



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 133 OF 2022

Mrs. Selvi K M

....COMPLAINANT

VERSUS

TDI Infrastructure Ltd.

...RESPONDENT

2. COMPLAINT NO. 136 OF 2022

Mr. Harit Pant

....COMPLAINANT

VERSUS

TDI Infrastructure Ltd.

...RESPONDENT

3. COMPLAINT NO. 613 OF 2022

Evneet Kaur

....COMPLAINANT

VERSUS

TDI Infrastructure Ltd.

...RESPONDENT

CORAM:

Dr. Geeta Rathee Singh

Member

Chander Shekhar

Member

Date of Hearing: 09.04.2024

Hearing: 9th

Present: Mr. Sushil Kumar, Ld. Counsel for complainants in all the above captioned complaints through VC.
Mr. Shubhnit Hans, ld. counsel for respondent.

ORDER:

1. Perusal of order file reveals that on last date of hearing i.e., 16.11.2023, a common order was passed by the Authority in the bunch of 5 complaint cases bearing no's. 478,613,136,133 & 135 of 2022 and were listed for hearing on 11.01.2024. However, due to reconstitution of benches, these are taken up today. Today, out of said five cases, Authority finds that above captioned three complaints cases are ready for final arguments, however, the remaining two complaint cases i.e., 478 & 135 of 2022 heard and listed separately awaiting compliances by parties and thus, separate interim orders are passed in said cases.
2. The above-captioned three complaints have been taken together as a bunch since nature and facts of these complaints are identical and relates to same project of the respondent namely 'TDI Tuscan Floors, situated at Tuscan City Sonipat and similar reliefs have been prayed by the complainants in the above captioned complaints and are represented by same counsel.
3. The above-captioned complaints have been taken together as a bunch since nature and facts of these complaints are identical and relates to same project of the respondent namely 'Tuscan heights, TDI City' situated at village Kundli, Sonapat



and similar reliefs have been prayed by the complainants in the above captioned complaints and are represented by same counsel.

4. Today, Mr. Sushil Kumar, Ld. Counsel for complainants in all the above captioned complaints appeared through VC and argued the said matters. He stated that all the above captioned 3 complaints are similar as similar reliefs have been prayed by all the complainants .Complaint no. 133/2022 titled 'Mrs. Selvi K M vs. TDI Infrastructure Ltd.' has been taken as lead case and broad facts of the lead complaint are stated by the ld. counsel for complainant for arguments.

5. Initiating his pleadings, learned counsel for the complainant stated in complaint no. 133/2021, that a residential unit was booked by complainant on 19.04.2011 in the respondent's project namely Tuscan City (Heights). Kundli, Sonapat. Flat no. T-5/0904 measuring 1390 sq. ft. was allotted to complainant vide allotment letter dated 29.08.2011. Apartment Buyer's Agreement (herein after referred as ABA) dated 28.09.2011 was executed between both the parties against basic sale price of Rs. 27,45,250/- fixed @ Rs. 1975 per sq. ft. As per ABA, delivery of the units was to be made within 30 months from the date of agreement, thus deemed date of delivery was 28.03.2014. Complainant has paid entire sale consideration amounting to Rs. 46,15,879/-till date.

6. Grouse of the complainant is that respondent after a delay of approximately 4 years has offered fit out possession to complainant vide Offer for Fit Out



Possession cum demand letter dated 08.12.2017 wherein it was instructed to clear last and final payment and take possession by 07.01.2018 to avoid further accrual of interest and that too was issued without obtaining Occupation Certificate. Complainant is further aggrieved on account that respondent vide aforesaid offer for fit out possession cum demand letter, complainant was first time informed about unilateral increase in super area from 1390 sq. ft. to 1654 sq. ft. i.e. by 264 sq. fts which has put additional financial burden on her. Ld. Counsel for complainant stated that such a huge increase in super area of units without her consent is unreasonable and unjustified and the same should be refunded.

7. After paying the entire amount, complainant was given NOC dated 28.12.2017 for handing over of possession and thereafter Possession Certificate was issued to her by respondent on 28.01.2018 annexed as Annexure C-6 and 7 respectively. Complainant is aggrieved by the fact that the respondent has offered possession without obtaining Occupation Certificate. Therefore, she is entitled to interest on account of delay in handing over of possession till the date of receipt of Occupation Certificate by the respondent. Complainant is also seeking issuance of conveyance deed of her unit.

8. Further, Ld. Counsel for complainant stated that certain amounts unreasonably charged by respondent from complainant as per offer for Fit Out Possession cum demand letter dated 08.12.2017 against following categories: (a) External



Development Charges (EDC) Rs. 4,07,736/- (b) Electrical & Fire Fighting Charges (EEFC) Rs. 4,21,525/- (c) Preferential Location Charges Rs. 56,203/- (d) Miscellaneous Charges Rs. 11,800/- (e) Interest Free maintenance Security (SEC) Rs. 20,000/- (f) Parking charges (VPK) Rs. 2,09,000/- without allotting covered parking space (g) VAT Rs. 17,023/-, (h) charges demanded on the pretext of increase in apartment area from 1390 sq. ft. to 1654 sq. ft., and (i) Club Membership Charges (CMC) Rs. 50,000/- demanded as club charges when there is no club is in existence.

9. In addition to aforesaid grievances, complainant's counsel also stated that respondent has miserably failed in providing infrastructural facilities like permanent electricity connection, sewage treatment plant, water treatment plant, maintenance of green area etc.

10. Today, ld. counsel for complainant prayed for refund of amount of Rs. 50,000/- charged from them on account of club membership when the club is not functional. Learned counsel for the respondent has stated that respondent has constructed one club for the whole project of TDI City which is fully functional. However, ld. counsel for complainant stated that since complainant do not wish to use club facility, so, the amount of Rs. 50,000/- each deposited by her on account of club membership charges be refunded to her. Further, vide order dated 16.11.2023, respondent was directed to file information regarding increase in

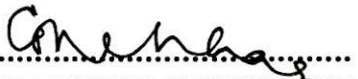


super area of the unit: Today, learned counsel for the respondent stated that he has filed information on 05.04.2024 in compliance of order dated 16.11.2023 of the Authority.

11. Learned counsel for the respondent further stated that respondent had applied for grant of Occupation Certificate on 09.05.2014 but the same has not been granted to them by the Department of Town & Country Planning till date. He stated that Possession Certificate was issued to complainant on 28.01.2018, therefore, respondent is not liable to pay interest for delay in delivery of possession till receipt of Occupation Certificate to the complainants.

12. Today arguments of both the parties are heard at length in above captioned three complaint cases. After hearing both the parties, Authority reserves the orders for pronouncement of orders.

13. Complaint no. **133/2021** is adjourned to **02.07.2024** for pronouncement of orders and Complaint no's. **135/2021 and 613/2021** are adjourned to **04.06.2024** for pronouncement of orders.


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CHANDER SHEKHAR
[MEMBER]


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Dr. GEETA RATHEE SINGH
[MEMBER]