



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

### 1. COMPLAINT NO. 371 OF 2018

Shakul Malik and Sh. Raj Kumar Takshak

....COMPLAINANTS

VERSUS

Dwarkadhis Projects Pvt. Ltd.

....RESPONDENT

### 2. COMPLAINT NO. 2616 OF 2019

Mr. Indrajeet Yadav

....COMPLAINANT

VERSUS

Dwarkadhis Projects Pvt. Ltd.

....RESPONDENT

**CORAM: Parneet S Sachdev**

**Chairman**

**Nadim Akhtar**

**Member**

**Dr. Geeta Rathee Singh**

**Member**

**Chander Shekhar**

**Member**

**Date of Hearing: 01.02.2024**

**Hearing: 23<sup>rd</sup>** (in complaint no. 371/ 18)

**14<sup>th</sup>** (in complaint no. 2616/ 19)

**Present: -** Ms. Archana Chauhan, proxy counsel for Sh. Sushil Jain Advocate for complainants (in complaint no. 371/2018)  
None for complainant (in complaint no. 2616/2019)  
Mr. Alok Mittal, counsel for respondents in both captioned cases.

**ORDER (PARNEET S SACHDEV-CHAIRMAN)**

1. Ld counsel for respondent in captioned complaints made following submissions regarding grant of zero/ force majeure period:
  - i. That as per clause 11 of agreement signed between allottees and respondent, timeline for completion of construction was  $48+6+3=57$  months from the date of receipt of approval/ permission necessary for the construction. Haryana State Pollution Control Board granted consent to construct the project on 10.09.2014 which was necessary for start of construction, as was required under environment clearance granted on 28.03.2014. Accordingly, the initial date of possession comes to July, 2019( excluding any force majeure conditions)
  - ii. That project of the respondent was suffering from force majeure conditions due to the inaction of office of DTCP Haryana for non renewal of license and non approval of service plan estimates etc



for approximately 5 years 9 months. It prevented the company from carrying out the construction leading to non completion of the project as license lapsed in March 2017 and was renewed by DTCP on 06.12.2022.

- iii. That due to non-renewal of license, various permissions lapsed or were not granted, e.g., validity of building plans lapsed, grant of RERA registration got delayed from July 2017 to August 2019, service plans were not approved.
- iv. That company kept giving representations at all levels including DGTCP, Additional Chief Secretary, T& CP Department, Hon'ble CM Haryana and Hon'ble RERA Authority. However, representations could not reach any conclusions due to frequent transfer of the officials from time to time; Covid 19 lockdown etc.
- v. That in absence of RERA Registration allottees and their financing banks withheld payments since Sep-Oct 2017. Even after grant of RERA Registration in May 2019, most of the allottees and their banks did not make payment of the instalments due to non-renewal of license.
- vi. That on 06.06.2022, a complaint was filed before NCLT by a group of allottees. However, matter was mutually settled between group of allottees and respondent by entering into MOU dated



25.01.2023 wherein dates of completion of project were worked out from March 2024 to December 2024. Accordingly, the matter got disposed of as withdrawn on 16.02.2023. Further, as per terms of the MOU, the allottees group has also formed a steering committee ( with few allottees from each tower) to monitor the progress of the project on a regular basis. The construction is going on at fast pace and the construction is expected to be completed well within time as per the terms of MOU wherein 4 out of 8 towers have been completed.

- vii. That clause 11.1 and 11.2 of the agreement executed between allottees and respondent states condition that allottees shall extend time for delivery of possession, if there is any delay due to force majeure conditions. Also as per clause 7.1 of model agreement to sale, annexed as Annexure-A, with Haryana Real Estate (Regulation & Development) Rules, 2017, provides for force majeure conditions. Therefore, in light of clause 11 of agreement and clause 7.1 of RERD Rules 2017, agreement for sale, deemed date of possession comes to May 2025.
- viii. That RERA Authority granted conditional registration dated 21.05.2019 and that too without any completion date because renewal of license was awaited from the DTCP.



- ix. As Hon'ble Authority in case no.1048/2018 titled as Nirmala Devi Chaudhary & another V. M/s Jindal Realty Pvt Ltd , considered intervening period where the concerned authority has failed to grant necessary approval, as force majeure period.
- x. To conclude there is no fault of the respondent as it is clear from the above reasons that one thing led to the other because of delay on part of the government authorities ( govt. policies, guidelines and decisions) which affected the regular development of the project. Non-renewal of license led to delay in RERA registration which in turn led to allottees to stop payment/ funding, service plans not approved, etc. Since there is no delay on the part of respondent and if remaining 27 months (between license lapse date in March 2017 and initial date of possession in July 2019) are considered from the date of renewal of license ,i.e., 06.12.2022 the deemed date of possession comes to March 2025.
- xi. In absence of valid building plans, non-renewal of license and non-approval of Service Plan Estimates (SPE) leading to delay in grant of RERA registration and stoppage of payment of instalment by allottees/ banks, all these are force majeure conditions, beyond the control of respondent. Hence, this force majeure period may be

excluded from the period for calculating the delay and may be treated as zero period.

2. As per last order dated 16.11.2023, complainants in captioned complaints were directed to file complete receipts of paid amounts in the registry. In case, there are no receipts, then complainants have to file affidavit stating therein the exact amounts and dates on which the said amounts were paid by the complainant to the respondent duly supported by bank statement within a period of two weeks. Also, in complaint no. 371 of 2018, as there are two complainants, i.e., husband and wife, who are joint allottees of the booked flat but in complaint book affidavit of Mrs. Shakul Malik has only been placed on record. Co- allottee, complainant Mr. Raj Kumar Takshak was directed to file his affidavit along with the copy of receipts of the paid amounts. As per office record neither any receipts nor an affidavit is filed till date by the complainants.
3. Today, Ms. Archana, proxy counsel for complainants in complaint no. 371 of 2018 stated that she is filing the receipts and affidavit as directed by Authority and also, provided the copy of receipts and affidavit to respondent during the course of hearing.
4. As none present for the complainant in complaint no.2616 of 2019, therefore, one last opportunity is granted to the complainant to file complete receipts of paid amounts in the registry. In case, there are no



receipts, then complainant has to file an affidavit stating therein the exact amounts and dates on which the said amounts were paid by the complainant to the respondent duly supported by bank statement within a period of three weeks from uploading of this order, with an advance copy supplied to opposite party.

5. With these directions, cases are adjourned to **18.04.2024**.



CHANDER SHEKHAR

[MEMBER]



DR. GEETA RATHEE SINGH

[MEMBER]



NADIM AKHTAR

[MEMBER]



PARNEET SINGH SACHDEV

[CHAIRMAN]