

**BEFORE THE UTTAR PRADESH REAL ESTATE REGULATORY AUTHORITY
GREATER NOIDA**

BENCH- 2

Complaint No. NCR144/07/1105/2019

Date of Institution :- 21.07.2019

Date of Decision:- 10.10.2019

Priyanka Kohli & Nitin Kohli
F-89, Vikas Puri, New Delhi

.....Complainant

Versus

Unitech Limited
(Mr. Ramesh Chandra, Mr. Ajay Chandra, Mr. Sanjay Chandra)
C--41, Myfair Garden,
New Delhi- 110016
and/ or
6, Community Centre, Saket,
New Delhi- 110017
and/ or
Unitech Hi-Tech Developers Ltd.

.....Respondent

Coram

Sh. Balvinder Kumar

Member

Appearance

Complainant : Harshit Batra, Advocate

Respondent : Vishakha, Advocate

Order

1. In the matter referred above, in (2013), the Complainant booked a Unit having its super area admeasuring (1140 sq.ft.), bearing Unit No. 0203, 2nd Floor, Tower D1 in the project '**The Residences**' of the Unitech Group of Companies, the

Respondent. The Complainant submitted in its Affidavit that the Complainant paid a total of Rs. 52,25,246/- for the total consideration of sale of unit Rs. 52,74,982/- . The Complainant seeks the complete refund of the deposited amount along interest.

2. Notice(s) were sent to the Respondent by the Authority which was duly received.
3. It is submitted that vide order dated 07.03.2019 passed by Hon'ble Supreme Court of India in Civil Appeal No(s). 10856/2016 'Bhupinder Singh Versus Unitech Ltd.' that 9 Projects are under the supervision of the Hon'ble Justice Dhingra Committee as formed by Hon'ble Supreme Court. A list of the said 9 Projects under the Committee supervision was annexed with the reply filed by the Respondents. However, it is noted that '**The Residences**' the Project and the Tower D1 under which the Unit of the Complainant falls, is not part of the said list.
4. The above referred matter of the Complainant pertains to project '**The Residences**'. It was noted that this Authority had on January 9th, 2019 passed an Order in respect of various complainants pertaining to such Project and certain other projects of the Respondent. It was observed that this Project and various other Projects of the Respondent are under the purview of Hon'ble Supreme Court of India. In the Petition(s) for Special Leave to Appeal (Crl) Nos.5978-5979/2017 - Sanjay Chandra & Ors versus State Govt. of NCT of Delhi, Hon'ble Supreme Court had numerous hearings.
5. Accordingly, this Authority passed Orders for issuance of Decree(s) to enable the individual complainant to approach the Amicus Curiae for making his/ her claim.

The operative part of the Order of the Authority dated 09.01.2019 is reproduced herein below:

"Accordingly, in view of the above, upon considering each of the Complaints, it is directed that

1. UP RERA Bench orders refund of deposited amount to the respective complaints(s) along with interest at the rate of SBI MCLR plus 1 per annum from the date of deposited till the actual date of realisation.

2. *No coercive action/ measures will be taken in pursuance to the order being passed by this RERA Bench.*
3. *The Order hereof being passed will be subject to the directions and observations made from, time to time, in the Petition(s) for Special Leave to Appeal (Crl.) Nos 5978-5979/2017 - SANJAY CHANDRA & ORS VERUS STATE GOVT. OF NCT OF DELHI and/ or Orders / Directions of the Apex Court, from time to time, in any other Petition/ Directions, having an effect pertaining hereof, in respect of Unitech Group/ Projects thereof."*
6. Further, in Civil Appeal 10856 of 2016- Bhupinder Singh Vs Unitech Ltd, the Hon'ble Supreme Court directed a forensic audit of the UNITECH group of Companies including its subsidiaries, sister concerns and Directors. The Hon'ble Apex Court has currently seized with the issues concerning the homebuyers of projects of the entire 'Unitech Group' including their projects located in Noida and Greater Noida. Vide order dated 09.05.2019 passed by Hon'ble Supreme Court of India in Bhupinder Singh Vs Unitech Ltd in Civil Appeal 10856 of 016, the Hon'ble Supreme Court granted permission to the Learned Amicus Curiae to open the Web portal to give an opportunity to home buyers who have been left out and who have decrees or adjudicatory order in their favour.
7. In the reply submitted by the Respondent, it is further submitted that the grievances of all the home buyers are presently under consideration of Hon'ble Supreme Court of India praying for refund/ possession. Various orders of the Hon'ble Supreme Court that have been passed in recent past are annexed with the reply. It has been further stated that as per the order, Hon'ble Supreme Court has directed to release the amount which shall be kept in an Escrow Account for allocation of funds to buyers.
8. In support of the above the Complainant has submitted an affidavit along with annexures such as complaint copy, detailed calculation sheet and proof of payment etc., applicable.

Myel case

9. Directions:

(I) In view of the above and considering the facts and circumstances of the case, the Authority, exercising powers vested in it under section 37 of the Real Estate (Regulation and Development) Act, 2016 and Rules made thereunder, hereby issues the following directions to the Respondents:

- i. The Respondent is directed to refund to the complainants the sum of Rs.83,84,616.26/- [which is including Rs.52,25,246/- paid by the complainant along with interest which is Rs.31,59,370.26/- calculated at the prescribed rate of MCLR+1% per annum]. The interest will be given from date of receipt of payments till the date of its realisation, Copy of Calculation Sheet of total refund amount till the date of order is annexed herewith as Annexure-A.
- ii. The Complainant is directed to file its claim before Mr. Pawan Shree Agarwal, learned amicus curiae appointed by the Hon'ble Supreme Court on the basis of this order;

(II) However, order hereof will be subject to the directions/orders/observations, made from time to time, in the Petition(s) for Special Leave to Appeal (CrI.) Nos.5978-5979/2017- SANJAY CHANDRA & ORS VERSUS STATE GOVT. OF NCT OF DELHI and/or in any other Petition/Application, having an effect pertaining to or in respect of Unitech Group/ Project thereof by the Hon'ble Supreme Court.

10. The Complaint stands disposed off accordingly.

11. Case file be consigned to the registry for record.

Pronounced

Sd/-

Balvinder Kumar
[Member]