, alongwith interest @ 9.30% per annum (today's highest MCLR rate of 7.30% plus 2%) to be calculated from the dates when the payments were received, till the date of payment.*
- II. The respondent shall refund the entire loan amount paid by HDFC, alongwith interest @ 9.30% per annum (today's highest MCLR rate of 7.30% plus 2%) from the dates the amounts were received. The payment shall be made as follows:-*
 - a. Refund the outstanding loan amount to HDFC, alongwith the accrued interest thereon, till the date of payment.*
 - b. Pay the remaining portion of loan amount, repaid by the complainants by way of EMI's, to the complainant.*
 - c. To pay interest on the entire loan amount, received by the respondent from HDFC @ 9.30% (today's highest MCLR rate of 7.30% plus 2%).*



from the dates the amounts were received, till the date of payment. This amount shall be paid to complainant after adjusting the accrued interest, in terms of Sub-Para (II) (a) of Para 9 above.

III. *No other relief is made out."*

Hence, the refund alongwith interest was payable to the applicants within a period of 3 months of the date of said order by the respondent. As per records and submissions of complainant, the respondent has failed to refund the principal amount/and or the interest till date.

The complainant has submitted before this Authority that order dated 16.11.2022 passed by the National Company Law Tribunal (NCLT) in the case of Bibhuti Bhushan Biswas & 125 Others Vs. M/s. Ansal Properties and Infrastructure Ltd., creating moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 [in the case of Bibhuti Bhushan Biswas (supra)] is not applicable on the project in question i.e. Dwelling Unit No. 268SF at Tower Victoria Floors, Golf Link-2, Mohali.

However, before proceeding further in the matter, Registry is directed to issue notice to the present Director(s), Sh. Pranav Ansal of the respondent firm, under section 35 of the Real Estate (Regulation & Development) Act, 2016 to appear in person or submit the reply duly signed by him through Authorised Person on the next date of hearing explaining the reasons, facts & circumstances, as to why the compliance of order dated 09.05.2022 have not been made so far and what is the action plan of the respondent for other similar complaints/execution applications pending adjudication before this Authority whose compliances are still awaited [Chart Enclosed]. Also, a copy of this order be also served upon all other Directors as per records of this Authority i.e. Sh. Sushil Ansal, Sh. Anil Kumar, D.N. Davar, R.C. Vaish, Dr. Lalit Bhasin, Sh. P.R. Khanna, Dr. Prem Singh Rana and Ms. Archana Kapoor for the information and necessary action. A photocopy of the list taken from the project file is also placed in this complaint for ready reference and future assistance.

It is also pertinent to note here that the respondent firm has not uploaded the complete details of their directors on the web-portal of this Authority for public view. In this regard, respondent is hereby directed to immediately upload complete detail of their directors on the web portal of this Authority for facilitation/transparency and visible to the public (allottees).

Next date of hearing was fixed at 3.00 PM on 06.04.2023. The same date is extended to 09.05.2023 at 3.00 pm so as to grant sufficient time to the respondents to submit their action plan for refund/possession as claimed by the complainants (allottees) in various cases.

A copy of this interim order be provided to the applicants as well as to the respondent(s) and their Ld. Counsel(s) for their necessary compliances. It has been made clear that failure to comply with the directions of this bench, the matter will be proceeded further as per Law. The order to be sent by e-mail and registered post to the respondents, directors and by email to the complainant."

3. In response to the same, a written submission dated 20.06.2023 was filed by the Ld. Counsel for the respondent before this Bench stating that proceedings u/s. 14 of the IBC Code had already been imposed on the company vide order dated 16.11.2022 passed by Hon'ble NCLT, to which attention of the Ld. Counsel for the respondent was invited on the interim order already passed on 27.02.2023 (*supra*). Further, perusal of the file nowhere objects regarding the claim sought by the applicant in the present execution application. Proceedings in the matter were conducted time to time however, no objection/reply to the execution application has been filed by the respondent till date.



4. The calculation as per order dated 09.05.2022 passed u/s. 31 of the RERD Act, 2016 was already given by the applicant on 29.11.2023 detailing the payments alongwith dates of payments. The calculation sheet was duly served on the respondent on 07.02.2023. There is no dispute raised regarding the date of payment and amount by the respondent. **It is pertinent to note here that loan amount had already been paid by the applicant and NOC by the bank is also issued to the applicant on 17.03.2022, which is also not disputed by the respondent.** Ld. Counsel for the applicant further stated that the respondent had not filed any appeal against the said order dated 09.05.2022 passed u/s. 31 of the RERD Act, 2016 till date.

5. In view of the above, it is held that non-filing of the calculation or not objecting upon the amount claimed by the applicant in the present execution application *tantamounts* to admittance of this fact that the amount which has been claimed by the applicant in this execution application is acceptable to the respondent and it has no objection in this regard. The Respondents had failed to comply with orders dated 09.05.2022 and in these circumstances, the respondent is directed to refund the principal amount i.e., Rs.40,61,944/- paid by the applicant alongwith arrears of interest accrued on it, till the date of this order i.e., Rs. 36,25,242/- (**totaling to Rs. 76,87,186/-**). 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. The details of payment made and interest accrued thereupon is given as under:-

Interest payable from	Amount	Interest calculated till	Interest rate as per order	Delayed Period in months	Interest Amount
A	B	C	D	E	F
01-11-2011	6,41,000	31-01-2024	9.30	147 Months	7,30,259
01-12-2011	51,283	31-01-2024	9.30	146 Months	58,027
01-05-2012	18,914	31-01-2024	9.30	141 Months	20,688
01-08-2012	13,82,770	31-01-2024	9.30	138 Months	14,78,873
01-09-2012	41,000	31-01-2024	9.30	137 Months	43,532
01-02-2014	25,773	31-01-2024	9.30	120 Months	23,969
01-03-2015	14,20,650	31-01-2024	9.30	107 Months	11,78,074
01-12-2021	2,95,921	31-01-2024	9.30	26 Months	59,628
01-01-2022	20,274	31-01-2024	9.30	25 Months	3,928
01-02-2022	16,875	31-01-2024	9.30	24 Months	3,139
01-04-2022	1,47,484	31-01-2024	9.30	22 Months	25,146
	40,61,944				36,25,242
Total (Principal (B) + Interest (F))					76,87,186


6. The total amount due upto 31.01.2024 amount to Rs.76,87,186/- 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 09.05.2022 and the respondents were directed to make the said payment within 90 days of the order.

7. Further, the respondent will make payment of Rs.31,480/- for the whole month for the delayed period after 31.01.2024 on account of interest on delayed period. The recovery may be effected accordingly. In the result, the execution application is **allowed**. The Recovery Certificate be issued to the jurisdictional District Collector of the project.

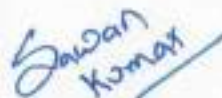


Chandigarh
Dated: 22.02.2024


(Rakesh Kumar Goyal),
Member,
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. Sh. Naveen Mehta
2. Ms. Sonal Sharma
(Both r/o H. No. 121, Silver City Extension, Zirakpur, SAS Nagar (Mohali) – 140603, Punjab).
3. M/s. Ansal Properties & Infrastructure Ltd., #115, Ansal Bhawan, 16 K.G. Marg – 110001, New Delhi.
4. The Tehsildar, RERA, Punjab.
5. The Master File.
- ✓ 6. The Record File.


(Sawan Kumar),
P.A. to Member (RKG),
RERA, Punjab.