

The Haryana Real Estate Regulatory Authority, Panchkula (Adjudication of Complaints), Regulations, 2018

No.RERA PKL/2018

Dated:

In exercise of the powers conferred on it under Section-85 of the Real Estate (Regulation and Development) Act, 2016 and all others powers enabling it in that behalf, the Real Estate Regulatory Authority, Panchkula hereby makes the following regulations:

Short Title, Object, Commencement and Extent:

1. (a) These Regulations may be called The Haryana Real Estate Regulatory Authority, Panchkula, (Adjudication of Complaints) Regulations, 2018;
- (b) These Regulations are meant to establish procedures for filing and adjudication of complaints relating to real estate projects, and all matters connected therewith or incidental thereto;
- (c) These Regulations will come into force on the date of their notification in the Official Gazette;

Definitions

2. (a) Unless the context otherwise requires in these regulations:-

- (i) “Act” means the Real Estate (Regulations and Development) Act, 2016 as amended from time to time;
- (ii) “Authority’ means the Haryana Real Estate Regulatory Authority, Panchkula;
- (iii) “Regulations” means the Haryana Real Estate Regulatory Authority, Panchkula (Adjudication of Complaints), Regulations, 2018 as amended from time to time;
- (iv) “Rules” means the Haryana Real Estate (Regulation and Development) Rules, 2017 as amended from time to time;
- (v) “Promoter” shall have the same meaning as is assigned to it under sub-section (zk) of Section-2 of the Act;

Filing and registration of complaints:

3. Any person entitled to a relief under the Provisions of the Act, the Rules or the Regulations or the agreement made between the parties, may file a complaint with the Authority for violation or contravention of the provisions of the Act or the Rules or the Regulations or the agreement against any promoter, allottee, or real estate agent.

Explanation: For the purpose of this regulation "Person" shall include the association of allottees or voluntary consumer association registered under any law for the time being in force.

4. The complainant should register his complaint on the website of the Authority before filing the same before the Authority in the format prescribed in these Regulations.

5. Till such time as the website of the Authority becomes operational, the registration of complaint may be made on paper in proforma-B annexed with these regulations. In proforma-B all relevant details of the complainant, the promoter-respondent and of the real estate project to which the complaint relates must be given.

6. The mobile No. and the email Id provided by the complainant in Proforma 'B' shall be called Registered Mobile Number (RMN) and Registered Mail ID (RMID) of the complaint. All correspondence with the complainant after receipt of the complaint by the Authority shall be made on his RMN and RMID. A notice/communication made by the Authority through both these channels shall be deemed to be a proper service of notice to the complainant. Notice/Communication through post will not be necessary when a communication through the RMN and RMID is confirmed.

7. Complainant may represent personally before the Authority himself or do so through an authorised representative who may be a Chartered Accountant or Company Secretary or Cost Accountant or a Legal Practitioner or any of its officers. The name, mobile number and email of the person or agency through whom the complainant wishes to be represented shall also be deemed to be the RMN and RMID of the complainant. A notice on such RMN or RMID shall be deemed to be a proper service of notice to the complainant.

The Authority will send all communications to the complainant as well as to the representative of the complainant, but a notice/communication to any one of them will also be deemed to be a proper notice/communication to the complainant.

8. After registering Proforma-B on the website of the Authority, all complaints shall be filed before the Authority on paper in triplicate in the format prescribed hereafter:

- I. The complaint shall be comprised of seven parts as given below:-
 - (a) Index.
 - (b) Print out of the registration of the complaint on the website of the Authority (Proforma-B).
 - (c) List of dates.
 - (d) Brief facts.
 - (e) Issues to be decided.
 - (f) Relief sought.

(g) Affidavit.

- II. Full copy book of the complaint should be Serial numbered.
- III. Illustrations of each of the 7 parts of the complaint is given at Appendix-A, B, C, D, E, F and G of these regulations. All complaints should be filed as per the format given in the appendices. All complaints must be filed accompanied by prescribed fee and in accordance with given format after suitably modifying the same according to the facts of the case.

9. All complaints shall be examined by the office of the Secretary to the Authority to ensure that they are legible and in prescribed format and all Annexures cited in the complaint are annexed. Complaints which are not in the prescribed format shall be returned for correction and re-submission in the prescribed format. The complaints not accompanied by prescribed fees shall be returned. An intimation sent in this regard to the complainant on his RMN and RMID shall be deemed as “return of the complaint for correction”.

10. The Secretary shall cause all the complaints received in the prescribed format to be placed before the authority in its next meeting. Ordinarily all complaints shall be considered by the Authority within 7 days of their receipt.

11. The complaints may be delivered personally in the office of the Secretary or they may be sent by post. In case a complaint is found to be in the prescribed format, the same shall be placed before the Authority for consideration. However, if it is not in the prescribed format, a communication on the RMN and RMID shall be given regarding the deficiencies and the

complainant will be asked to rectify deficiencies within 15 days. Only a complete complaint shall be deemed to be a complaint received by the Authority for adjudication. In case the deficiencies as pointed out to the complainant are not rectified within the given time frame, the complaint shall be filed under intimation to the complainant. However, the complainant shall have the liberty to file a fresh complaint in the prescribed format.

12. The Secretary shall prepare a Register of the complaints received which are complete for placing before the Authority. The Secretary shall place the Register before the Authority on weekly basis. An information relating to incomplete complaints will also be prepared in the similar manner and brought to the notice of the Authority every week.

13. All members of the Authority shall be given one copy each of the complaint at-least two days before the sitting of the Authority by the Secretary. An intimation of the date of hearing will also be sent to the complainant. The complainant may represent himself personally or through an authorised representative before the Authority on the date of hearing.

14. The Authority shall consider the complaint and upon finding a prima-facie case, may issue a notice to the respondent. The notice to the respondent shall ordinarily be of 21 days. It can be reduced at the discretion of the Authority depending upon the facts and circumstances of the case.

15. Notice to the Respondent shall be sent through registered post/courier with a copy of the complaint, by the Secretary. An intimation will also be sent through email and telephone no. of the respondent conveyed by the complainant or the phone no. or the mail Id of the respondent available with the Authority in its database.

16. An intimation of the notice issued to the respondent as well as of the date of hearing shall be given to the complainant on his registered mobile No./ registered mail.

17. The respondent shall submit four copies of his reply at least 7 days before the date of hearing. The respondent shall also send a copy of his reply to the complainant. The Secretary shall place the complaint along with the reply received from the respondent before the Authority. A full set of complaint and the reply received from the respondent shall be provided to each of the members on the bench at-least one day before the date of hearing.

18. In his reply the respondent should specifically agree with the assertions made by the complainant as supported by documents or specifically deny the same. In case the same are denied, the reasons and proof thereof must be given and documents in support of the assertions should be annexed.

The reply of the respondent shall be broadly in the same format as prescribed for filing the complaint. It shall be comprised of the following parts:

- i. Index
- ii. Reply to the list of dates
- iii. Reply to the facts alleged by the complainant. Any additional fact in the knowledge of the respondent may be cited along-with evidence.
- iv. Proposed issues for adjudication
- v. Reply to the relief sought by the complainant
- vi. Any other submission of the respondent
- vii. Affidavit of the respondent in the same format as prescribed for the complainant.

19. Ordinarily no adjournment to either of the parties will be given. Adjournment can be granted when adequate justification is furnished otherwise the adjournment shall be granted with cost which may be decided by the Authority depending upon facts and circumstances of the case.

20. Every complaint, every application, reply, affidavit, annexures to complaints or the reply etc. shall be in the English language and shall be typed in double spacing on one side of a superior quality Legal size paper having 70 GSM only with font Thorndale, font size 14 in double space with margins 1.25" on top, 0.75" on bottom, 1.75" on left side and 0.75" on the right side. It shall be headed "In The Haryana Real Estate Regulatory Authority, Panchkula,

Haryana". There shall be verbatim copies in case any document is required to be filed in triplicate. No memorandum of complaint or petition or application etc. or copy thereof shall be entertained unless it is legible.

However, annexures to complaint may be filed as photo copies which are legible, properly spaced with proper font size etc. mentioned herein above and self attested as to be a true copy.

21. Orders passed by the Authority upon hearing, will ordinarily be recorded and communicated within two days. The same shall be communicated to both the parties on their RMID along-with a message on RMN.

22. Final judgements delivered by the Authority shall be hosted on the website of the Authority and will become a part of its database accessible to the public. A copy of the judgement downloaded from the website of the Authority, will serve as a certified copy of the judgement for all intents and purposes.

23. The Authority may adopt any procedure it deems appropriate to arrive at a decision with mutual consent of both the parties. The consent so accorded by both the parties shall be furnished as a joint statement in writing by both the parties and the Authority may deliver its judgement based on such consent.

Index

Appendix-A

It should indicate page numbers of each component of the complaint. An illustration of the Index is given below:-

Index

Complainant (Name and address)

V/S

Respondent (Name and address)

<u>Page</u>	<u>Contents</u>
<u>No.</u>	
1-2	Print out of the registration of the complaint on the website of the Authority.
3-10	List of dates
11-16	Brief facts
17	Issues to be decided
18	Relief sought
19	Affidavit
20	Annexures

(Page numbering to be done as per actual number of pages)

List of Dates

Appendix-C

The part relating to List of Dates is aimed at listing all the facts relating to the dispute in chronological order. Each of the listed event should be supported by relevant documents/evidence on the basis of which particular fact/event is alleged.

An illustration of the list of dates given below may be used by the complainant for guidance. The facts and circumstances of each case would be different, therefore, the template given below should be modified by the complainant in accordance with the facts of his own case.

- | <u>DATE</u> | <u>Event</u> |
|---------------|--|
| 1. 01.01.2004 | M/S XYZ the promoter/developer of the Real Estate project issued an advertisement innewspaper(s)/ other media inviting applications for purchase of plot/flat/ apartment/shops in the Real Estate project located at(place).
(Details of the location of the project.)
A copy of the advertisement/prospectus/correspondence/brochure annexed as Annexure as P/1. |
| 2. 01.04.2004 | A Cheque/Draft/RTGS amounting to Rs.was sent by the petitioner/ his representative to M/S(address) as advance deposit for booking the apartment/flat/plot/shop in the project.
A copy/proof of the Cheque/Draft/RTGS is annexed at Annexure P/2. |
| 3. 10.04.2004 | M/S.....the, promoter of the project or /Mr.....MD/ Manager of the project.....acknowledged the receipt of the said amount of Rs.....as advance deposit for booking the plot/apartment/shop.
A copy of the acknowledgement is annexed as Annexure P/3. |

4. 01.06.2004 A meeting was held between the petitioner and Mr.....(name), designation....., of the project at(place) when Mr.....explained the nature of the property which will be developed/handed over to the petitioner. A brochure of the property was also handed over. A draft of the agreement to be made between the petitioner and the promoter company was also given.

Copies of the brochure and the draft agreement are kept at Annexure P/4 & P/5.

5. 01.07.2004 A letter dated.....was received from M/S.....signed byasking for depositing an amount of Rs..... for commencement of the project.

A copy of the said letter is Annexed at annexure P/6

6. 04.07.2004 An amount of Rs.was transferred by the petitioner to M/S.....vide Cheque/Draft/RTGS No,

A copy of which is placed at Annexure P/7

7. 30.07.2004 A letter dated was received from M/S.....intimating that the process of laying foundation of the building has started. Accordingly, additional amount of Rs. was demanded for carrying on the construction work.

-or-

A schedule for payments was sent.

A copy of the letter(s) along with payment schedule is at Annexure P/8.

8. Money amounting to Rs. was transferred to the developer M/S.....vide Cheques/Draft/RTGS No.on various dates,

A copy thereof is annexed at Annexure P/9 to P/___

9. Further letters were received from the developer inter-alia stating that

Copies of the correspondence at Annexure P/___ to P/___

10. Against the original projected price of the property amounting to Rs., the petitioner has deposited an amount of Rs..... Still another letter datedwas received from the promoter asking for an additional amount of Rs.....

A copy of the letter is at Annexure P/___

11. The petitioner requested the developer to give reasons for asking the additional amount and also the date by which the possession of the property will be handed over.

Copy of the correspondence exchanged is at

Annexure P/___ to P/___

12.

The developer M/S.....intimated that they are facing problem of receiving environmental clearance/ any other problem is being faced, resulting into the delay in the project. In the meantime, the cost of construction has been increased. Therefore, additional cost of Rs.....will have to be borne.

Copies of the correspondence is annexed as Annexure P/___ to P/___

13.

A meeting was held between the petitioners..... and the promoter/representative of the promoter. The petitioner demanded the possession of the property as per the agreement. Instead of giving possession of the property, the developer/builder..... asked for additional amount of Rs.....towards increased costs and penal interest.

A copy of the demands made by the promoter are annexed at Annexure P/___

14.

An amount of Rs. was transferred to the promoter in the protest by the petitioner.

A copy annexed as Annexure P/___

15.

Possession was handed over to the petitioner onby On visiting the premises, several defects and deficiencies in the property were noticed. The construction was observed to be not in accordance with the provisions of the agreement.....

16.

A letter was written to the developer for rectifying the defects.

A copy annexed as Annexure P/___

17.

Several letters have been written to the developer but he has refused to rectify the defects, as a result the petitioners has not been able to occupy the property.

A copy of the correspondence is annexed as Annexure P/___

18.

In the property handed over to the petitioner, common services have not been provided. The clubhouse has not been constructed,/ the electricity transformer has not been provided,/ lifts are not working etc.

19.

Petitioner filed a Civil Suit/ Civil Writ Petition/ Plaint in the Consumer Court against the acts of omission and commission on the part of the promoter.(Details)

20.

The Consumer Commission/ Civil Court ordered
.....(Details)

Further facts along with the dates be given in the
same manner.

Brief facts

Appendix-D

In this part, the complainant should provide only relevant facts. The facts should be given briefly and in a logical manner so as to convey to the Authority as well as to the respondent precise basis and nature of the grievance. Value judgement and arguments should be avoided. All the facts and allegations must be refer-able to some document or some evidence, a copy of which should invariably form part of the petition. A complaint not accompanied by relevant documents or evidence can be returned for correction by the Authority.

The complainant must state all the facts which are in his knowledge to enable the respondent to reply to each one of them. Ordinarily, no further opportunity will be given to produce additional facts or documents unless such facts or documents were not in the knowledge of the complainant on the date of filing the complaint. Relaxation however, may be granted by the Authority in the interest of justice with or without costs depending on circumstances of the case.

If the complainant wishes to cite any Law or Rule or any judgement of the Court in support of his assertions, he may do so in this section.

Issues to be decided

Appendix-E

On the basis of the facts given by the complainant and the reply of the respondent thereof, the Authority will frame the issues for decision. However, for expediting the disposal of complaint the complainant may suggest issues for adjudication by the Authority. Issues in each case would be different, however, some illustrations of the issues for guidance of the complainant are given as follows.

24. Whether the promoter demanded more money than agreed in the agreement without providing any additional facilities or without any justification.
25. Whether the building/apartment/flat/plot/complex/colony has been handed over to the petitioner with delay and there is no reasonable justification for the delay.
26. Whether the quality of construction is sub-standard and not in accordance with the provisions of the agreement.
27. Whether the interest cost being demanded by the developer is unreasonable.
28. Whether the facilities and amenities as agreed upon/ approved in the layout plan have not been provided.
29. Whether maintenance charges being demanded are excessive.
30. Whether there has been deliberate or otherwise, misrepresentation on the part of the developers wherein higher covered area was promised whereas lesser covered area has been given.
31. Whether the developer has violated the seniority in allotment of the property.
32. Etc.

Relief sought

Appendix-F

In this part the complainant must state clearly the relief he seeks from the respondent along with justification thereof. The reliefs to be sought will differ from case to case, however, some illustrations of the reliefs are given below for guidance:

- (i) That petitioner's original seniority No. for allotment of the developed flat/plot/building/apartment should be restored and accordingly petitioner may be allotted the apartment/property in pocket instead of pocket..... OR Compensation of Rs.....should be awarded for violation of the seniority and allotting less valuable property to the complainant.
 - (ii) Excess amount of Rs. which has been got deposited should be refunded along with interest of Rs..... @
 - (iii) The demand for additional deposit should be withdrawn and the property should be allocated to the petitioner at the original cost as agreed upon in the agreement.
 - (iv) Defects in the building should be got rectified or an award of Rs..... should be made to enable the petitioner to carry out the repairs etc.
 - (v) Compensation of Rs.....should be awarded for givingsq. feet less covered area than agreed in the agreement.
 - (vi) Refund of Rs..... should be given for not providingfacilities by the developer which were agreed in the agreement.
 - (vii) Deposit of Rs.should be refunded.
 - (viii) Etc.
- (Justification for the relief should be given)

Affidavit

Appendix-G

A self attested affidavit on Rs. 10 stamp paper shall be submitted by the complainant in the format given below:

Before The Real Estate Regulatory Authority, Panchkula, Haryana

AFFIDAVIT

I....., S/o, R/o do hereby solemnly affirm and state as under:

1. That all the facts and submissions made in this complaint are true and correct and nothing material has been concealed.
2. That no similar complaint is pending before any other Authority, Court of Law, Consumer Commission or any other Tribunal (if it is pending, the details thereof should be given).
3. That a Draft/ Banker’s Cheque bearing No.dated of bank of Rs.is annexed as prescribed fee.
4. A self attested copy of AADHAR Card of the deponent is annexed (Optional).

Date:

Place:

DEPONENT

Verification:

The statements made above are true to my knowledge.

Date:

Place:

DEPONENT