



Complaint nos. 1505, 1506, 1507,
1508, 1509, 1510,
1511, 2419/19

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 1505 OF 2019

Anil Kumar

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.

...Respondent

2. COMPLAINT NO. 1506 OF 2019

Anil Kumar

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.

...Respondent

3. COMPLAINT NO. 1507 OF 2019

Sunila Bajaj

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.

...Respondent

4. COMPLAINT NO. 1508 OF 2019

Sunila Bajaj

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.

...Respondent

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5. COMPLAINT NO. 1509 OF 2019

Sunila Bajaj

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.

...Respondent

6. COMPLAINT NO. 1510 OF 2019

Baldev Kumar

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.

...Respondent

7. COMPLAINT NO. 1511 OF 2019

Baldev Kumar

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.

...Respondent

8. COMPLAINT NO. 2419 OF 2019

Neelam Rani

...Complainant

Versus

Alpha Corp. Development Pvt. Ltd.

...Respondent

CORAM: Rajan Gupta

Chairman

Anil Kumar Panwar

Member

Dilbag Singh Sihag

Member

Date of Hearing: 03.12.2020

Complaint nos. 1505, 1506, 1507,
1508, 1509, 1510,
1511, 2419/19

Hearing: 10th In Complaint No.s 1505, 1506, 1507, 1508, 1509, 1510, 1511/19.

8th In complaint No. 2419/19.

Present: - Sh. Munish Kapila, Ld. Counsel for the complainants through VC.

Sh. Alok Jain, Ld. Counsel for the respondent through VC.

ORDER: (DILBAG SINGH SIHAG-MEMBER)

1. Complainants in the above cases have prayed for issuing directions to the respondent promoter for delivery of possession and further awarding them interest on the already paid amounts due to delay in offering possession. On the last date of hearing i.e. 18.11.2020, Authority after hearing the parties at length, made following observations regarding the legal validity of offer of possession dated 15.07.2015 made by the respondent, the same are reproduced as below:

“3. After hearing the parties, Authority observes that the respondent in terms of Builder Buyer Agreement (BBA) entered between the parties on 25.03.2010 was reasonably under an obligation to complete the project and offer possession within three years i.e. latest by 25.03.2013. Going by the respondent's own version, he had applied for part completion certificate on 15.03.2011 and copy of the application so filed was attached as Annexure R-7. It is evident from Annexure R-14 produced by respondent that he was granted part completion certificate on 02.07.2015. Respondent has produced two letters viz. Annexure R-8 and Annexure R-17 to prove his version on the point that he has offered possession to the complainants firstly on 08.05.2012 and

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secondly on 15.07.2015. Authority is of the considered opinion that offer dated 08.05.2012 is not valid offer because the respondent by that date has not obtained the part completion certificate. However, the second offer dated 15.07.2015 is valid offer for the reason that the respondent before such offer had been granted part completion certificate on 02.07.2015.

4. The complainants have averred that they have not received the letter dated 15.07.2015 containing offer of possession. The respondent has produced the postal receipt regarding dispatch of offer dated 08.05.2012 but the postal receipt in respect of second offer dated 15.07.2015 was not attached with his reply. So, Authority prima-facie finds merits in complainants' submission that they had not received the letter of offer dated 15.07.2015. The respondent is, therefore, directed to produce on the next date of hearing the proof regarding dispatch and communication of letter of offer of possession to the complainants. had directed The complainants in the above cases have prayed for issuing directions to the respondent for delivery of possession and for awarding them interest on the already paid amounts due to delay in offering possession. It has been averred that the respondent offered possession to the complainants in the year 2013 but the same was not a valid offer for the reason that the respondent by then had not obtained the part completion certificate and further because the ownership of the project land was in dispute before the civil court."

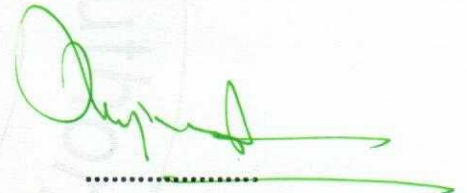
2. In furtherance of the aforementioned order, Authority raised a specific query to both the parties by which date the infrastructural facilities were completed in the project and stood approved by the Chief Engineer, HUDA, while forwarding his comments to Department of Town & Country Planning on the application of the respondent promoter after issuance of part completion certificate by Department of Town & Country Planning. Learned Counsel for the respondent while relying on the Annexure- R-14, stated that all the infrastructural facilities pertaining to the project were completed well before filing of application for grant of part completion certificate as per plans approved by the Chief Administrator, HUDA in March, 2011 and the same has been mentioned in

Annexure-R-14. He further stated that in view of this fact that all the infrastructural facilities pertaining to the project were completed before the filing of application for grant of part completion certificate, their offers of possession letter dated 08.05.2012 and 15.07.2015 are legally valid and refusal of the complainants to take possession of their booked properties, disentitles them from claiming interest on account of delay in handover of possession. Therefore, respondent promoter is not liable to pay any interest or compensation to the complainants for alleged delay.

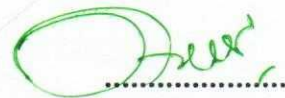
3. Whereas on the other hand, learned counsel for the complainants stated that since the infrastructural facilities were not complete and Part Completion certificate was not obtained by the respondent till the receipt of Part Completion Certificate i.e. on 02.07.2015 therefore, their refusal of all offers of possession made to them by the respondent before 02.07.2015 was justified. Learned counsel for the complainant, in the same breath, also stated that they had never received aforementioned offers of possession.

In view of the conflicting statements made by the learned counsel for complainants, Authority asked him to make a specific statement regarding the issue if the said offers were received by the complainants or if the complainants had refused to take offer due to lack of infrastructural facilities during pendency of grant of Part Completion certificate. At this stage, learned counsel for the complainant sought an adjournment to seek the aforementioned clarification from his clients.

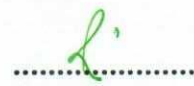
4. In view of the request made by learned counsel for the complainants, case is adjourned to **27.01.2021** with a direction to the complainants to file an affidavit stating their specific stand regarding receipt of offers of possession made by the complainant and if they had received the same then the reasons for not accepting the same, within four weeks from today. Meanwhile the respondent is, also directed to produce on the next date of hearing the proof regarding dispatch and communication of letter of offer of possession dated 15.07.2015 to the complainants in compliance of order dated 18.11.2020. Both the parties shall supply an advance copy of the documents filed by them to each other at least ten days before the next date of hearing.



RAJAN GUPTA
[CHAIRMAN]



ANIL KUMAR PANWAR
[MEMBER]



DILBAG SINGH SIHAG
[MEMBER]