



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 3102 OF 2022

Anand Kumar Maheshwari COMPLAINANT

Versus

Aarcity Builders Pvt. LtdRESPONDENT

2. COMPLAINT NO. 3103 OF 2022

Anand Kumar Maheshwari COMPLAINANT

Versus

Aarcity Builders Pvt. LtdRESPONDENT

3. COMPLAINT NO. 3104 OF 2022

Surender KumarCOMPLAINANT

Versus

Aarcity Builders Pvt. LtdRESPONDENT

CORAM:	Parneet Singh Sachdev	Chairman
	Nadim Akhtar	Member
	Dr. Geeta Rathee Singh	Member
	Chander Shekhar	Member

Date of Hearing: 25.01.2024

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Hearing: 6th in all cases.

Present: Mr. Anurag Jain, Counsel for the complainants in all complaint through VC.

Mr. Neeraj Goel & Mr. Tarun Ranga, Counsels for the respondent in all cases.

ORDER (PARNEET SINGH SACHDEV-CHAIRMAN)

1. All the captioned complaints are taken up together for hearing as they involve identical issues and are against same project-Regency Park, Sector , 11A-17, Hisar. The respondent is the same in all cases. This order is passed taking complaint no. 3102-2022 as lead case.
2. Factual matrix of the case is that complainant had booked an apartment in respondent's project on 20.01.2012 by making payment of Rs 3,50,000/-. Builder buyer agreement (BBA) pertaining to unit no. D-0503, 1625 sq.ft. was executed between the parties on 16.08.2012. In terms of clause 18 of the BBA, the possession of unit was supposed to be delivered upto 16.11.2015 (36 month plus grace period of 90 days). An amount of Rs 30,02,434/- has already been paid against basic sale price of Rs 43,04,438/-. Respondent issued offer for fit outs on 22.08.2022 without receipt of occupation certificate. The said offer was not accepted by the complainant due to the fact that respondent had not



adjusted amount of delay interest which complainant is duly entitled to under Real Estate (Regulation & Development)-RERD Act,2016 and HRERD, Rules,2017. Thereafter, respondent issued demand cum cancellation notice dated 05.09.2022 stating therein that complainant is liable to pay outstanding amount of Rs 10,93,589/- by 20.09.2022 failing which respondent will proceed towards cancellation of unit in question. The said demand was not paid by the complainant. Finally, the respondent issued a cancellation notice dated 21.11.2022. Against the said cancellation notice, the complainant wrote a letter dated 26.11.2022 to the respondent informing him that complainant is ready to make the payments subject to the condition that complainant be entitled to receive delay interest for the delay caused in delivery of possession.

3. Feeling aggrieved present complaint has been filed seeking relief of possession and delay interest alongwith direction against respondent to not to charge club membership charges to tune of Rs 25,000/- and car parking charges to tune of Rs 1,50,000/-

4. Respondent in its reply has stated that complaint is not maintainable as complainant is seeking restrain against cancellation of allotment of unit but it already stands cancelled on 26.11.2022. Cancellation was effected after providing numerous opportunities to complaint to pay the outstanding due amount vide letter dated 18.06.2022,31.08.2022 and 05.09.2022. But it is the



complainant who has chosen not to pay the amount. In respect of status of unit, it has been stated that construction work of the unit stands completed and occupation certificate has already been applied for, but same is awaited.

5. The ld. counsel for complainant requests for early delivery of possession alongwith delay interest. Ld. counsel for respondent apprised the Court that occupation certificate for tower B,D and G stands received on 21.06.2023. He further argued that possession of unit cannot be delivered to complainant till the time cancellation letter is in operation.

6. Arguments of both parties have been heard and relevant record has been perused. It is pertinent to mention here that status quo with respect to allotment rights of unit was ordered vide order dated 07.02.2023 against cancellation letter dated 26.11.2022 in order to avoid further complications and as of today, no third party rights have been created by the respondent. With respect to the cancellation, the Authority observes that possession was supposed to be delivered by 16.11.2015 in terms of builder buyer agreement but the respondent had offered only a fit out offer on 22.08.2022. A demand for Rs 10,93,589/- was also created. The said offer was not accompanied with occupation certificate. The respondent itself, at the time of hearing admits the receipt of occupation certificate on 21.06.2023; meaning thereby that the impugned offer of possession in year 2022 was not a valid offer. Complainant was not bound to accept the offer and to pay remaining amount in year 2022.



Therefore, the cancellation letter dated 26.11.2022 holds no sanctity in eyes of law. It stands quashed.


7. Facts reveal that respondent has not offered valid offer of possession after receipt of occupation certificate till date to complainant. Complainant is interested in having possession of unit alongwith delay interest. Therefore, respondent is directed to issue offer of possession to complainant alongwith statement of receivables and payables strictly made as per provisions of RERD Act,2016 and HRERA Rules,2017. Said statement of receivables and payables be mailed to complainant within next 7 days from today. Thereafter, respondent should arrange a physical site visit of complainant on 05.02.2024 for inspection of unit. Complainant is at liberty to point out deficiencies, if any, in writing to respondent after said site visit. Respondent shall file statement of receivables and payables and list of deficiencies in registry atleast two weeks prior to next date of hearing.

8. Perusal of file reveals that complainant has prayed for restraining the respondent from charging car parking charges Rs 1,50,000/- and Club membership charges Rs 25,000/- for the reason that these facilities are not being provided by respondent at site. In reply, the ld. counsel for respondent submitted that one car parking is attached alongwith unit, charges are being taken for the additional car parking. He further ensured that charges for these

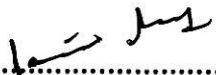
facilities will be added in statement of receivables and payables only if same are being provided at site.

9. With the aforesaid directions, the cases are adjourned to 21.03.2024.


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CHANDER SHEKHAR
[MEMBER]


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DR .GEETA RATHEE SINGH
[MEMBER]


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NADIM AKHTAR
[MEMBER]


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PARNEET SINGH SACHDEV
[CHAIRMAN]