



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 775 OF 2019

Ajay Sharma

....COMPLAINANT(S)

VERSUS

Idyllic Resorts Private Ltd.

....RESPONDENT(S)

CORAM: Dr. Geeta Rathee Singh
Nadim Akhtar

Member
Member

Date of Hearing: 25.04.2023

Hearing: 15th

Present: - Mr. Vivek Suri, learned counsel for the complainant through video conference
Mr. Gaurav Gupta, proxy counsel for the respondent through video conference

ORDER (NADIM AKHTAR-MEMBER)

Today, learned counsel for the respondent pointed out the para 4 of the order dated 20.07.2022 passed by the Authority wherein it was observed that refund sought by the complainant is not justified and an offer of possession be made to the complainant by preparing statement of account till the month of October 2017. The paragraph 4 of the order dated 20.07.2022 is reproduced below:

"4. Authority has gone through the averments of both parties. There is no dispute in the fact that by December, 2014, complainant had made a payment of about Rs. 46,66,177/- against total consideration of 77,76,964/-. Thereafter as per construction link plan, respondents have been demanding further payments which complainant did not make. Adequate reasons have not been cited by complainant for not making such payments.

Further, fact of the matter is that respondents have completed the colony, as has been certified by Chief Engineer, HUDA. There appears no default on the part of respondents. Respondents, however, on account of non-payment by complainant should have issued them a cancellation notice which they failed to do.

5. On balance, Authority observes that there appears to be default on the part of complainant in not making due payments for no justifiable reason and respondents on the other hand did not issue a cancellation notice and complainant has suffered loss of time value of money paid by him to respondents.

6. Authority considers that in interest of equity and justice, it would be fair that 17.10.2017 shall be considered as the date of completion of colony and equities between the parties will be decided as on that date. The period after 17.10.2017 till now will be considered as zero period. Also, the matter remained sub-judice earlier before Consumer Court and now before RERA during this period. Therefore, period after October, 2017 will be treated as zero period for both the parties.

7. The colony having been completed, prima-facie the refund sought by complainant does not appear to be justified. An offer of possession deserves to be made to complainant by preparing a statement of accounts prepared as in the month of October, 2017. If complainant had delayed in making payments, respondents would be entitled to charge interest on such delayed payments @ MCLR+2% as is obtained on the date of passing this judgment. Further, complainants will be entitled to delivery of possession within 2 years of making substantial payments, for which due date of delivery of possession needs to be determined. Whatever due date is determined by Authority, delay interest from that date upto the date of receipt of certificate of Chief Engineer, HUDA shall be payable by respondents to complainant.

He submitted that in compliance of the aforesaid order dated 20.07.2022, respondent has offered the possession to the complainant, however, complainant has not come forward to take the possession of the plot. He further

submitted that in compliance of the said order, respondent has also not charged the interest on account of delayed payments after the period of October 2017.

Further, Ld. counsel for the respondent on being asked by the Authority regarding the status of occupation certificate or part completion certificate has requested for time to file the status report of occupation certificate.

2. Learned counsel for the complainant on the other hand submitted that respondent has not obtained the occupation certificate till date. He further argued that complainant has paid the amount of ₹ 46,66,177/- against the total sale consideration of ₹77,76,964/-, however, till date no proper amenities have been laid down at the site. He further submitted that complainant is ready to take the possession of the plot, but firstly respondent should settle the accounts of the complainant.

On this, learned counsel for the respondent argued that complainant is persistent defaulter and has defaulted in making the payments of due instalments. In support of his argument, he has drawn the attention of the Authority towards the reminder letters which are annexed as Annexure R-4 to R-6.

3. Considering the submissions of both the parties, Authority observes that since the complainant is interested in taking the possession of the plot, complainant is directed to submit his calculations of interest on account of delay caused in offering the possession.



Respondent is further directed to submit the status report of the occupation certificate / part completion certificate along with the fresh statement of accounts mentioning his receivables .

Copies of the aforementioned documents be supplied to each other well before the next date of hearing.

4. Case is adjourned to 01.08.2023.


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DR GEETA RATHEE SINGH
[MEMBER]


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NADIM AKHTAR
[MEMBER]