



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY		11 and 12
Day and Date	Tueasday and 25.04.2023	
Complaint No.	CR/3188/2021 Case titled as Padampur Niraman Private Limited Vs Emaar MGF Land Limited	
Complainant	Padampur Niraman Private Limited	
Represented through	S/Shri Ravinder Singh and H.S.Chauhan, Advocate	
Respondent	Emaar MGF Land Limited	
Respondent Represented	Shri J.K. Dang Advocate	
Last date of hearing	16.2.2023	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings through V.C.

The present complaint was heard and orders were reserved on 10.2.2022 but the orders could not be pronounced as the then Chairman has demitted office on completion of his term on 5.2.2023. Accordingly, the case was fixed today for re-hearing before the full bench.

Written submissions of both the parties are already on record.

During arguments, the counsel for the complainant states that the complainant booked a plot in Emerald Floors, Emerald Hills, Sector 65, Gurugram and an allotment letter dated 16.11.2012 was issued by the Respondent wherein basic sale price was Rs. 1/- only. A copy of the allotment letter is annexed with the complaint at page 16 and the description of full consideration has been mentioned at page 17 of the complaint. The BBA was executed on 27.11.2012 at the consideration amount of Rs. 1/- only. As per clause 8 of BBA, the possession of the said plot was to be delivered in 24 months i.e. by 27.11.2014 but possession of the said plot has not been offered



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CR/3188/2021/23189/22

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by the respondent. In fact, a false and fabricated letter for offer of possession dated 19.7.2016 has been attached by the respondent alongwith its reply, without proof of delivery of said letter upon the complainant. The complainant has filed the present complaint for issuing directions to the respondent to handover the possession of the said plot and also to give delayed possession charges.

He further states in the reply that the respondent has wrongly alleged that the complainant is not a genuine buyer and is a related entity of MGF Development Ltd., and that allotted villa /plot is an issue in proceedings before the NCLT and there is no violation of section 18 of the Act as the complainant has not paid the outstanding amount as such not entitled for possession. He further states that respondent has failed to deliver the possession of the subject villa/plot and the reliefs cannot be denied to the complainant merely because the respondent is in litigation with a company M/s MGF Development Ltd. over some dispute between the two and the complainant is ready to pay the outstanding amount. He further states that there has been delay in handing over the possession by the respondent and the respondent has also demanded 'holding charges' from the complainant which is not as per law.

The counsel for the respondent states that the complainant company is a related entity of MGF Development Limited (MGFD). All actions and steps undertaken by the complainant company were done at the behest and instruction of MGFD whose financial statements also discloses and showcase the complainant as an entity over which its holding/subsidiary exercises "a significant influence". MGFD and respondent company are currently engaged in dispute across several fora and accordingly this complaint is merely a cog in the wheel of MGFD's malafide compaign to browbeat the respondent into conceding to its unlawful and illegal demands in those disputes. MGFD exercised control over both the respondent and complainant at the time of allotment of the said plot and it is clearly evident that the entire transaction was actually undertaken not between distinct entities but between different arms of the same entity, i.e. MGFD. As such the



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CR/3188/2021 23/8/2021

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complainant cannot be said a genuine buyer or consumer having the locus to avail the remedy under RERA.

He further states that disputes between the respondent and MGFD have arisen out of fraudulent related party transactions undertaken by MGFD while in control of the respondent company. This dispute is pending adjudication before Hon'ble NCLT and it is likely that the allotment of said plot, being an illegal related party transaction, will be a subject of investigation and until the Hon'ble NCLT proceedings are concluded, the present complaint is not maintainable and ought not to be entertained.

Further, the complaint is also not maintainable since no violation of section 18 of the Act has been committed by the respondent and complainant failed to fulfil its duties and obligations under section 19 of the Act which requires the complainant to make all necessary payments in a timely manner. He further states that buyer agreement dated 27.11.2012 of the said plot is to be read with a settlement agreement in the form of MoU dated 21.8.2017 executed between the MGFD and Emaar Group. Under the said MoU, the allotment of the said plot had been made contingent to the performance of prior obligations by the complainant and unless and until these prior obligations are performed, the complainant does not have any claim over the said plot and cannot not claim any possession or delayed interest.

That the respondent was initially incorporated as Emaar MGF Land limited as a joint venture company pursuant to a joint venture agreement executed between Emaar properties PISC, MGFD and one other party on 18.12.2004 and under the terms of the original JVA, and all practical terms, MGFD (through its promoter Mr. Sharvan Gupta) operated the respondent company since its incorporation until 23.5.2016. As per the terms of restructuring, the management and control of the respondent and its day-to-day affairs were transferred by MGFD (through its promoter Mr. Sharvan Gupta) in favour of 'Emaar Group' on 23.5.2016. Following the change of control, the Emaar Group discovered that during the MGFD control period, the respondent had been party to several questionable transactions, including related party transactions. These transactions were to the determined of the respondents and had resulted in unlawful gains to MGFD. The allotment and sale of the subject plot



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was one among many such transactions. Presently the parties are engaged in proceedings before NCLT and in arbitration proceedings for disputes arisen in relation to the restructuring of the respondent company.

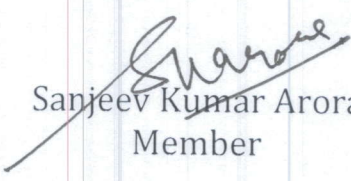
He further states that the transaction of allotment of said plot set up by the complainant is obviously fraudulent. It is matter of record that the basic sale price of the said plot is indicated to be only Rs.1/- only and as per allotment letter dated 16.11.2012, no amount whatsoever has been paid by the complainant to the respondent and in the light of legal and factual position above, the complaint is legally and factually unsustainable and warrants dismissal.

After hearing both the parties, following issues emerge for adjudication of the present complaint :-

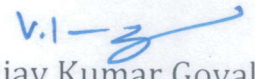
- Whether amount of Rs. 1/- has been paid by the complainant ?
- Whether the respondent has offered possession of the subject plot to the complainant vide letter dated 19.7.2016 ?
- If such offer of possession was inadvertently made by the respondent, whether the respondent has withdrawn the same, till date.

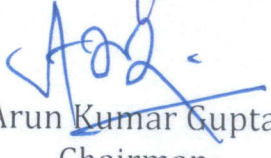
The complainant is directed to place on record evidence of Serial No. (i) and respondent is directed to place on record the reply of the above queries at serial no.(ii) and (iii) within 15 days .

Matter to come up on 4.7.2023 for further proceedings.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member


Arun Kumar Gupta
Chairman
25.04.2023