



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 542 OF 2022

Gurutek Estate Pvt. Ltd.

....COMPLAINANTS

VERSUS

Sanjay Kumar

....RESPONDENT

**CORAM: Dr. Geeta Rathee Singh
Chander Shekhar**

**Member
Member**

Date of Hearing: 13.08.2024

Hearing: 8th

Present: - Mr. Mayank, Counsel for complainant through VC.
Mr. Rohit, counsel for respondent.

ORDER

1. On the last date of hearing dated 30.01.2024 captioned case was reserved for final detailed orders. However, at the time of preparing final orders it was revealed that reply was filed by the respondent allottee in the registry of the Authority on 20.02.2024. On perusal of the previous orders passed by the Authority, it was further revealed that complaint was earlier listed on 21.02.2024,

Geeta Rathee

however due to the re-constitution of benches, same got re-listed on an advanced date i.e, on 30.01.2024. None appeared on behalf of respondent. Later, respondent allottee filed an application dated 20.02.2024 i.e, a day before the date on which the matter was originally adjourned vide orders of Authority dated 15.11.2023. In the interest of justice, Authority considered it appropriate to grant an opportunity to respondent allottee so that reply dated 20.02.2024 can be taken on record. Accordingly, matter is taken up today.

2. Reply filed by the respondent allottee on 20.02.2024 is taken on record. Ld. Counsel for the complainant builder stated that copy of the same has been received by him as well.
5. Case of the complainant is that respondent/allottee applied for purchase of an independent floor promoted and developed by the complainant vide application dated 04.11.2019 along with a part payment of Rs. 2,00,000/- . The Respondent/allottee was allotted a unit bearing No. B-02-0155, 2nd Floor, Plot No. 155, Block B, Sweet Homes, Eshan Vatikka, Gurutek City, Sector 25 and 26, Rewari having a carpet area of 917.40 Sq. Ft. for a total sale consideration of Rs. 42,50,922/-. The respondent sent a demand letter dated 04.11.2019 for a total payment of Rs. 35,02,839/-. Complainant/Promoter obtained the Occupation Certificate (OC)



from the Competent Authority ,i.e., DTP, Rewari in respect of the unit allotted to the Respondent on 13.12.2019. Agreement for Sale was executed between the parties on 27.01.2020. Respondent did not come forward to clear the dues on time. After issuing various demand notices, complainant/promoter finally sent notice dated 27.07.2021, through its counsel detailing out the entire transaction between the parties and respondent was called out to come forward for the execution of the "Cancellation Deed" for the cancellation of the Agreement to Sale dated 27.01.2020.

3. Counsel for the complainant submitted that respondent allottee opted for construction linked plan but failed to make payments on time therefore their relief with respect to cancellation of agreement to sale may be allowed.
4. Authority posed a specific question to ld. counsel for the complainant as under which provision of the RERA Act, 2016 complainant is seeking relief of allowing complainant to cancel the agreement to sale. To this, ld. counsel for the respondent referred to section 11(5) and 19(6) of the RERA Act, 2016 which are reproduced as under:

Section 11(5)- The promoter may cancel the allotment only in terms of the agreement for sale:

Provided that the allottee may approach the Authority for relief, if he is aggrieved by such cancellation and such

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cancellation is not in accordance with the terms of the agreement for sale, unilateral and without any sufficient cause.

Section 19(6) - Every allottee, who has entered into an agreement for sale to take an apartment, plot or building as the case may be, under section 13, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any.

He further requested for some time to file written submissions in the present case.

5. Today, ld. counsel for the respondent has taken an objection with respect to maintainability of the present complaint. He stated that complaint in the present form is not maintainable and the complainant is not entitled any kind of relief as sought by him. The main relief claimed by the complainant are:

- To direct the respondent to come forward to return all the original documents.
- To direct the Respondent to come forward and execute the "Cancellation Deed.

Ld. counsel for the respondent submitted that these reliefs are not within ambit of RERA Act, 2016. He also stated that

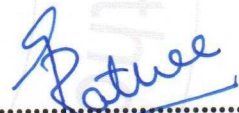


cancellation letter dated 27.07.2021 was never received by the respondent.

6. He further submitted that respondent is still ready to pay the outstanding amount subject to completion of all the work as per agreement and ready to take possession and execute the conveyance deed of the subject unit but the complainant is charging unjustified high rate of interest on the outstanding amount.

7. Complainant is given an opportunity to file his written arguments with an advance copy supplied to the opposite party. Case is adjourned to 22.10.2024.


CHANDER SHEKHAR
[MEMBER]


DR. GEETA RATHEE SINGH
[MEMBER]