



In the High Court of Punjab and Haryana at Chandigarh

**CWP No. 4517 of 2025
Date of Decision: 07.3.2025**

Sakshi Maggon and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Neeraj Gupta, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana,
Ms. Svaneel Jaswal, Addl. A.G. Haryana,
Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana.
Mr. Saurabh Mago, DAG, Haryana,
Mr. Gaurav Bansal, DAG, Haryana and
Mr. Karan Jindal, AAG, Haryana
for the respondents-State.

Mr. Ankur Mittal, Advocate,
Mr. Sandeep Chhabra, Advocate,
Ms. Gurcharan Kaur, Advocate and
Ms. Kushaldeep Kaur, Advocate
for the respondent-RERA.

SURESHWAR THAKUR, J.

1. A complaint No. 2989 of 2021 was instituted before the Haryana Real Estate Regulatory Authority, Gurugram (for short 'HARERA Gurugram'). The said complaint was preferred by one Sakshi Maggon and Raj Kumar Maggon, who are the present petitioners, and, therein became impleaded M/s Vatika Ltd. (respondent No. 5). The claim raised in the said complaint was for a direction being issued upon the respondent therein to allot, and, to also deliver encumbrance free possession of the said plot to the complainant.



P-12), the said complaint was disposed of by the HARERA Gurugram, after issuing certain directions. The relevant paragraph of the said judgment becomes extracted hereinafter.

“G. Directions of the authority

39. Hence, the authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

(I) The respondent is directed to pay the interest at the prescribed rate i.e. 10.75% p.a w.e.f due date of possession i.e. 14.11.2014 till actual handing over of possession or offer of possession, whichever is earlier as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

(ii) The arrears of such interest accrued from due date of possession till the date of this order shall be paid by the promoter to the allottee within a period of 90 days from date of this order and interest for every month of delay shall be paid by the respondent-promoter to the allottees before 10th of the subsequent month as per rule 16(2) of the rules.

(iii) The respondent is directed to offer the possession of the allotted unit within 30 days after obtaining completion certificate or occupation certificate from the competent authority. The complainants w.r.t. obligation conferred upon them under section 19(10) of Act of 2016, shall take the physical possession of the subject plot/unit, within a period of two months of the completion certificate or occupation certificate from the competent authority.

(iv) Vide order dated 13.1.2023, a cost of Rs. 10,000/- was imposed upon the respondent to be paid to the complainants, has not been paid by the respondent so far. The respondent is directed to pay the said cost to the complainants.

(v) The respondent shall not charge anything from the complainants which is not the part of the builder buyer agreement. The respondent is also not entitled to claim holding charges from the complainants/allottees at any point of time even after being part of the builder buyer agreement as per law settled



by Hon'ble Supreme Court in Civil Appeal nos. 3864-3889/2020 decided on 14.12.2020.

(vi) The complainants are directed to pay outstanding dues, if any, after adjustment of delay possession charges/interest for the period the possession is delayed. The rate of interest chargeable from the complainants-allottees by the promoter, in case of default shall be charged at the prescribed rate i.e. 10.75% by the respondent-promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e. the delay possession charges as per Section 2(za) of the Act.”

3. The learned counsel for the petitioners contends, that despite the said directions becoming passed by the HARERA, Gurugram, yet theirs not becoming complied with. He further submits, that the said has happened despite an execution petition becoming laid before the HARERA Gurugram. Consequently, through the filing of the instant writ petition, the learned counsel for the petitioners contends, that the delay, if any, as has occurred in the implementation and execution of decree (supra), thus has also resulted in the benefit of the decree endowed to the present petitioners rather becoming impeded. He further submits, that the said impediment has arisen on account of qua, post the passing of the decree (supra), an alienation of the subject plots taking place by the contesting respondent in the complaint, vis-a-vis co-respondents No. 7 and 8 in the instant writ petition.

4. Furthermore, the learned counsel for the petitioners has contended, that the said plot has been subjected to construction, whereby the decree passed in favour of the present petitioners has been openly flouted.

5. In case, the decree passed in favour of the present petitioners has acquired a binding and conclusive effect, and, as such, if its execution



possible for this Court to pass a mandamus upon the Executing Court concerned, to expeditiously execute the said passed binding and conclusive decree.

6. However, in the instant case, an appeal against the passing of the said decree has been raised before the appellate authority concerned. The relevant para of the order passed in the said appeal becomes extracted hereinafter.

“X X X X

It appears that third party rights have been created in the plot/unit in question first in favour of M/s Felisa Developers Pvt. Ltd. and then in the name of some other person. It is directed that no further rights in the property in question shall be created during the pendency of this appeal. Same shall be subject to outcome of this appeal and doctrine of lis pendens shall apply. Gist of this order shall be prominently displayed by the appellant on its website.”

7. A reading of the above extracted order passed by the appellate authority concerned, makes it plainly clear, that the issue relating to the making of alienations by the contesting respondent in the complaint (supra) thus post the passing of the decree, has been considered, and, ultimately the alienation as made post the passing of the decree, has been stated therein to be subject to the outcome of the appeal. Resultantly therebys, the decree passed by the HARERA Gurugram, when is the subject of the statutory appeal, besides when a reading of the above extracted order made by the appellate authority concerned, makes candid manifestations, that the rights of any of the alienees *lis pendens*, shall be subject to the outcome of the appeal. Consequently, it may be inappropriate, at this stage, for this Court to pass any mandamus upon the executing authority concerned, to on account of any purported delay in the makings of execution of the supra passed decree, rather to promptly execute the same.



construction, thereupon, any relief for staying the making of the constructions over the said plot, be claimed before the appellate body concerned, especially when prima facie therebys the equities would become irredeemably disturbed.

9. With the afore observations, the petition stands disposed of.

10. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

March 07, 2025
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No