

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.No.11 of 2018

Date of Institution:16.02.2018

Date of Order:14.11.2018

1. Vikas Miglani resident of Flat No.1401, Tower No.4A, Suncity Parikrama, Sector 20, Panchkula.
2. Rohit Miglani resident of Flat No.1401, Tower No.4A, Suncity Parikrama, Sector 20, Panchkula

Complainants

Versus

IREO Waterfront Pvt. Ltd. Through its Managing Directors, SCO. 16-17, Basement, Fortune Chambers, Opp. Ludhiana Stock Exchange, Feroze Gandhi Market, Ludhiana-141001

Respondent

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

Present: Complainants with their representative Shri Himanshu Raj.  
Respondent Ex-parte.

*J.S. Khushdil*  
14/11/2018

ORDER

1. Vikas Miglani (hereinafter called as the complainants) have filed this complaint against IREO Waterfront Pvt. Ltd. (here-in-after called as the respondent) alongwith documents alleging violation

of Section 18 of the Real Estate (Regulation and Development) Act 2016 (herein-after called as the Act) seeking refund and interest etc. as per the provisions of the Act on account of delay in handing over possession of Villa No.567 of Type-L in the project namely IREO Waterfront Pvt. Ltd. Sidhwan Canal Road, Ludhiana. It is the case of the complainants that they have paid an amount of Rs.38,26,965/- as more than 33% of total price of the above villa, but, there is no development of the project in question for the last two years, though, the respondent had committed to complete the Villa by 04.09.2017 and possession has not so far been given to them. The project in question has been registered with this Authority against registration No.PBRERA-LDH45-PR0060.

2. The respondent was proceeded against ex parte in this case as none appeared on its behalf despite of service.
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

*S.K. Mustafa*  
15/11/2018

Adjudicating Officer. Now, the Punjab State Real Estate Authority, in its 7<sup>th</sup> 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-N and subsequently a circular bearing No.RERA/Pb./ENF/14 dated 29.10.2018 has also been issued in that regard. 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 complainants 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.*

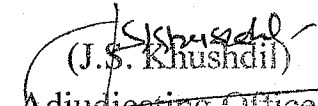
*It was also seen that in a number of cases, the relief of compensation for harassment etc. was claimed in the complaint, but, was not pressed at the time of arguments. Therefore, if the relief of compensation was claimed in addition to the refund of the amount and interest thereon, the complaint would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

*S. K. Singh*  
15/11/2018

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

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 complainants, who are at liberty to file a fresh complaint before the Authority as per the decision of learned Authority. Copy of this order be supplied to the complainants under Rules.

Dated:14.11.2018

  
(J.S. Khushdil)  
Adjudicating Officer,  
Real Estate Regulatory Authority, Punjab.

*14/11/18*