



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 784 OF 2022

Sameer Rekhi & Ambira RekhiCOMPLAINANT

VERSUS

Vatika Ltd.(Mindscapes, Sector-27, Faridabad)RESPONDENT

CORAM:

Nadim Akhtar	Member
Dr. Geeta Rathee Singh	Member
Chander Shekhar	Member

Date of Hearing: 08.02.2024

Hearing: 6th

Present: -

Mr. Riju Mani, Counsel for the complainant
through VC

Ms. Vertika H.Singh, Counsel for the respondent

ORDER (NADIM AKHTAR-MEMBER)

1. Case was fixed for hearing on 20.02.2024. However, due to constitution of Benches, the case is taken up today for hearing.
2. Ld. counsel for complainant stated that complainant was allotted unit no. 642, Tower-C vide letter dated 28.08.2014. Total sale consideration amounting to Rs 36,30,817/- already stands paid for said unit. As per clause 16.1 of BBA dated 10.09.2014, the complainant was entitled for monthly assured return and after completion of construction to lease rentals. Grievance of the complainant is that respondent had stopped monthly assured returns since October,2018. Therefore, present complaint has been filed seeking direction against respondent to pay unpaid monthly commitment charges from October 2018 till April, 2022.
3. Ld. counsel for respondent submitted that complaint has been filed only for seeking payment of remaining assured returns till date. There is no relief pertaining to possession of unit. Unit of complainant is situated in tower-C for which occupation certificate has not yet been received. Regarding payment of assured returns, it is stated that said returns were duly paid till septemeber,2018 amounting to Rs27,83,634/-, but stopped thereafter due to enactment of BUDS Act,2019. In order to ensure transparency



with complainant about this legal hurdle, an addendum to BBA was also got executed between the parties on 01.11.2019 whereby clause 4 clearly provides for fresh clause 16 which replaces, substitutes and supersedes the erstwhile clause 16 of original builder buyer agreement. After execution of said addendum the respondent is no more liable to pay the assured returns.

4. After hearing submissions of both parties, the Authority observes that complainant is seeking only one relief, i.e., payment of remaining assured return from October 2018 to till date. However, as per version of respondent, after enactment of BUDS Act, an addendum was executed with complainant whereby complainant after duly understanding and with consent accepted its terms and conditions. Perusal of clause 3 of it reveals that the complainant agrees for deletion of clause 15 of original agreement pertaining to assured returns w.e.f 01.07.2019. Relevant clause is reproduced below for reference:-

“Clause 3. W.e.f. 1st July, 2019, Clause 15 (Assured return in full down payment cases) of the said agreement stands deleted.”

5. Above referred clause and discussion clearly establishes the fact that complainant himself agreed for deletion of clause of assured returns so at this stage he cannot ask for assured return till date. Faced in this situation, ld. Counsel for complainant sought time to



file revised calculation of assured returns for the period ranging from October, 2018 to 30.06.2019. Said calculations be filed within next 3 weeks with advance copy supplied to respondent.

6. Case is adjourned to 04.04.2024 for arguments.


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CHANDER SHEKHAR
[MEMBER]


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DR .GEETA RATHEE SINGH
[MEMBER]


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NADIM AKHTAR
[MEMBER]