



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 569 OF 2022

Dinesh Aneja

....COMPLAINANT(S)

VERSUS

Ansal Properties and Infrastructure Ltd.

....RESPONDENT(S)

**CORAM: Dr. Geeta Rathee Singh
Nadim Akhtar**

**Member
Member**

Date of Hearing: 04.10.2023

Hearing: 7th

Present: - Sh. Neeraj Goel, learned counsel for complainant.

Sh. Sunny Tyagi, counsel for the respondent through VC.

ORDER (DR. GEETA RATHEE SINGH - MEMBER)

1. Ld. Counsel for the complainant has referred to the order of the Authority dated 04.08.2022. Said order is being reproduced as under or ready reference:

“While initiating his pleadings, learned counsel for the complainant submitted that complainant had purchased a plot bearing no. B-0004, admeasuring 2351.29 sq.ft in respondent’s project “Havanna Heights Apartments”, Sonapat in the year of 2016. Builder buyer agreement was executed between parties on 07.10.2016. However, no date for delivery of possession was mentioned in said agreement but as per law under RERA Act three years from date of signing of agreement could be taken as reasonable time for delivery of possession. Accordingly, deemed date of possession comes to 08.10.2019. Total sale consideration of the flat was Rs. 10,00,000/- and complainant had paid full consideration to respondent in the year 2016 itself. In support of the amount paid, annexure C-2 has been attached, whereby receiving an amount of Rs. 10,00,000/- from complainant is mentioned in builder buyer agreement executed between parties. Complainant alleged that after receiving full payment for booked plot, respondent had stopped responding to him. Almost six years have gone by from booking and having no reply from respondent with regard to handing over of possession, complainant approached this court seeking relief of lawful possession of the booked plot along with permissible delay interest till actual handing over of possession.

- 1. On the other hand, respondent in their reply have raised mostly technical objections like complaint is not maintainable; RERA Act cannot be implemented with retrospective effect; Authority does not have jurisdiction to hear the complaint; complaint has not been filed on proper format etc. Further in para-9 of the reply submitted by the respondents, he stated that construction work was carried out till 8th floor but same has been stopped from past 4 years due to unavoidable circumstances and reasons beyond the control of respondent. Now, respondent has abandoned the construction of tower wherein complainant plot is situated.*
- 2. Sh. Neeraj Goel, learned counsel for complainant reiterated the facts mentioned in para 1 of this order and submitted that complainant do not wish to withdraw from the project and is seeking possession under Section 18 of HRERA Act,*

2016. Further he submitted that complainant is also ready to accept alternative unit which is ready for possession in other nearby projects of the respondent-promoter. On the other hand, respondent counsel Sh. Aditya Pratap, had made a statement during course of hearing that respondent is not in a position to complete the project as construction is stopped, So, possession to complainant cannot be delivered. Further, with regard to offer for alternative unit respondent counsel seeks time to take instructions from his client.

3. After hearing both the parties and going through the documents placed on record, Authority observes that complainant has sought relief of possession of allotted plot along with interest on account of delay by the respondent to deliver possession on the agreed date. The Complainant is not interested in withdrawing from the project, despite delay on the part of the respondent in completing the project. Therefore, Authority tentatively is of the view that relief which at present can be awarded to the complainant is to direct the promoter to pay upfront interest for delay along with payment of every monthly delay interest till the handing over of possession as provided in Section 18 of RERA Act, 2016. However, Authority grants one opportunity to the respondent to seek instructions with regard to alternative unit if any to be offered to the complainant.
4. Case is adjourned to **12.10.2022** with these directions. Complainant is also directed to visit the site to check current status of the project and may file their suggestions for alternative units on the next date of hearing”.

2. Ld. Counsel for the complainant stated that respondent has not complied with the order dated 04.08.2022 and has not submitted anything with respect to current status of the project and alternative units.


J. Kattree

3. Ld. Counsel for the respondent submitted that he has no instructions from his client in regard to alternative unit.
4. Last opportunity is granted to respondent to submit compliance of order dated 04.08.2022. Further, cost of ₹5000/- payable to the Authority and ₹2000 payable to the complainant by the respondent which was imposed vide order dated 01.06.2022 has not been paid. Respondent is directed to pay the cost before the next date of hearing.
5. Case is adjourned to **05.12.2023**.



.....
NADIM AKHTAR
[MEMBER]



.....
DR. GEETA RATHEE SINGH
[MEMBER]