



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 237 OF 2022

Shaurya Kaul

...COMPLAINANT

VERSUS

BPTP Ltd.

....RESPONDENT

CORAM:

Dr. Geeta Rathee Singh

Member

Nadim Akhtar

Member

Date of Hearing: 05.09.2023

Hearing: 7th

Present: -

Mr. Nitin Kant Setia, Counsel for complainant
through VC

Mr. Hemant Saini, Counsel for the respondent.

ORDER (NADIM AKHTAR- MEMBER)

1. In present complaint, a unit had been booked in the project of the respondent namely "Park Elite Floors" situated at Sector 75,82 & 85, Faridabad, Haryana by original allottees, namely, Mr. Pushpraj Mahendra and Ms Lajjawati in the year 2009. Vide allotment letter dated 24.12.2009, the original allottees were allotted unit no. H4-01 Second Floor, measuring 1022 sq. ft. Ground Floor, Park Elite Floors, Parklands, Faridabad. A copy of the allotment letter issued by the respondent is placed at Page 54 A of the complaint file. That thereafter

due to personal and financial reasons the original allottees could not continue with the project and transferred their rights in the said unit in the name of one Ms Rekha Kaul in the year 2011. A copy of the endorsement letter is annexed as Annexure C-2 of complaint file. Vide letter dated 03.02.2017, Ms Rekha Kaul, requested the respondent to substitute her name in favour of her daughter, Ms Shaurya Kaul, i.e the present complainant with respect to the unit in question. Respondent substituted the name of the complainant in respect of the unit vide letter dated 03.03.2017. A floor buyer agreement was executed between both the parties on 19.06.2021. As per clause 1.3, the possession of the unit was to be delivered within 60 days. Complainant has paid a total amount of ₹ 23,62,934.43/- towards the booked unit. Despite the lapse of commitment period, respondent has failed to deliver possession of the booked unit to the complainant till date.

2. Mr. Hemant Saini, learned counsel for the respondent submitted that the construction of the unit of the complainant has been duly completed in terms of the booking form. Occupation certificate qua the unit of the complainant has been received on 20.07.2022. Thereafter, respondent has already issued an offer of possession to the complainant on 23.06.2023. However, the complainant has failed to respond to the said offer of possession. Complainant may make payment of balance amount and take possession of the unit. It is pertinent to mention that a



copy of offer of possession dated 23.06.2023 has not been placed on record by the respondent.

3. Mr. Nitin Kant Setia, learned counsel for the complainant submitted that the unit in question was allotted to the original allottees on 24.12.2009. Thereafter, a floor buyer agreement was executed between the original allottees and the respondent in the year 2011. However, a copy of said agreement has not been provided by the respondent to the complainant. The parties have been in agreement qua the unit in question since 2009. The respondent had compelled the complainant to sign a fresh floor buyer agreement just to avoid paying the delayed possession interest to the complainant. Despite repeated requests, respondent failed to supply a copy of the original floor buyer agreement to the complainant. By 2021, possession of the unit had been inordinately delayed and respondent failed to provide a concrete timeline for delivery of possession. There were no terms governing the conduct of the respondent. Complainant in order to safeguard her interest had no choice but to execute a fresh floor buyer agreement qua the unit. As per the floor buyer agreement executed with the original allottees possession of the unit should have been delivered in the year 2014, whereas respondent has offered possession to the complainant after a delay of more than 9 years. Respondent cannot run away from his liability of paying delayed possession interest to the complainant



under the garb of fresh agreement. Further, the respondent had unilaterally increased the super area of the unit from 94.95 sq mtrs, as per at the time of allotment, to 107.488 sq.mtr. Complainant who had already paid more than ₹ 23 Lakh for the said unit had no choice but to sign the fraudulent floor buyer agreement. He prayed that the possession clause of the said agreement be termed void and respondent be directed to pay delay possession charges to the complainant in terms of the deemed date of possession as per the original agreement.

4. In response, Mr Hemant Saini, learned counsel for the respondent submitted that the complainant had voluntarily signed the floor buyer agreement dated 09.06.2021 after verifying all facts. Both parties are bound by the terms of the agreement. Complainant cannot resile from the terms of the contract as per her liking.
5. At this point, a specific query was upto the learned counsel for the respondent as to what were the terms and conditions of original floor buyer agreement executed with the original allottees. Learned counsel for the respondents sought time to seek clarification from his client regarding the same.
6. Further, upon perusal of documents placed on record it has been observed that that the super area of the unit booked by the complainant has been mentioned as 94.95 sq. mtrs in the allotment letter which has further been increased to 107.488 sq. mtrs at the time

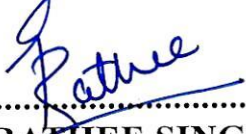


of offer of possession as final super area of the unit. However, in the occupation certificate dated 20.07.2022, the area of the unit has been mentioned as 92.188 sq. mtr. There seems to be a difference in the area of the unit as mentioned in the offer of possession and that mentioned in the occupation certificate, which the respondent has failed to explain before the Authority.

7. In view of aforementioned facts of the case, respondent is directed to seek clarification from his clients with regard to the actual area of the unit being offered to the complainant and component wise details of the change in area of the unit from the area mentioned in the allotment letter dated 24.12.2009. Respondent shall also place on record a copy of floor buyer agreement executed with the original allottees i.e Mr. Pushpraj Mahendra and Ms Lajjawati to determine the rights and liabilities of both parties and offer of possession dated 23.06.2023 issued to the present complainant. Respondent is directed to file the requisite information within three weeks from the date of uploading of the order with an advance copy supplied to the complainant. Complainant is at liberty to file documents in rebuttal, if any, before the next date.



8. Case is adjourned to 05.12.2023.


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DR. GEETA RATHEE SINGH
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]