



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 2582 OF 2022

Usha Saluja

.....COMPLAINANT

Versus

1. CMD Built Tech Pvt. Ltd.
2. Pardesi Developers Pvt. Ltd

.....RESPONDENTS

CORAM: Dr. Geeta Rathee Singh
Nadim Akhtar

Member
Member

Date of Hearing: 20.09.2023

Hearing: 4th

Present: - Mr. Rahul Bhardwaj, learned counsel for the complainant through VC.

Sh. Sushant Dahiya, learned counsel for the respondent 2 through VC.

None for the respondent no.1.

ORDER (DR. GEETA RATHEE SINGH – MEMBER)

1. As per last order dated 18.05.2023, publication was done ,however none-appeared on behalf of respondent no. 1.
2. Ld counsel for complainant stated brief facts of case that complainant was .allotted flat no. 1002, Marina Tower admeasuring 2275 sq. ft vide allotment letter dated 06.01.2011 for total sale consideration of ₹15,00,000/-. No Flat buyer agreement was executed between parties However, for determining the rights and liabilities of promoter flat buyer agreement was only signed by the representative of promoter but same was not signed by buyer is attached at page 23 of complaint. As per clause 12 of flat buyer agreement respondent was obliged to hand over possession of unit within 30 months of signing of agreement subject to force majeure clause or complainant paying the entire consideration to the respondent . Complainant had paid the entire amount way back in the year 2011, however respondent failed to hand over possession till date. Further counsel referred to Hon'ble Delhi High Court order attached in reply mentioning para 4 of page 31 that on 29.09.2006 joint venture agreement was entered between non-applicant no. 1 Pardesi Developers & Infrastructure Pvt Ltd and respondent CMD to develop and construct real estate project namely. 'Ushay Towers' in Kundli. The land vested in M/s Himachal Tin Printers Pvt. Lt, Shri Pankaj Narula and Smt Sunita Narula. These


Rathee

three owners have given complete control of land to respondent. Further an MOU dated 04.07.2009 was also executed between respondent and non- applicant no.1 whereby they divided Ushay tower. Five towers go to share of respondent company while balance 12 towers go to non-applicant no. 1 Pardesi Developers & Infrastructure Pvt Ltd.

3. Further, referred to Delhi High Court order at Page36 of reply mentioning that in terms of settlement agreement, it has been agreed that on receipt of Rs. 11.50 crores from M/s Pardesi Developers and Infrastructure Pvt Ltd. , the petitioner and ex. Management has agreed to withdraw the present petition and discharge the company in liquidation and the ex. management from all obligations offering land at Kundli including five towers as stated which are attached by official liquidator to Pardesi Developers and Infrastructure Pvt Ltd. By referring to page 38 of reply , where complainant sent email to respondent that in 2022, complainant came to know that third party rights have been created w.r.t flat no. 1002 in Marina tower and as complainant want to continue with project, he is ready to accept flat no. 1003 in Marina Tower. Therefore, complainant wants possession along with delay interest.
4. Ld counsel for respondent by referring to page 22 of complaint stated for super area of 2275 sq. ft. The total basic price of flat comes to



₹47,43,375/- and complainant had made payment of ₹ 15,00,000/- to CMD Developer. As no further payment or proof of encashment is there , thus complainant is at fault. Therefore, respondent no.2 cancelled the unit and allotted to other party.

5. On hearing both parties, Authority directs the complainant to prove what steps complainant took from cancellation of unit till filing of complaint as no documents on record have been placed. Further, complainant is directed to place on record bank details mentioning that payment is made to respondent.
6. Authority also directs respondent no. 2 to place on record communications had been made with complainant before cancelling of unit.
7. Case is adjourned to **05.12.2023**.



NADIM AKHTAR
[MEMBER]



DR. GEETA RATHEE SINGH
[MEMBER]