



PUNJAB REAL ESTATE REGULATORY AUTHORITY
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CIRCULAR

No. RERA/PB./LEGAL/ 24

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The question of respective jurisdiction of the Authority and the Adjudicating officer to hear complaints under Section 31 of the Real Estate (Regulation and Development) Act, 2016 – especially where the relief for refund of the amount deposited by an allottee is sought - has been under consideration of the Authority for some time. Circular No.Rera/Pb./ENF/14 dated 29.10.2018 and No. Rera/Pb./ENF/15 dated 21.11.2018 were issued. In the latter Circular it was clarified that a claim for refund of the amount deposited by a complainant with the respondent, along with interest thereon; and also complaints where compensation was claimed in addition to the refund and interest thereon would be filed before the Authority in Form 'M'. Thereafter the Real Estate Appellate Tribunal, Punjab in its judgement dated 27.02.2019 in the matter of '*Sandeep Mann Vs Real Estate Regulatory Authority, Punjab*' (Appeal No.53 of 2018) and connected matters had *inter alia* held as follows:-

"Where the violation alleged leads to a relief of compensation or if compensation is part of multiple reliefs like return of investment with interest and compensation or refund with interest including compensation, the complaint shall be placed before the Adjudicating Officer exercising power under Section 31 and 71(1) of the Act read with Rule 37 in form N".

2. Subsequently, the matter came up for consideration by the High Court of Punjab and Haryana in CWP No.38144 of 2018 and related matters and CWP No.8548 of 2020 and related matters, and it was held that only complaints in which compensation or payment of interest by way of compensation (and no other relief) was sought would lie with the Adjudicating Officer. The High Court had also held in

para 73 of its judgement in CWP No.8548 of 2020 that the interpretation of various provisions of the Act concerning the jurisdiction of the Authority and the Adjudicating Officer laid down in CWP No.38144 of 2018 would hold good in Punjab matters also. The judgement of the High Court in CWP No.38144 of 2018 has however been stayed by the Supreme Court of India vide its order dated 05.11.2020 in SLP(Civil) No.13005 of 2020.

3. In view of the above, the Authority had decided to seek legal opinion from Shri Raju Ramachandran, Senior Advocate of the Authority in the Supreme Court of India in SLP (Civil) No.13192 of 2020, on the following issues:-

- a. Whether the stay granted in Haryana RERA matter by Apex Court is applicable to Punjab RERA also, or it applies only to Haryana RERA?
- b. If the answer to 'a' above is in affirmative, then which is the competent forum to hear and decide the complaints where:
 - i. the complainant's claim is only for refund and interest, and
 - ii. where the claim is for refund, interest and also compensation?

This opinion has since been received.

4. The matter was discussed in detail by the Authority in a meeting held on 04.03.2021. After due deliberations it has been decided as follows:-

- i. Complaints falling under Section 18(1) of the Act where the claim is only for return of the amount paid by the allottee and interest provided for in this Section, shall be dealt with by the Authority;
- ii. All cases where the claim is for the return of the amount deposited by the allottee, interest thereon as mentioned at Serial no.(i) above, and in addition compensation (including payment of interest as compensation) will be dealt with by the Adjudicating Officer;

iii. All complaints falling under the Proviso of Section 18(1) of the Act i.e. where the allottee does not intend to withdraw from the project but seeks interest for the period of delay in delivery of possession will continue to be heard by the Authority;

5. The above will apply with immediate effect to all pending complaints and to those to be received in future. In case of pending complaints the matter will be transferred to the appropriate forum, as indicated above, whenever the complaint is taken up for hearing. The matter will be reviewed once the decision of the Supreme Court of India in SLP No.13005 of 2020 is received.

6. Compliance of the above may be ensured by all concerned.



(Navreet Singh Kang)
Chairperson
Real Estate Regulatory Authority
Punjab