



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1103 OF 2020

Shashi Arora

....COMPLAINANT

VERSUS

1. M/s Real Height Developers Ltd.

2. Himanshu Sharma r/o Plot no.21, Sector 25, HUDA Panipat

....RESPONDENTS

CORAM: **Rajan Gupta**
 Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 19.07.2022

Hearing: 19th

Present: - Mr. Saksham Arora, learned counsel for complainant
 Mr. Gaurav Kumar, learned counsel for respondent no.1
 through video conference
 Respondent no.2 already ex-parte

ORDER (RAJAN GUPTA-CHAIRMAN)

1. In brief, facts of the complaints are as follows:

i) The complainant in the year 2018 had booked a 1 BHK apartment in project 'Harmony Homes' of respondent no. 1 situated at Sector-40, village Simli, Mullana. Complainants deposited an amount of Rs. 70,814/- as booking amount. Respondent allotted unit bearing no. R1-301, type A4 on 13th floor to the complainant. Letter of allotment in favour of complainant is annexed as Annexure A2 at page 28 in complaint file. Respondent no. 2 is an individual seller dealing in sale and purchase of property and had contacted complainant in regard to current unit. Respondent no. 2 has done all transactions on behalf of respondent.

ii) An allotment letter dated 11.10.2018 was issued for apartment measuring carpet area of 380.18 sq. ft. and balcony area of 95.26 sq. ft. As per brochure annexed at page 27 of complaint file, total sale price for above unit was Rs. 14,16,278/-. सत्यमेव जयते

iii) No flat buyer agreement was entered between the parties. As per advertisement issued by respondent, possession was to be delivered within 3.5 years but when this time was to commence was nowhere mentioned. Complainant has already paid an amount of Rs. 5,47,283/- as is evident from receipts issued by respondents, annexed at page 29-34 of complaint

file. As respondent failed to discharge their legal duty, complainant has filed this complaint praying for possession of booked unit.

2. Respondent No. 1 filed its reply on 17.12.2020 whereby they have submitted that respondent no. 2 Mr. Himanshu Sharma bears no relation with the respondent no. 1 company. As per Affordable Housing Policy, 2013, reasonable time for possession of flats shall be within 4 years from sanction of buildings plans or receipts of environmental clearance whichever is later. Building plan of the project were approved on 04.11.2017 and environment clearance was given on 01.10.2018, therefore the due date works out to be 30.09.2022. Further, an extension of 6 months has been granted by Ministry of Housing and Urban Affairs on account of Covid-19. Therefore, this complaint being filed on 30.09.2020 is premature and deserves to be dismissed. As far the progress at project site is concerned construction is at full swing and photographs dated 16.12.2020 have been annexed as A5 at page 50 of reply file. Therefore, possession of apartment will be given on time as per Affordable Housing Policy, 2013.

3. Ld. Counsel for complainant during hearing submitted that till 2020, builder has not even built the tower in which his unit is situated upto even plinth level. At page no. 57 of the complaint file, photographs showing status of the project in 2020 are annexed when possession was to be given. It clearly shows that construction was going at a very slow pace. Further he pleaded that as

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allotment was given in 2018 and there is no substantial progress at the project site, therefore he is entitled to a refund. There is no question of extension to be given due to covid period as Hon'ble Supreme Court and Hon'ble High Court has made it clear that no covid-19 extension to be granted as far as building construction is concerned. Therefore, final submission of complainant is that if development of tower is not even achieved upto plinth level by 2020, there is no hope of its completion in near future.

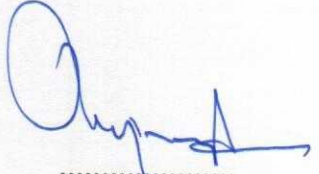
4. Ld. Counsel for the respondent submitted that as per Affordable Housing Policy, 2013, due date of possession will be only after October 2022 even if covid-19 extension is not considered. Construction work is in full swing and only finishing works are left.

5. After hearing both the parties, Authority observes that complainant for the first time entered into a legal relationship with respondent in 2018 when he made booking in concerned project. Keeping aside extension which respondent is referring to, a reasonable period to hand over possession can be considered 4 years. Allotment was made on 11.10.2018, therefore the due date of possession works to 11.10.2022. When due date falls in 2022, no reliance can be placed on photographs of 2020. Further, in 2021-2022 Government of India, State Governments and this Authority itself has recognized 9 months as covid period. Accordingly, due date itself falls sometimes during 2023. Therefore, in light of all the above factors, this complaint prima facie seems premature. However, if Ld.



Counsel for complainant wishes to submit any judgments in regard to covid-19 extension, he is at liberty to do so. Additionally both parties are directed to place on record recent photographs showing current status of the project site.

6. Adjourned to 27.09.2022 for further arguments.


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RAJAN GUPTA
[CHAIRMAN]


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DILBAG SINGH SIHAG
[MEMBER]

