



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1428 OF 2021

Somesh Garg

....COMPLAINANT(S)

VERSUS

1. M/S Parsvnath Developers Ltd.

2. Emperor Infratech Pvt. Ltd

....RESPONDENT(S)

CORAM: **Rajan Gupta**
Dilbag Singh Sihag

Chairman
Member

Date of Hearing: 07.07.2022

Hearing: 3rd

Present: - Mr. Rajbir Singh, learned counsel for the complainant through video conference
Ms. Rupali S. Verma, learned counsel for the respondent no.1 through video conference
Ms Manju Goyal, learned counsel for the respondent no.2 through video conference.

ORDER (DILBAG SINGH SIHAG - MEMBER)

1. While perusing the case file, it is observed that complainant had booked a residential flat under the scheme named "Parsvnath Royale Floors" of respondent situated in Karnal, Haryana in 2013. Flat no. B-085-f on the ground floor in block no. 085, area 128.66 sq. mtr was allotted to him in the same year. Flat - Buyers Agreement was executed on 18.05.2013. Complainants have made a payment of Rs. 11,81,627/- against total sale consideration of Rs. 36,42,875/- till 24.05.2013. As per clause 10(a) of BBA, possession was to be delivered within 30 months from the date of commencement of construction. Therefore, deemed date of possession comes out to be 18.11.2015.
2. Further, complainant had submitted in written complaint that he applied for loan for Rs 25,00,000/- for which he required issuance of mortgage and non-encumbrance certificate from the respondent no.1 for the release of the amount. Loan was sanctioned by PNB Housing Finance Ltd vide sanction letter dated 04.06.2013. However, no permission for the certificate was issued by the respondent no.1 in favour of the complainant.
3. Complainant also came to know that the abovesaid project was sold by the respondent no.1 to respondent no.2 by conveyance deeds dated 09.01.2015. So, Complainant had submitted an application dated 31.07.2017 to Respondent no.1 to refund the entire amount along with interest, but no action had been taken by the respondent.

4. Today is the third hearing in the matter, as per office record, notice was successfully delivered to the respondents on 27-12-2021, Already two opportunities have been availed by the respondents to file their reply, but they failed to file reply till date.

5. Today, Learned Counsel of Complainant has prayed for refund of the amount paid by him along with permissible interest on the ground that respondents have inordinately delayed in offering of possession of booked apartment and violated Flat-Buyers Agreement.

6. Learned counsel for the respondent no.1, on the other hand, submitted that the respondent promoter is not in a position to handover the possession of the flat. However, she stated on the instructions that respondent has agreed to refund the amount.

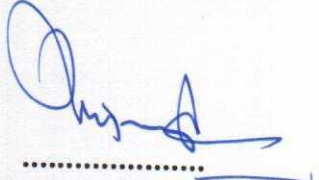
7. In the view of above submissions of both parties, Authority observes that since respondents fail to handover the possession of the property and inordinate delay took place which defeats the very purpose of the agreement executed between the parties. Therefore, Authority finds it is to be a fit case for allowing refund in favour of the complainant. Hence, Authority directs respondent to refund the amount paid by the complainant along with interest at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e., at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which as on date works out to 9.70% (7.70% + 2.00%) from the date of receipt of amounts till today. Accordingly, total amount along with

interest calculated at the rate 9.70% works out to ₹ 22,40,045/- as per detail given in the table below:


S.No.	Principal amount	Date of payment	Interest accrued till 07.07.2022	Total amount payable to complainant
1.	Rs 3,77,500/-	02.03.2013	Rs 342599/-	Rs 7,20,099/-
2.	Rs 3,73,588/-	16.04.2013	Rs 3,34,581/-	Rs 7,08,169/-
3.	Rs 4,30,539/-	24.05.2013	Rs 3,81,238/-	Rs 8,11,777/-
Total	Rs11,81,627/-		Rs 10,58,418/-	Rs 22,40,045/-

Respondent is directed to make the entire payment of ₹ 22,40,045 /- to the complainant within 90 days from the date of uploading of this order, as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017.

8. Complaint is, accordingly, **disposed of**. File be consigned to the record room and order be uploaded on the website of the Authority.



 RAJAN GUPTA
 [CHAIRMAN]



 DILBAG SINGH SIHAG
 [MEMBER]