

**RAJASTHAN REAL ESTATE REGULATORY AUTHORITY,  
JAIPUR**

**Comp. No. RAJ-RERA-C-N-2022-5577**

Lalit Kumar Sharma

...Complainant

**VERSUS**

Neo Dream Homz Pvt Ltd.

...Respondent

**Present**

**Smt. Veenu Gupta, Hon'ble Chairperson**

- (1) Adv Rishi Raj Maheshwari, on behalf of the complainant
- (2) Adv Mitesh Rathore, on behalf of the respondent

**Date of Order: 08.01.2025**

1. The present complaint is filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the RERA Act'), concerning the group housing project 'Krishna Aangan,' registered with the Authority under registration number RAJ/P/2018/647.

2. The said complaint was filed by the complainant for seeking refund of the amount advanced by them along with interest. The facts of the case are that the complainant booked unit No. 207 in the said project of the respondent of which total sale consideration according to the complainant is Rs.60,53,220/-. The total sale consideration of the unit as per the respondent is Rs.64,21,810/-. The total amount paid by the complainant is Rs.13,15,700/-. Furthermore, no agreement to sell was executed between the parties. It is the contention of the complainant that the respondent failed to handover possession of the unit. Hence, the complainant is





requesting for refund along with interest of the amount paid by him to the respondent.

3. The respondent has filed a reply that the complainant booked a unit in the project 'Parth Homes' owned by Mr. Dalip Singh. Accordingly, he started accepting advance bookings in the project. Later on, project was transferred in the name of Respondent (Neo Dream Homz Pvt. Ltd.) who after obtaining requisite approvals got it registered as "Krishna Aangan". The delay in completion of project was caused due to *force majeure* reasons which were totally beyond the control of the respondent. The reasons for delay being (a) Hon'ble Supreme court ordered to restrain all 82 mining leases; (b) Customers failed to tender timely payments; and (c) Covid-19.

4. The complainant filed rejoinder advancing that the amenities promised by the respondent developer are not complete. After taking over of the project by the respondent, it was duty of the respondent to execute the agreement to sell. The complainant approached the respondent various times for the execution of the agreement but the respondent developer never executed the same.

5. It was argued by the complainant that the project was not completed and the respondent developer failed to handover possession to complainant. The entire project was taken over by the respondent Neo Dream Homz Pvt. Ltd so all the liabilities of the old





developer was transferred on the new developer, i.e., Neo dream Homz Pvt. Ltd.

6. Having heard the counsel for both the parties, this Authority is of the view that as per section 13(1) of the RERA Act, it is the obligation of the promoter/developer to execute the agreement to sell where they have accepted more than 10% of the total sale consideration from the allottee. Section 13(1) of the RERA Act is as follows:

*“13. (1) A promoter shall not accept a sum more than ten per cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force.”*

7. Furthermore, as per section 15, it is clear that once the respondent has taken up the project, he has entered in the shoes of the promoter. Accordingly, all the pending obligations of the previous promoter will be transferred to the new respondent promoter. Section 15 of the RERA Act is as follows:

*“15. (1) The promoter shall not transfer or assign his majority rights and liabilities in respect of a real estate project to a third party without obtaining prior written consent from two-third allottees, except the promoter, and without the prior written approval of the Authority: Provided that such transfer or assignment shall not affect the allotment or sale of the apartments, plots or buildings as the case may be, in the real estate project made by the erstwhile promoter.*

*Explanation.—For the purpose of this sub-section, the allottee, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his*





family, or in the case of other persons such as companies or firms or any association of individuals, by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

(2) On the transfer or assignment being permitted by the allottees and the Authority under sub-section (1), the intending promoter shall be required to independently comply with all the pending obligations under the provisions of this Act or the rules and regulations made thereunder, and the pending obligations as per the agreement for sale entered into by the erstwhile promoter with the allottees:

Provided that any transfer or assignment permitted under provisions of this section shall not result in extension of time to the intending promoter to complete the real estate project and he shall be required to comply with all the pending obligations of the erstwhile promoter, and in case of default, such intending promoter shall be liable to the consequences of breach or delay, as the case may be, as provided under this Act or the rules and regulations made thereunder."



8. Hence, it is concluded that as per section 15 of the RERA Act, all the obligations of M/s Parth Homes would apply *ipso facto* to the new promoter, i.e., Neo Dream Homz Pvt. Ltd. with same terms and conditions as agreed with M/s Parth Homes.

9. Further, the Agreement to sell should have been executed as it was duty of the respondent to get the agreement executed. The complainant had paid an amount of Rs.13,15,700/- which is more than 10% in any case whether the total sale consideration is Rs.60,53,220/- or Rs.64,21,810/-.

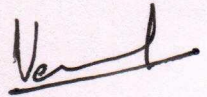
10. Therefore, this Authority directs the respondent to refund the amount received from the complainant, i.e., Rs. 13,15,700/- along





with interest at the prescribed rate of 9.10% highest MCLR of SBI + 2%, i.e., 11.10% per annum.. Also, the interest is to be calculated from three years from the date of 10% payment by the complainant, i.e., 20.05.2015 to the respondent excluding moratorium period.

11. With these directions, the present complaint stands disposed of.

  
(Veenu Gupta)  
Chairperson