



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 335 OF 2023

Smt. Sangeeta Garg

....COMPLAINANT

VERSUS

CMD Pardesi Developers Pvt. Ltd.

....RESPONDENT

CORAM: Nadim Akhtar

Member

Chander Shekhar

Member

Date of Hearing: 27.05.2024

Hearing: 4th

Present: - Adv. Abhay Gandhi, proxy counsel for Adv. Nidhi Jain, counsel for complainant.

None for the respondent

ORDER (NADIM AKHTAR - MEMBER)

1. Relevant part of the last order dated 15.11.2023 passed by the Authority is as under:

2. *"As per last order dated 26.07.2023, respondent was directed to file copy of Occupation Certificate for the tower in*

which complainant had booked her unit. As per office record, no document has been submitted till date.

3. Today, Id counsel for respondent stated that he will file the copy of Occupation Certificate in the registry. He submitted that occupation certificate has been received on 29.09.2023. Ld. counsel for respondent stated that flats are ready and respondent had offered possession for an alternative flat during the course of civil suit before the Hon'ble Delhi High Court which the complainant refused to accept. Further, a review petition was filed by the CMD Pardesi Developers in Feb 2019 itself for setting aside the judgment and decree for refund of ₹29,49,116/- granted to the complainant and deciding the case on merits. This review petition was dismissed by the Hon'ble Delhi High Court. Now after lapse of so many years, complainant cannot seek the relief of refund as relief of refund is barred by Limitation Act and therefore no cause of action arises in favour of complainant. Ld counsel for respondent further stated that project of the respondent was under the official liquidator from the year of 2013 to 2019. Therefore, respondent cannot be made liable for payment of delayed interest.

4. Ld counsel for complainant stated that their only relief is legally valid possession with delayed interest.

5. After hearing both the parties, Authority observes that offer of possession made by the respondent to complainant was for another flat and respondent received occupation certificate of the flat booked by the complainant only recently. Moreover, relief of refund was granted by Hon'ble Delhi High Court which was not set aside in review petition which implies that right of refund always subsist in favour of complainant. Also, as provisions of Limitation Act are not applicable on RERA, therefore plea of respondent that present complaint is barred by the time is rejected.

6. On perusal of complaint file, Authority observes that amount claimed by the complainant is not substantiated with receipts attached. Therefore, Authority directs the complainant to file all the receipts of amount claimed from the



respondent. Further, respondent is directed to file relevant documents to substantiate his claim as no document is annexed with reply by the respondent. Both the parties are directed to comply with these directions within next 04 weeks, with copies exchanged with each other."

2. Today, Sh. Abhay Gandhi proxy counsel for Adv. Nishi Jain, counsel for complainant appeared and sought an adjournment on the ground that main counsel for complainant is in some personal difficulty. His request is accepted. He further stated that in compliance of last order dated 15.11.2023 complainant has filed an application dated 20.12.2023 for clarification regarding the dates of payments made by the complainant.
3. Perusal of file reveals that respondent has not complied with the directions passed by the Authority on last date of hearing. Authority grants last opportunity to respondent, subject to cost of ₹5000/- payable to the Authority to comply with the directions given by the Authority on last date of hearing.
4. Case is adjourned to **16.09.2024.**


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CHANDER SHEKHAR
[MEMBER]


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NADIM AKHTAR
[MEMBER]