



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1456 OF 2023

Manoj Kumar & Yashomati

....COMPLAINANTS

VERSUS

1. Ambition Colonisers Pvt. Ltd.

....RESPONDENT No.1

2. Dwarkadhis Projects Pvt. Ltd.

....RESPONDENT No.2

**CORAM: Nadim Akhtar
Chander Shekhar**

**Member
Member**

Date of Hearing: 27.05.2024

Hearing: 3rd

Present: - Adv. Abhay Jain, counsel for the complainants through VC.

Adv. Mukul Gupta, counsel for respondent no. 1 through VC.

Adv. Neeraj Goel and Adv. Tarun Ranga, counsels for respondent no. 2.

ORDER (NADIM AKHTAR - MEMBER)

1. Relevant part of last order dated 29.11.2023 passed by the Authority is as under:

1. Sh. Abhay Jain, counsel for complainants apprised the Authority that respondent no. 2 had paid the complainants an

amount of ₹16 lacs on 16.11.2023 which was due on part of respondent no. 2. Further, he sought permission of the Authority to file an application in the registry.

2. As per last order dated 23.08.2023, respondents were directed to file replies. However, respondents have failed to do so till date.

2. Today, Adv. Abhay Jain appeared on behalf of complainants and stated that the complainant initially booked a 2-BHK apartment in June 2007 in the Residential Group Housing Colony namely; "Aravali Heights" which was developed by respondent no. 2 "Dwarkadhis Projects Pvt. Ltd." Complainants paid ₹26,07,241/- to the respondent no. 2 for the booked unit. However, respondent no. 2 failed to complete the construction and to handover the possession of the apartment to the complainants on time. Resultantly, the complainants approached the National Consumer Disputes Redressal Commission (NCDRC), New Delhi. During the pendency of the petition before Hon'ble NCDRC, New Delhi, respondent no. 2 attempted to settle the dispute, and complainants agreed to cancel the booking of the said apartment in exchange for a refund of ₹20,50,000/- as full and final settlement amount. Subsequently, respondent no. 2 paid ₹4,50,000/- to the complainants out of the total settlement amount. For the remaining ₹16,00,000/- respondent no. 2 requested the complainants to book a plot in the project namely; "Springwoods City" at Sector 22, Daruhera, developed by its sister concern, respondent no. 1 i.e., Ambition Colonisers Pvt. Ltd.,



and promised to adjust the remaining amount of ₹16 lacs against the cost of the said plot.

3. Counsel for the complainants further stated that, believing the proposal made by respondent no. 2, complainants were allotted plot no. 115 by paying ₹2,50,000/- as the booking amount to respondent no. 1 through allotment letter dated 21.10.2020 annexed as "Annexure 6". Thereafter, complainants and respondent no. 1 entered into a "Builder-Buyer Agreement" (BBA) dated 02.11.2020 annexed as "Annexure-7". However to their utter shock, respondent no. 2 failed to transfer the balance amount of ₹16 lacs against the said plot no. 115 to its sister concern, i.e., respondent no. 1. Moreover, as per clause 7.1 of the Builder-Buyer Agreement, respondent no.1 was under an obligation to handover possession of the unit within 24 months plus 12 months grace period (i.e., within 36 months) from the date of execution of builder-buyer agreement. Therefore, deemed date of possession is ascertained as 3 years from the date of execution of builder-buyer agreement, i.e., 02.11.2020 which comes to 02.11.2023. However, respondent no. 1 has failed to handover the possession of the booked unit till date.
4. Ld. Counsel for the complainants also submitted that respondent no. 2 had paid the complainants an amount of ₹16 lacs on 16.11.2023, which was due from respondent no. 2. To prove this, complainants have filed an



application dated 29.11.2023 in the registry wherein, it is clearly stated that respondent no. 2, i.e., "Dwarkadhis Projects Pvt. Ltd. had given a payment of ₹16,00,000/- via cheque dated 16.11.2023 to the complainants on 18.10.2023, as per terms and conditions mentioned in the Deed of Cancellation and Settlement dated 26.02.2020 before the Hon'ble NCDRC, New Delhi. The complainants have submitted a cheque amounting ₹16 lacs dated 19.11.2023, drawn on ICICI Bank in favour of respondent no.1 to pay the amount against the plot no. 115 in the project of respondent no. 1. He further stated that both the respondent promoters are related to each other. Therefore, the burden of handing over of possession has to be borne by both promoters.

5. On the other hand, Adv. Mukul Gupta, counsel for respondent no. 1 stated that complainants have paid only an amount of ₹2,50,000/- qua the plot in question. Furthermore, an amount of ₹16 lacs, has already been recovered by complainants via a post-dated cheque dated 16.11.2023, which has been duly accepted by counsel for the complainants. The aforesaid has been recorded in the order dated 18.10.2023, passed by the Hon'ble NCDRC, New Delhi. The complainants have withdrawn the revision petition no. 580 of 2018 after receiving the said amount from respondent no. 2. Moreover the amount received by complainants from respondent no. 2 pertains to a different project and different tower and has nothing to do with the plot



booked by complainants in the project of respondent no. 1. He further stated that both entities operate as distinct legal entities. Therefore, the financial burdens, liabilities, and obligations of one entity shall not be borne by the other. Specifically, he submitted that plot bought by complainant from respondent no. 2 should not be adjusted against the plot booked by complainants from respondent no. 1. He added that respondent no. 1 offered possession of plot no. 115 to the complainants on 15.01.2021, i.e., 2 months after the allotment. However, complainants have not made any further payments to respondent no. 1 qua the booked plot.

6. The Authority put a specific question to respondent no. 1 as whether any demands were raised from complainants regarding the payment of the remaining amount? In response, he replied that demands were raised by the respondent no. 1 from the complainants from time to time, but these were not complied with by the complainants. As a result, plot booked by complainants was cancelled by respondent no. 1 on 17.06.2023. However, learned counsel for complainants denied that any such cancellation occurred between the parties. Learned counsel for complainants stated that complainants are ready to take possession of the booked plot if respondent has a completion certificate for the project in question. Complainants are also ready to make further payments to respondent no. 1 to obtain a legally valid offer of possession of the booked plot.



7. Authority further enquired from learned counsel for respondent no. 1 whether respondent no. 1 has refunded the amount of ₹2,50,000/- to the complainants after cancelling the plot in question. To which learned counsel for respondent no. 1 replied that he needs to confirm regarding the refund of the said amount. He further added that if amount has not been refunded, respondent no. 1 is ready to refund the same.
8. Adv. Neeraj Goel and Adv. Tarun Ranga, appeared on behalf of respondent no. 2 and stated that a reply has already been filed in the registry on 05.03.2024. Further, he mentioned that matter before Hon'ble NCDRC stands settled. Respondent no. 2 had paid an amount of ₹16 lacs as full and final payment to the complainants. Consequently, there is no claim pending against the complainants qua respondent no. 2. Respondent no. 2 has given a post dated cheque of ₹16 lacs dated 16.11.2023 which has been cleared by complainants. Therefore, the matter concerning respondent no. 2 is conclusively settled.
9. Considering the above situation, Authority directs respondent no. 1:-
 - a. To place on record the proof of service of the cancellation letter dated 17.06.2023 through which complainants' booked plot was cancelled.
 - b. To place on record the status report of the project where complainants' plot is situated and confirm whether respondent no. 1



has received the completion certificate from the competent Authority.

- c. To place on record documents proving that demands for payment were raised from complainant.
 - d. To place on record the proof if an amount of ₹2,50,000/- has been refunded to the complainants.
10. The above details/ documents shall be filed in next 4 weeks with an advance copy supplied to the opposite parties.
11. Case is adjourned to 21.10.2024


CHANDER SHEKHAR
[MEMBER]


NADIM AKHTAR
[MEMBER]