

**Before Sh. J. S. Khushdil, Adjudicating Officer,
Real Estate Regulatory Authority, Punjab, First Floor, Plot No.3,
Block-B, Madhya Marg, Sector 18A, Chandigarh-160018**

Complaint No. AO/43/2018
Date of Institution: 06.06.2018
Date of Order: 31.10.2018

Dr. Vinay Goyal son of Shri Jai Parkash Goyal, #C-7/14, Eldeco Estate,
Near Babapur Mandi Nizampur, Panipat, Haryana-132103.

Complainant

Versus

M/s Omaxe Limited, New Delhi, through its Managing Director, registered
office: Shop No.-19B, First Floor, Omaxe Celebration Mall, Sohna Road,
Gurgaon, Haryana.

Respondent

Complaint under Section 31 read with Section 71 of the Real
Estate (Regulation and Development) Act 2016 in form N.

Present: Shri Vinay Goyal complainant with his representative Shri Ved
Parkash.
Shri M.K. Singh alongwith Shri Deepanjit Singh DGM(L),
representatives for respondent.

O R D E R

1. Vinay Goyal (here-in-after called as the complainant) has filed this
complaint against M/s Omaxe Limited, New Delhi, through its
Managing Director (here-in-after called as the respondent) alongwith
documents alleging violation of Section 18 of the Real Estate
(Regulation and Development) Act 2016 (here-in-after called as the
Act) seeking interest as per the provisions of RERA Act and

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31/10/2018

compensation on account of delay in handing over possession. It is the case of the complainant that he purchased flat No.107/GT.9, Omaxe Greens, VPO, Jharmari, Lalru, Tehsil Derabassi, SAS Nagar, Punjab from the original allottee Mrs. Archana Jindal on 09.06.2016. The total sale consideration of the said flat was Rs.25,03,666/- and the complainant paid the entire amount. As per the terms and conditions of the allotment letter dated 10.11.2011 in favour of the original allottee the possession of the flat was to be delivered within 30 months from the date of allotment. It is further the case of the complainant that the respondent has got the project registered with this Authority against registration No.PBRERA-SAS79-PR0039.

2. Upon notice of this complaint, respondent appeared and filed detailed reply opposing the claim of the complainant on various grounds and the case was fixed for consideration on the point of violation/contravention of the Act if any.

3. While exercising powers as Adjudicating Officer, I have decided several cases including *Suman Mann Vs. JLPL bearing complaint No.AO.09 of 2017 decided on 14.05.2018* and *Nikhil Kwatra Vs. JLPL bearing complaint No.AO.20/2017 decided on 14.05.2018* and other cases, wherein, several points have been elaborated including one regarding role of the Authority and the Adjudicating Officer.

S.K. Mehta
31/10/2018

Now, the Punjab State Real Estate Authority, in its 7th meeting held on 09.10.2018 at Agenda Item No. 7.4 has taken a decision in regard to the role of the Adjudicating Officer in the context of complaint in form and N. The said item No.7.4 is reproduced as under for ready reference:-

“7.4 Role of the Adjudicating Officer in the context of complaint in form ‘M’ and ‘N’.

The matter was discussed at length and it was decided that the role of the Adjudicating Officer was limited only to the purpose of adjudication of compensation under Sections 12, 14, 18 and 19 of the Act. Refund of money deposited by a complainant, alongwith interest thereon, would not be treated as compensation; and hence, complaints in which the above relief was claimed were to be filed in form-M and be dealt with by the Authority or its Benches. The complainant would also be free to file a separate claim in Form-N before the Adjudicating Officer for compensation in Form-M for refund of amount deposited and interest thereon.

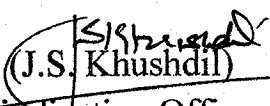
It was also seen that in a number of cases, the relief of compensation for harassment etc. was claimed in the complaint, but, was not pressed at the time of arguments. Therefore, if the relief of compensation was claimed in addition to the refund of the amount and interest thereon, the complaint would still be filed in Form-M; and if the point of compensation was actually pressed, the complainant would be advised to file a separate complaint before the Adjudicating Officer for this purpose.

The Legal Branch should scrutinize the complaints received in accordance with the above decision.”

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31/10/2018*

4. In view of the above decision of the Authority, the Adjudicating Officer now cannot deal with the cases of the refund and interest and for that purpose the complaint has to be filed in Form-M before the Authority. For compensation only, the party may file complaint in Form-N. Thus, in view of these circumstances, the Adjudicating Officer lacks the jurisdiction to grant relief of refund or interest. Therefore, in the larger interest of justice, the complaint is ordered to be returned to the complainant, who is at liberty to file a fresh complaint before the Authority as per the decision of learned Authority. Copy of this order be supplied to both the parties under Rules. Remaining papers including the proceedings of this Bench be retained and consigned to record room.

Dated:31.10.2018


(J.S. Khushdil)
Adjudicating Officer, 31/10/2018
Real Estate Regulatory Authority, Punjab.

Dr. Vinay Goyal Vs. M/s Omaxe Ltd.

Dated 31.10.2018

Present: Shri Vinay Goyal complainant with his representative Shri Ved Parkash.
Shri M.K. Singh alongwith Shri Deepanjit Singh DGM(L),
representatives for respondent.

Heard. Vide my separate detailed order passed today, the complaint is ordered to be returned to the complainant with liberty to file a fresh complaint before the learned Authority. Remaining papers including the proceedings of this Bench be retained and consigned to record room.

Dated: 31.10.2018


(J.S. Khushdil)
Adjudicating Officer
RERA

31/10/2018