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THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Notification

The 26th February, 2019

The Haryana Real Estate Regulatory Authority Gurugram (Adjudication of Execution Petition) Regulations, 2019.

No. 16/RERA GGM Regulations 2019.— In exercise of the powers conferred under section 40(2) of the Real Estate (Regulation and Development) Act, 2016 read with rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017 the orders passed by the authority shall be enforced in the same manner as if it were a decree or order made by a civil court. Section 40 of the Real Estate (Regulation and Development) Act, 2016 and Rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017 are reproduced as under:

“40. Recovery of interest or penalty or compensation and enforcement of order, etc.-

(1) *If a promoter or an allottee or a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the adjudicating officer or the Regulatory Authority or the Appellate Authority, as the case may be, under this Act or the rules and regulations made thereunder, it shall be recoverable from such promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue.*

(2) *If any adjudicating officer or the Regulatory Authority or the Appellate Tribunal, as the case may be, issues any order or directs any person to do any act, or refrain from doing any act, which it is empowered to do under this Act or the rules or regulations made thereunder, then in case of failure by any person to comply with such order or direction, the same shall be enforced, in such manner as may be prescribed.”*

“27. Enforcement of order, direction or decision of adjudicating officer, Authority or Appellate Tribunal.-

(1) *Every order passed by the adjudicating officer or the Authority or the Appellate Tribunal, as the case may be, under the Act or rules and the regulation made thereunder, shall be enforced by an adjudicating officer of the Authority or Appellate Tribunal in the same manner as if it were a decree or an order made by a civil court in a suite pending therein; and it shall be lawful for the adjudicating officer or the Authority or the Appellate Tribunal, as the case may be, in the event of its inability to execute the order, send such order to the civil court, to execute such order*

- (2) The court may, for the purposes of compounding any offence punishable with imprisonment under the Act accept an amount as specified in the table below:-

Offence	Amount to be paid for compounding the offence
<i>Punishable with imprisonment under sub section (2) of section 59.</i>	<i>five to ten percent of the estimated cost of the real estate project.</i>
<i>Punishable with imprisonment under section 64.</i>	<i>five to ten percent of the estimated cost of the real estate project.</i>
<i>Punishable with imprisonment under section 66.</i>	<i>five to ten percent of the estimated cost of the plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated.</i>
<i>Punishable with imprisonment under section 68.</i>	<i>five to ten percent of the estimated cost of the plot, apartment or building, as the case may be.</i>

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

1. Short Title, Object, Commencement and Extent:

- These regulations may be called the Haryana Real Estate Regulatory Authority, Gurugram (Adjudication of Execution Petition) Regulations, 2019.
- These Regulations are meant to establish procedures for filing and adjudication of execution petitions relating to real estate projects, and all matters connected therewith or incidental thereto.
- These regulations will come into force from the date of their publication in the official gazette.
- The Haryana Real Estate Regulatory Authority Gurugram (Adjudication of Execution Petition) Regulations, 2019 shall apply to all matters falling within the jurisdiction of the Real Estate Regulatory Authority, Gurugram as notified by the Government of Haryana vide notification No. 1/92/2017-ITCP dated 14/12/2017, which comprises entire area of Gurugram district.

2. Definitions

Unless the context otherwise requires in these regulations: -

- “Act” means the Real Estate (Regulations and Development) Act, 2016 as amended from time to time.
- “Rules” means the Haryana Real Estate Regulatory Authority (Regulation and Development) Rules, 2017 as amended from time to time.
- “Regulations” means the Haryana Real Estate Regulatory Authority, Gurugram (Adjudication of Execution Petition) Regulations, 2019 as amended from time to time.
- “Authority” means the Haryana Real Estate Regulatory Authority, Gurugram;
- “Authority members” means the members of the Authority including the hon’ble Chairperson.

3. Filing of execution petition:

- The applicant may represent personally before the authority himself or do so through an authorized 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 applicant wishes to be represented shall also be deemed to be the registered mobile number and registered email of the applicant. A notice on such mobile number or email shall be deemed to be a proper service of notice to the applicant. The authority will send all communications to the applicant as well as to the representative of the applicant, but a notice/communication to any one of them will also be deemed to be a proper notice/ communication to the applicant.
- The execution petition shall be filed before the authority on paper in duplicate (along with the soft copy of petition in word format) plus copies in accordance of respondents in the format prescribed hereafter:
 - The petition shall be comprised of seven parts:
 - Index

- (b) Brief facts
 - (c) Relief sought (reproduce the content of the order that has to be executed)
 - (d) Proforma for execution as prescribed by the authority
 - (e) Affidavit
 - (f) List of assets (movable or immovable) of the company as well as the directors
 - (g) Calculation sheet of claim
 - (h) A demand draft in favor of "Haryana Real Estate Regulatory Authority, Gurugram" amounting to Rs. 500/-
 - (i) Certified copy of the final order
 - (j) Certified copy of the decree
 - (k) Any other supporting documents (if any)
- (ii) Petition for execution should be serial numbered.
 - (iii) Illustrations of five parts of the execution petition is given at appendix - A, B, C, D and E. All the execution petitions should be filed as per the format given in the appendices. All the petitions 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.
- 3.3 All petitions 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 petition are annexed. Petitions which are not in the prescribed format shall be returned for correction and re-submission in the prescribed format. The petitions not accompanied by prescribed fees shall be returned.
 - 3.4 The secretary shall cause all the petitions received in the prescribed format to be placed before the authority in its next meeting.
 - 3.5 The petitions shall be delivered personally in the office of the secretary. In case a petition 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 shall be given regarding the deficiencies and the applicant will be asked to rectify deficiencies within 15 days. Only a complete petition shall be deemed to be a petition received by the authority for execution. In case the deficiencies as pointed out to the applicant are not rectified within the given time frame, the petition shall be rejected. However, the applicant shall have the liberty to file a fresh petition in the prescribed format.
 - 3.6 The secretary shall prepare a register of the petitions received which are complete for placing before the authority on weekly basis. An information relating to incomplete petitions will also be prepared in the similar manner and brought to the notice of the authority every week.
 - 3.7 All members of the authority shall be given one copy each of the petition 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 applicant. The applicant may represent himself personally or through an authorized representative before the authority on the date of hearing.
 - 3.8 The authority shall consider the petition 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.
 - 3.9 The notice to the respondent shall be sent through registered post/courier with a copy of the petition, by the concerned office of the authority. An intimation will also be sent through email and phone number of the respondent conveyed by the applicant or the phone number or the email of the respondent available with the authority in its database.
 - 3.10 An intimation of the notice issued to the respondent as well as of the date of hearing shall be given to the applicant on his registered mobile number or registered email.
 - 3.11 The respondent shall submit four copies of his reply. The respondent shall also send a copy of his reply to the applicant. The secretary shall place the petition along with the reply received from the respondent before the authority. A full set of petition 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.
 - 3.12 In his reply the respondent should specifically agree with the assertions made by the applicant 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.

- 3.13 The reply of the respondent shall be broadly in the same format as prescribed for filing the petition. It shall be comprised of the following parts:
- (i) Index
 - (ii) Reply to the facts alleged by the applicant. Any additional fact in the knowledge of the respondent may be cited along-with evidence
 - (iii) Reply to the relief sought by the applicant
 - (iv) Reply to the calculation sheet submitted by the applicant
 - (v) Any other submission of the respondent
- 3.14 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.
- 3.15 Every petition, every application, reply, affidavit, annexures to petition 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, Gurugram, Haryana”. No memorandum of petition or application etc. or copy thereof shall be entertained unless it is legible. However, annexures to petition 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.
4. Orders passed by the authority upon hearing, will ordinarily be recorded and communicated to both the parties.
5. 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 order based on such consent.
6. **Miscellaneous**
- The authority reserves the right to make any amendments in the regulations as and when required.

DR. K. K. KHANDELWAL,
Chairman,
Haryana Real Estate Regulatory Authority, Gurugram.

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APPENDIX-A

It should indicate page numbers of each component of the execution petition. An illustration of the index is given below:-

Index**Applicant (Name and address)****V/S****Respondent (Name and address)**

Page No.	Contents
1-2	Brief facts
3	Relief sought
4	Proforma for execution as prescribed
5	Affidavit
6	Demand draft
7-16	Certified copy of the final order
17-19	Certified copy of the decree
20	Annexures

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

Brief facts

APPENDIX-B

In this part, the applicant 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. An execution petition not accompanied by relevant documents or evidence can be returned for correction by the authority.

The applicant 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 applicant on the date of filing the petition. 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 applicant 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.

Proforma for execution

APPENDIX-C

APPLICATION FOR EXECUTION OF DECREE

Before the Haryana Real Estate Regulatory Authority, Gurugram,

I, _____, decree-holder, hereby apply for execution of the decree herein-below set forth :-

Complaint number	Name of parties	Date of final order	Whether any appeal preferred from decree	Payment or adjustment made, if any	Previous application, if any, with date and result	Amount with interest due upon the decree or other relief granted thereby	Against whom to be executed
1	2	3	4	5	6	7	8

I _____ declare that what is stated herein is true to the best of my knowledge and belief.

Decree-holder

_____ day of _____ 20____

Relief sought

APPENDIX-D

Relief sought

To get the order dated executed through the hon'ble authority.

The operative part of the order is reproduced as under:

“.....
.....
.....
”

Affidavit

APPENDIX-E

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

Before The Real Estate Regulatory Authority, Gurugram, 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 petition are true and correct and nothing material has been concealed.
2. That no similar petition 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. No stay has been granted by any appellate authority or tribunal or Court of Law upon the order passed by the hon'ble authority.
4. The decree/order has not been executed till date by the respondent.
5. That a draft/ banker's cheque bearing no.datedof bank of Rs. is annexed as prescribed fee.
6. A self-attested copy of AADHAR card of the deponent is annexed.

Date:

Place:

DEPONENT

Verification:

The statements made above are true to my knowledge.

Date:

Place:

DEPONENT