

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, GURUGRAM**

Complaint no. : 2083 of 2019
First date of hearing: 11.09.2019
Date of decision : 08.01.2020

1.Mrs. Meenu Beniwal
Address: R/O B-218, 3rd Floor,
Neat State Bank of Patiala,
Shivaji Market, Pitampura,
New Delhi-110034
2.Mr. Tarun Sejwal
Also at: R/O F-347,
Ch. Meer Singh Marg,
Lado Sarai,
New Delhi-110030

Complainants

Versus

M/s Supertech Limited
Address: 1114, 11th Floor,
Hemkunt Chamber 89,
Nehru Place
New Delhi-110019

Respondent

CORAM

Shri Samir Kumar
Shri Subhash Chander Kush

Member
Member

APPEARANCE:

Shri Sanjeev Sharma
Shri. Rishabh Gupta
Ms. Pushpa Dabas

Advocate for the complainants
Advocate for the respondent
AR of the respondent

ORDER

1. The present complaint dated 14.05.2019 has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions to the allottee as per the agreement for sale executed inter-se them.
2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form: -

S.No.	Heads	
1.	Project Name and location of the project	"Hill Town/Hill Crest" in Sector-2, Sohna Road Gurugram
2.	Project Area	18.37 acres (As per RERA registration)
3.	Nature of the project	Residential Plotted Colony
4.	DTCP license no. and validity status	124 of 2014 Dated 23.08.2014 valid up to 22.08.2019

5.	Name of licensee	M/s Dolphin Build well Private Limited and others
6.	RERA Registered/not registered	Registered vide no. 258 of 2017 dated 03.10.2017
7.	RERA registration valid Upto	02.10.2020
8.	Unit no.	R1450N469C/FLAT #N469C, 3 rd Floor, Tower N469/N469 (Page no. 23 of complaint)
9.	Unit measuring	1350 Sq. Ft. (Page no. 23 of complaint)
10.	Date of execution of Allotment Letter	15.06.2016 (Page no. 23 of complaint)
11.	Payment plan	Subvention Payment Plan (Page no. 24 of complaint)
12.	Total sale consideration	₹54,05,400/- as per payment plan (Page no.24 of complaint)

13.	Amount paid by the allottee	₹4,50,000/- as per Payment Demand Letter (Page no.43 of complaint)
14.	Due date of delivery of possession of this order Note: as per clause L (26) on page no. 31 of Allotment Letter: by Oct 2018 + 6 months grace period	30.04.2019 (Page no. 31 of complaint)
15.	Delay in handing over possession till date of this order	8 months 8 days (Possession has not been handed over so far)
16.	Status of project	Ongoing
17.	Specific relief sought (in specific terms)	To direct the respondent to pay delayed possession interest at prescribed rate of interest per annum for delayed period in handing over the possession and to handover the flat after complete construction.

3. As per clause L (26) of the Allotment Letter dated 15.06.2016, the possession was to be handed over by October 2018 plus further grace period of 6 months to cover any unforeseen circumstances. The possession period clause was subject to timely payment of all the instalments and other dues which the allottee must abide strictly. Clause L (26) of the Allotment Letter is reproduced herein below:

“L. POSSESSION OF ALLOTTED FLOOR/APARTMENT: -

*26. The possession of the allotted floor/Apartment shall be given by **OCT 2018** subject to force majeure conditions with an extended grace period of **6(Six) months**. The developer also agrees to compensate the Allottee(s) @ **Rs. 5.00/- (Five rupees only)** per (Sq. ft.) of area of the Floor/Apartment per month for any delay in handing over possession of the Floor/Apartment beyond the given promised plus the grace period of **6(Six) months** and up to the Offer Letter of possession or actual physical possession whichever is earlier.”*

4. The respondent has utterly failed in fulfilling their obligation to deliver the unit as per the Allotment Letter and failed to offer possession in terms of section 18 of the Act read with the Rules. Hence, this complaint for the reliefs detailed herein above.
5. On the date of hearing the Authority explained to the respondent/promoter about the contravention as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.
6. The respondent through his reply has submitted that there was no intentional delay in the construction on the part of the

respondent. Delay was due to reasons detailed in the reply which were beyond its control.

7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint is being decided based on these undisputed documents and submissions made by the parties during hearing.
8. The Authority based on information, documents and other submissions made therein filed by both the parties is of the considered view that there is no need of further hearing in the complaint.

Arguments heard.

9. The Authority observes that the Act is to protect the rights of the stakeholders i.e. the promoter, allottee and the real estate agent as provided under the Act and to balance their interest as per its provisions. The Authority is empowered to not only monitor the projects but also to ensure their timely compliance and in case where the projects are held up or stopped to take steps so that these are completed in time and interests of allottees are protected.
10. That by virtue of clause L (26) of Allotment Letter executed between the parties on 15.06.2016, possession of the booked unit was to be delivered within stipulated time i.e. 31.10.2018 plus grace period of 6 months to cover any unforeseen circumstances. Therefore, the due date of handing over possession comes out to be 30.04.2019. Accordingly, it is the failure of the respondent/promoter to fulfil his obligations,

responsibilities as per the Allotment Letter dated 15.06.2016 to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4) (a) read with section 18(1) of the Act on the part of the respondent is established. As such complainant is entitled to delayed possession charges at the prescribed rate of interest i.e. @ 10.20% p.a. w.e.f. 01.05.2019 till offer of possession of the booked unit as per the proviso to section 18(1)(a) of the Act read with rules 15 of the Rules.

11. Hence, the Authority hereby pass the following order and issue directions under section 34(f) of the Act: -

- i. The respondent is directed to pay interest at the prescribed rate of 10.20% p.a. for every month of delay from the due date of possession i.e. 01.05.2019 till the offer of possession of the booked unit.
- ii. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and thereafter monthly payment of interest till offer of possession shall be paid before 10th of each subsequent month.
- iii. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period. The respondent shall not charge anything from the complainant which is not part of the Allotment Letter.
- iv. Interest on the due payments from the complainant shall be charged at the prescribed rate of interest@

10.20% by the promoter which is the same as is being granted to the complainant in case of delayed possession charges.

- v. Complaint stands disposed of.
- vi. File be consigned to registry.

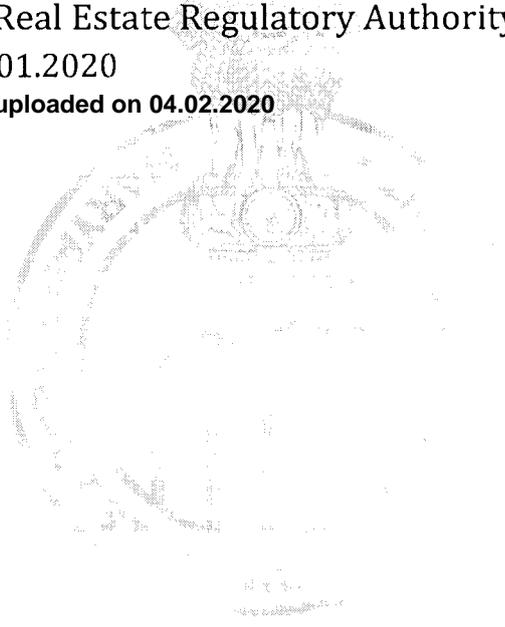

Samir Kumar
(Member)


Subhash Chander Kush
(Member)

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 08.01.2020

Judgement uploaded on 04.02.2020


HARERA
GURUGRAM